# Guide to applying for a mineral recovery permit

## Ministry of Energy and Mines — Mines and Minerals Division

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Ontario

# Contents

# Introduction

Section 152.1 of the *Mining Act*, R.S.O. 1990, c. M.14 (the "Act"), together with O. Reg. 463/24: Recovery of Minerals (the "regulation"), allow any person to apply to the minister for a permit authorizing the recovery of minerals or mineral bearing substances from tailings or other waste materials resulting from mining (a "recovery permit").

A recovery permit allows its holder to recover minerals from tailings or other mine waste materials at a given location without having first obtained an exploration permit or a filed closure plan. If the tailings or other mine waste materials are located on Crown land (for example, where an abandoned mining property has forfeited to the Crown), the holder can also recover minerals and exploit them commercially without a mining claim or mining lease.

While this guide is intended to provide information regarding application requirements for recovery permits under the *Mining Act*, it is not legal advice. Requirements relating to mineral exploration and development activities are contained in the *Mining Act* and its regulations, as well as other applicable legislation.

## Lands and sites excluded from recovery permits

Recovery permits are not available for tailings or other waste materials located on **prescribed lands or classes of lands** or **designated lands**.

Section 1 of the regulation identifies **prescribed lands and classes of lands** that are excluded from recovery permits. At the time of preparation of this Guide, the only prescribed lands are lands withdrawn under subsection 35 (1) of the Act. However, you should refer to the most recent version of the regulation to confirm.

The minister may also **designate lands** as being excluded from recovery permits. Lands that are designated by the minister as excluded are posted on the ministry's website.

## Confidentiality

Note that information submitted in the application (excluding financial information) is not considered confidential and will be made available to the public upon request. Information submitted as supporting information may be claimed as confidential but will be subject to the *Freedom of Information and Protection of Privacy Act, R.S.O. 1990*, c. F31 and the *Environmental Bill of Rights, 1993*, S.O. 1993, c. 28 (ERO). Applicants who intend to claim supporting information as confidential should clearly mark that information as confidential. The ministry will not assume that any supporting information you are supplying is confidential unless told otherwise.

# Overview of the recovery permit application process

You must follow the instructions in the Application for Recovery of Minerals Permit - Form and in this guide for details on how to complete the application form and submit it to the ministry.



## Step 0: Pre-submission meeting with the ministry

Prior to submitting a recovery permit application, we strongly encourage applicants to request a pre-submission meeting to discuss the proposed activity with ministry staff. The request should be made to the following email: partVIIsubmissions@ontario.ca. This will help ensure staff can provide you with guidance on how to submit a complete application, including identifying any supporting documents that may be needed, and thereby avoid delays in the review process. Note that staff can provide you with general information about the application process but cannot provide you legal advice. If you have questions about your legal rights or responsibilities, you should seek independent legal counsel.

After we receive your request, we will set up a pre-submission meeting within 5 business days.

At the meeting, staff can provide appropriate guidance on the application requirements if you provide basic details of the proposal, such as:

- location of the lands where the recovery project is proposed
- the types of activities you are proposing to undertake
- the current ownership of the lands on which the proposed recovery project is located

Depending on the complexity of the proposal, more than one meeting with the ministry may be appropriate.

The nature and complexity of the proposed activities will determine the kinds of information that may be needed by the ministry, such as supporting technical studies. With an adequate understanding of the proposed recovery activities, ministry staff can provide tailored guidance regarding the specific technical studies that may be needed for your proposal.

Requirements for technical studies will also depend in part on existing knowledge of the proposed recovery project area including mine hazards and any previous rehabilitation efforts. The ministry has historic information on many abandoned mine sites in Ontario, and the pre-submission meeting is an opportunity to share knowledge. If your proposed recovery project is located on an abandoned mine site, we may determine that some studies are not required if there is enough background information already known to the ministry about the site.

The land tenure (ownership) status associated with the location(s) of your proposed recovery and remediation activities will also determine the types of information required in the application submission for a recovery permit. You do not need to own the lands where the recovery activities are proposed to apply for a recovery permit, but if the lands are privately owned and you are not the owner, you will need written consent from every owner of those lands (For example, mining rights owner, surface rights owner, and others). You may also need to make arrangements with surface rights owners in or around the lands to obtain access to the land in question.

In addition, if there is an existing filed closure plan that may be impacted by the proposal, we can discuss with you how the closure plan may be impacted and whether amendments and changes to financial assurance might be expected.

In some cases (such as where the person seeking to undertake the recovery activities already has sufficient rights to the land and is the proponent of a filed closure plan), it may be more advantageous to proceed with the recovery project through the closure plan amendment process rather than through a recovery permit. The factors that determine the appropriate pathway will vary depending on case specific details. By discussing these details in advance with the ministry, staff will be able to provide you with guidance on how best to proceed.

If the project is proposed on Crown land, we can discuss any authorizations that may be needed to make alterations to the land prior to applying for a recovery permit. For example, you may need to install monitoring wells on the proposed lands to obtain groundwater data to inform supporting technical studies required in the permit application. We will advise you on how to obtain authorized access to Crown land if you need to install monitoring wells or make other alterations to the land (For example, clearing trees) to obtain background data on the proposed recovery project area.

We will provide written feedback on your initial proposal within 10 business days of the pre-submission meeting. Feedback will include a summary of what was discussed and may include guidance on specific aspects of your proposed project (For example, you may need to submit certain types of supporting studies with your application).

## Step 1: Application screening

After you have received guidance from ministry staff during the pre-submission meeting(s) you should be able to complete the application with all the required elements

and submit it to the ministry. You should ensure that all the required information is included for a complete application submission (refer to the Application Completeness Check section of the form). We will screen each application to determine whether the submission is complete. Our goal is to complete this screening and provide a response within 5 business days. If your application is incomplete, we will return the application to you noting what further information is requested. If more information is requested, you may then resubmit your application with the missing information. If you do not provide the requested information, you must provide rationale in writing as to why the information would not be needed.

## Step 2: Circulation and feedback consideration

**Public consultation:**

Once all relevant information is received and the application is deemed complete, the ministry will post the proposal for the recovery permit on the Environmental Registry of Ontario (ERO) for a minimum of 30 calendar days and consider any public feedback received from the ERO posting before determining whether to issue the permit and to include any permit terms and conditions.

**Circulation to potentially impacted communities:**

The ministry will also determine if your proposal triggers the duty to consult and if so, will notify potentially affected communities and circulate the application to those communities for feedback. We will request that communities provide feedback within 30 calendar days of the circulation date (concurrent with the ERO posting).

**Consideration of feedback:**

After receiving any feedback from communities, we will consider the feedback, and work to address or mitigate any concerns raised about potential adverse effects to Aboriginal or treaty rights. If no concerns are raised or if they can be easily addressed, this review should be completed within 30 calendar days, concurrently with the assessment of ERO feedback. However, more complex consultation processes may require more time. You may be directed to support the consultation process as appropriate (refer to section 5.0 Aboriginal Consultation for details).

## Step 3: Decision on permit application

The minister has the discretion to issue or deny a permit application and, if issued, may include terms and conditions in the permit as appropriate. These may include terms and

conditions to mitigate or accommodate concerns raised by Aboriginal communities. Terms and conditions may also be included to ensure that the land on which the tailings or other waste materials are located is remediated to a comparable or better condition than it was before the recovery, or to mitigate uncertainties associated with the lack of data at the time of application.

## Step 4: Submit financial assurance (if needed)

Financial assurance may be required as a condition of the permit if the minister determines that financial assurance is appropriate for your recovery project. The permit holder must provide financial assurance in the form and amount specified in the permit (refer to section 7.0 Financial assurance for further details on financial assurance and when it may be required). The ministry must receive the funds prior to commencement of recovery project activities.

# 1.0 Application type

In this section of the form, you must select the application type and reason for application.

## New permit

If you are applying for a new recovery permit, you must submit a separate application for each location of interest.

## Amendment to permit

You should choose this category if the change you are seeking is related to an existing recovery permit. The proposed change(s) may be technical and/or administrative in nature.

**Technical amendment:**

You should select this category if you are seeking:

- to add another activity, equipment, facility or more. to an existing recovery permit
- modifications to project parameters for activities, equipment, facilities, works, and more authorized under your recovery permit

Provide a revised recovery and remediation plan along with supporting documents with your application which describes the proposed technical changes to your project. Note that a permit amendment may trigger a change in the amount of financial assurance associated with the existing permit.

**Administrative amendment:**

This category is for administrative changes you are proposing to an existing recovery permit. For example, you should choose this category if there are typographical errors you would like to correct. Other examples could include name change or address change. The ministry reserves the right to decide whether the change is administrative only or requires a technical review.

## Renewal of permit application

If you wish to have your existing permit renewed, you should select this application type to apply for a permit renewal prior to the permit's expiry date. You should apply at least 90 days before the expiry date to ensure your permit renewal is processed prior to the expiry date.

## Transfer of permit

A recovery permit holder may transfer the permit to another person if the minister has consented in writing to the transfer and the transfer is carried out in accordance with such terms and conditions as the minister specifies in writing. The permit holder should contact the ministry if they wish to transfer the permit.

A recovery permit that is transferred to another person is binding on and enforceable against that person.

## 2.0 Applicant information

The ministry needs to know who the applicant is and who will be responsible for the quality, accuracy, relevance and completeness of the information in the application.

# 3.0 Recovery project Information

In this section of the application form, you must provide details on your proposed recovery project including project name, location and a brief project summary including how long it will take to complete the project. Note that for the purposes of this Guide and when referring to recovery of minerals, a “recovery project” is the activity associated with the recovery and remediation of tailings and other waste and has a distinct meaning from a “project” defined in section 139(1) of the Act.

The duration of the recovery permit will be one of the terms and conditions that the minister applies to the recovery permit. The duration of the recovery project will depend on the scale and complexity of the proposed activities. The scale of activities is expected to align with the phase of the project.

For example, if little information is known about the resource potential of the mine waste, you may wish to start with the collection of small samples of mine waste for the purposes of initial testing to assess the resource potential. Testing could also be done for the purpose of determining whether there is potential for impacts to the chemical stability of the environment, groundwater and/or surface water, or whether there is metal leaching or acid rock drainage potential in the tailings or other mine waste. Recovery permits for these types of projects (Such as, where the activities are limited to sampling and investigation of relatively small quantities of mine waste to assess preliminary resource potential) may be issued for a duration of 1 to 3 years.

This may be followed by more advanced testing procedures such as metallurgical testing involving larger samples of waste material. Pilot plant testing may also be conducted on site in support of an emerging technology that has shown success in a lab but has yet to be commercialized. Recovery permits for these more advanced resource assessment projects may be issued for a duration of 3 years.

If economic potential is confirmed, residual minerals or mineral bearing substances from mine waste can then be recovered on a commercial scale. The quantity of mine waste to be recovered will vary for each site depending on commercial viability and material available. Recovery permits for projects involving recovery of minerals from mine waste on a commercial scale may be issued for a duration of 5 years.

Your recovery project may not necessarily include all these phases and will likely depend on the background data and information you may already have about the proposed project area and the mine waste of interest.

If you expect that it will take longer than 5 years to complete the recovery project, you can submit a request to the ministry for a permit duration beyond 5 years. If a permitholder wishes to renew their permit, they must apply to renew the permit prior to the expiry date indicated on the permit (refer to Renewal of permit application under section 1.0 for details).

You must also respond to specific questions regarding the proposed project activities including:

- the quantity and type of mine waste to be recovered
- whether mine waste will be reprocessed on-site or removed and transported off-site for reprocessing
- if removing off-site, details of the receiving facility such as name and location should be provided if known.
- whether there is potential for the activities to negatively impact the environment including impacts to chemical stability, groundwater and surface water
- whether the mine waste has metal leaching or acid rock drainage potential
- proximity of work to a tailings dam or tailings storage facility
- whether alteration of the tailings dam or tailings storage facility is expected

Your responses may trigger the need for supporting technical studies to assess the potential impacts resulting from the proposed activities.

For any project you must determine whether the activities have the potential to negatively impact the environment, including:

- the chemical stability of the land
- groundwater and surface water
- potential for metal leaching or acid rock drainage

You must provide technical studies or other rationale prepared by a professional engineer or a professional geoscientist to support your determination such as a geochemical assessment report and characterization studies. Refer to Appendix A: Supporting Technical Documents for detailed descriptions of a geochemical assessment report and characterization studies and definition of a professional engineer or a professional geoscientist.

If the assessment confirms that the recovery activities have the potential to negatively impact the chemical stability of the site drainage and underlying groundwater quality, you must submit a hydrogeological study (refer to Appendix A: Supporting Technical Documents for description) prepared by a professional engineer or a professional geoscientist.

Depending on the characteristics of the land and nature of the proposed activities, and existing background information, geochemical assessment reports and characterization studies may not be needed. If you are not providing a geochemical assessment report or characterization studies, you must provide other supporting rationale prepared by a professional engineer or a professional geoscientist to support your determination. For example, you can provide historical data available for the site in which the proposed recovery project is located if it can be relied upon to determine whether the activity has the potential:

- to negatively impact chemical stability, groundwater and/or surface water
- for metal leaching/acid rock drainage

If the nature of the proposed activities is not expected to result in negative impacts to the chemical stability of the environment, groundwater and/or surface water and there is no potential for metal leaching/acid rock drainage, you must provide an explanation as to why there is no potential for negative impacts. For example, you are proposing to remove the entire stockpile of waste off-site thereby eliminating the potential for negative impacts.

Activities occurring on or near a tailings dam or tailings storage facility may impact tailings and/or tailings dam stability. You will need to provide a screening assessment report to determine the potential for impacts to these structures. You may also need to provide a detailed assessment report if potential for impacts to tailings structures has been confirmed. If your activities involve the alteration or modification of a tailings dam you will need to provide the appropriate reports and drawings to determine if the dam is characterized as an online or offline dam. Refer to Tailings stability assessment in Appendix A for detailed descriptions of reports and other technical information related to tailings stability assessment including online and offline assessment.

Note that you may also use the information from the supporting technical studies to inform the proposed remediation activities in your Recovery and Remediation Plan (refer to section 4.0 Recovery and Remediation Plan Requirements below) where appropriate.

# 4.0 Recovery and Remediation Plan Requirements

A Recovery and Remediation Plan (Plan) must be included with the application. The Plan must include detailed descriptions of the following components:

## 4.1 Description of the land on which the tailings and other waste materials are located

A detailed description of the land on which the tailings or other waste materials are located must be provided, including the existing condition of the land in which the tailings or other mine waste is located and background history of the proposed recovery project area including all existing mine hazards. You should include all mine hazards where the tailings or other mine waste is located as well as any mine hazards that may be impacted by the proposed activities. If the information is not reasonably available, indicate what searches have been undertaken with a view to providing the required information, including a list of any sources searched. For example, for abandoned sites, much of this data can be found in the ministry's Abandoned Mines Information System (AMIS) and Mining Lands Administration System (MLAS).

You should include photographs of the area to show the condition of the land before the proposed recovery and remediation activities.

## 4.2 Details of how the minerals or mineral bearing substances would be recovered

The proposed recovery activities must be described in detail. The scope and scale of activities is expected to vary depending on:

- the types of mine waste to be recovered
- the quantity of mine waste to be recovered,
- the characteristics of the recovery project area
- where reprocessing will occur (within the recovery project area or transported to another location).

The information you provide in the plan must align with what you indicated in the application form. For example, if you indicated that you are recovering tailings waste, you must describe activities that are relevant to the removal and/or reprocessing of tailings waste.

**Access and Infrastructure:**

- Describe how the recovery project area will be accessed (such as removal of trees to construct roads, road upgrades, placement of aggregate, use of haulage equipment).

- Describe the infrastructure that will be constructed to support project activities such as any temporary buildings (such as trailers) for offices, lunchroom, storage and lab testing, installation of power generators, fuel station and communications equipment.

**Sampling and Investigation:**

If you are collecting grab samples for data analysis, you should describe the sampling and investigation activities:

- Describe any investigative activities that will be undertaken such as surveying, aerial imagery and associated equipment (such as drones).
- Describe the types of equipment to be used for sampling such as hand tools, excavator, backhoe, and drills (such as rotary, sonic, direct push, etc.).
- Indicate the type of mine waste to be sampled and the location(s) where sampling will occur. If sampling from tailings, indicate if passive dewatering will occur.
- You must provide the estimated quantity of material to be collected for each sample.
- You must provide the location of the laboratory where samples will be sent for testing if known.
- Indicate if you will be sampling surface water or groundwater (or both) and the number and location of monitoring wells.
- If you will be undertaking pilot testing on-site describe the use of small, modular equipment and location within the project area.

**Removal of mine waste:**

If you are removing mine waste and transporting from the recovery project area to another location, you should describe loading, hauling and disposal activities:

- Describe the types of loading and hauling equipment to be used to remove the mine waste.
- Describe the type of mine waste to be removed. If removing tailings, describe any active dewatering of supernatant water, and/or passive dewatering of saturated tailings. You should indicate if dry tailings will be reslurried and pumped before loading and hauling and types of equipment and infrastructure to be used.
- Describe the phasing of removal activities (such as number of metric tonnes excavated per day, number of days per week).
- Describe any simple reprocessing activities such as crushing, screening, stacking activities prior to loading.
- Indicate whether the waste material will be temporarily stockpiled prior to hauling and the location of temporary stockpiles.
- You must provide the estimated total quantity of mine waste that will be removed and the estimated quantity of any mine waste remaining on site following removal activities.

- Provide details of the receiving facility where the recovered mine waste will be reprocessed including location and confirmation that the receiving facility is equipped to manage the types of mine waste being received (such as the receiving facility has a closure plan that allows the processing of the mine waste being received). You should indicate how many trucks or loads per day will be delivered to the receiving facility.

Note that if the proposed receiving facility is located outside Canada, subsection 91(1) of the Mining Act may apply. Often referred to as a domestic processing requirement, subsection 91(1) provides that all ores or minerals raised or removed from the lands must be treated and refined in Canada. Failure to comply with subsection 91(1) could result in a declaration by the Lieutenant Governor in Council that the lease, patent or other form of title of such lands, claims or mining rights is void. If the order is made, the lands, claims or mining rights revert to the Crown, freed and discharged of any other interest or claim.

However, under subsection 91(3) of the Mining Act, the Lieutenant Governor in Council may exempt any lands, claims or mining rights from the operation of subsection 91(1). If the applicant for a recovery permit wishes to process recovered mineral-bearing substances outside of Canada, they should contact the Mineral Exploration and Development Section of the Mineral Development Branch to discuss the process for applying for an exemption under subsection 91(3), as this is a separate process from applying for a recovery permit.

If the proposed receiving facility is unknown at the time of application, note this in the application.

**Reprocessing of mine waste:**

If you are reprocessing mine waste within the recovery project area:

- Describe the phasing of reprocessing activities. Include a general flow sheet showing the process description and reprocessing rates (such as number of metric tonnes per day).
- Describe the types of chemical reagents to be used, if applicable, and storage location of chemical reagents.
- Describe the type of mine waste to be reprocessed. If tailings, describe any active dewatering of supernatant water, and/or passive dewatering of saturated tailings.
- Describe the types of reprocessing methods that will be used including crushing and grinding, beneficiation and further refining.
- Provide details of the reprocessing facility (such as mill, treatment plant) including age of facility if existing or if a new facility will be constructed.
- Indicate if any new mine waste will be generated because of reprocessing, the quantity of any new mine waste generated, and where it will be stored (such as new containment area, underground or open pit) and if the storage areas are temporary or permanent.

- Describe any water management that may be required to ensure that water resources are protected during recovery activities, (such as to address metal leaching or acid rock drainage potential from waste stockpiles).

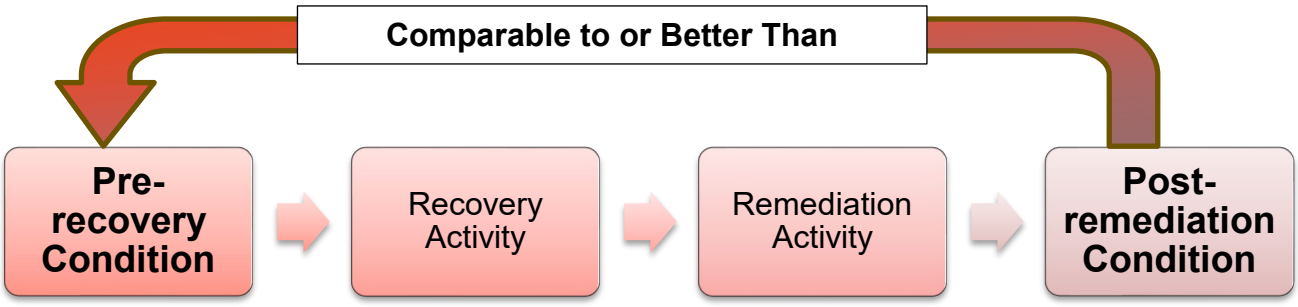
**Maintenance and management:**

- Describe how the recovery project area will be maintained (such as routine maintenance of roads and stockpiles).

## 4.3 Details of how the land would be remediated

You should detail the proposed remediation activities and show how the land on which the tailings or other mine waste materials are located will be remediated such that the condition of the land, , is comparable to or better than it was before the recovery activity with respect to public health and safety and the environment.

**Figure 2**




Note that meeting the standard of comparable to or better than is dependent on the specific characteristics of the land prior to the start of recovery activities including physical, chemical and biological factors. For example, some lands may be heavily contaminated because of past mining activities. Proponents are not expected to remediate the lands such that the lands are returned to the condition that existed prior to the start of past mining activities (For example, back to the condition of a greenfield site). You must only demonstrate that at the conclusion of recovery and remediation activities, the condition of the land is not worse than it was prior to the start of recovery activities. However, you are encouraged to remediate the land such that the condition is better than it was prior to the start of recovery activities. In some cases, it is expected that recovery activities such as the removal or reprocessing of mine waste will reduce the number of contaminants and lead to the condition of the land being improved.

You should describe the specific activities being proposed to remediate the land and how the activities will impact physical, chemical and biological conditions. The remediation activities will be site specific and could include:

- treatment or removal of soil, sediments, groundwater or surface water
- decommissioning and removal of infrastructure including any temporary buildings, power, pipelines, utilities, machinery, and equipment
- the upgrading of dams
- stabilizing tailings and tailing dams and the engineered soil coverings for tailings ponds and mine rock or ore piles
- water sampling and monitoring plan to check contaminant levels
- grading, sloping and revegetation to prevent wind and water erosion

You may reference any supporting technical studies as described above submitted with your application to inform the remediation activities proposed in your recovery and remediation plan. For example, the results of characterization studies for groundwater and surface water can be used to inform remediation methods such as treatment and monitoring of groundwater and surface water.

### Studies needed post-remediation

You may have to provide supporting technical studies and data after the completion of remediation activities to assist the minister in determining whether the condition of the lands has been made comparable to or better than before the recovery and remediation activities and whether to return any financial assurance to the permit holder after completion of the activities. These studies would describe the physical and chemical characteristics of the site after the remediation activities. Requirements for post-remediation studies would be detailed in the terms and conditions of the permit on a case-by-case basis.

Upon completion of remediation activities, a typical condition of the permit would require the permit holder to provide a summary report from a professional engineer or a professional geoscientist that describes how the land has been remediated and that certifies that the condition of the lands with respect to public health and safety and the environment are comparable to or better than before the recovery and remediation activities.

### Other considerations

Recovery and remediation projects offer the opportunity for you to work with Indigenous communities to incorporate traditional perspectives and knowledge into the recovery and remediation plan. Opportunities to consider could include incorporating native plants and medicines into seed mixes for revegetation purposes.

During the consultation process associated with a permit application (or proactively if no consultation activities are required or delegated to the applicant), you are encouraged to listen to the feedback provided by any Indigenous communities whose traditional lands the proposed activities will take place within and find ways to incorporate their perspectives into the recovery and remediation plan.

## 4.4 Estimated costs of the recovery and remediation activities

You must provide the estimated costs to recover tailings and other mine waste and to remediate the site. The estimated costs must be sufficiently itemized and detailed. For example, the applicant should provide a detailed expenditure schedule and itemized estimates of capital and operating costs based on the market value of the material goods and services provided. You should show estimated recovery costs and remediation costs separately. Estimated recovery and remediation costs should be based on third-party market values. The estimated costs will form the basis of the minister's consideration of the appropriate amount of financial assurance, although the minister has discretion to require a different amount where appropriate (refer to section 7.0 Financial assurance).

When you are preparing your estimate of costs, you should include costs (where applicable) for:

- site security
- access maintenance, such as maintenance of access roads
- removing machinery and equipment from site
- removing and decommissioning all temporary infrastructure, including sources of power and water management
- removal of any wastes
- management of remaining or partially recovered mined material
- removal of process reagents
- water management activities such as pumping or treatment
- earthworks activities such as loading, hauling and grading of material, or stabilization of the tailings or tailings dam
- revegetating disturbed areas
- any other work required to carry out the proposed recovery and remediation plan

## 4.5 Proposed schedule for the recovery and remediation

Provide a project schedule of activities detailing the activities in each phase of the project such as:

- data collection
- mobilization
- construction
- commissioning

- operation
- decommissioning
- remediation

The schedule should clearly identify start-stop dates, seasonal activity, and the length of time expected to reach remediation targets.

## Supporting materials

You must include a detailed site plan of legible scale and resolution showing the following features and estimated locations of the proposed activities as applicable:

- Project boundaries that delineate the scope and limits of the recovery activities and encompass all areas impacted by the work.
- Existing site access roads.
- Waterbodies.
- Existing mine hazards (shafts, raises, fence lines, crown pillars, open pits, tailings areas, mine waste rock, ponds, infrastructure, etc.).
- Area(s) where samples will be collected. If sampling is proposed from within a tailings storage facility, identify distance to the crest of the tailings dam.
- Area(s) where residual minerals will be removed. If removal is proposed from within a tailings storage facility, identify distance to the crest of the tailings dam.
- Area(s) where waste will be handled, deposited and stored.
- Reprocessing facility and residual tailings deposition area.
- Water management areas.
- Temporary infrastructure (mobile trailer, generator, fuel tank, power lines and pipelines, etc.).

The site plan must also identify the land tenure within the recovery project boundaries including:

- Tenure Identification Number(s)
- type of tenure such as mining claims (include claim number(s) which can be found in the ministry's MLAS)
- lease
- licence of occupation
- patent boundaries

It is also recommended that you provide a regional or project map between 1:50,000 and 1:350,000 scale which shows exactly where in the province the recovery project is located and includes:

- any local identifiable features such as towns and cities
- township boundary lines
- lakes, rivers and watersheds
- railways, roads

- identification of First Nation reserves and communities if within the scale of the map

Refer to Appendix C - Mapping standards for detailed mapping information and example maps.

# 5.0 Aboriginal Consultation

The ministry's consideration and issuance of mineral recovery permits may be associated with constitutional and other legal obligations, such as the duty to consult and, where appropriate, accommodate, that may be owed to Indigenous communities whose established or credibly asserted Aboriginal and treaty rights may be adversely affected by the proposed project and associated activities. This section provides guidance to proponents about Aboriginal consultation. For additional information, refer to the *Consultation Framework: Implementing the duty to consult with Aboriginal communities on mineral exploration and mine production in Ontario* (the "Consultation Framework").

The minister will determine whether your recovery project triggers the duty to consult based on the details provided in your application and where the duty is triggered, will identify the Aboriginal communities that are to be consulted. The depth of consultation owed to each identified community may vary by recovery project type, and on each assertions and the seriousness of the potential adverse impact to their Aboriginal and/or treaty rights). For example, simple, low-risk projects limited to sampling and investigation of relatively small quantities of mine waste may not trigger the duty to consult (if there is no potential for adverse impact to Aboriginal and/or treaty rights) or may trigger the duty at a lower level (where the Aboriginal or treaty right may not be strongly established, and/or the impact is expected to be low). For projects that trigger the duty to consult at a lower level, the ministry's typical practice will be to carry out Aboriginal consultation within the timelines outlined in Figure 1.0.

More complex projects involving activities with potential for greater environmental and other risks, such as tailings reprocessing, will likely trigger the duty to consult and require more in-depth consultation. Where the recovery project poses greater potential for environmental and other risks, the minister may choose to delegate procedural aspects of consultation to proponents. This is because proponents have the most in-depth knowledge of their proposed projects and are best positioned to explain what is proposed, answer questions, and assess and propose potential changes in response to concerns articulated by Aboriginal communities.

When delegating the procedural aspects of consultation, the minister will provide direction to proponents in writing and will explain proponents' roles and responsibilities and the minister's expectations of them. For example, you may be required to do any one or more of the following:

- prepare a proposed Plan for consultation with Aboriginal communities for review by the minister.
- establish a schedule for submitting interim reports to the minister.
- fulfill additional consultation obligations with Aboriginal communities directed by the minister as, in their sole discretion, is considered appropriate in the circumstances

Where procedural aspects of consultation are delegated and once a proposed Plan for consultation has been approved by the minister, you would consult Aboriginal communities in accordance with the Plan and any additional direction provided by the minister.

You should be aware that timelines for more complex projects where procedural aspects of consultation are delegated may exceed the timelines outlined in Figure 1.0 above. Timelines for consultation for your project will depend on the circumstances and cannot be guaranteed by the ministry.

If you are required to provide interim consultation reports to the minister, you must provide the reports in the approved form, unless directed otherwise by the minister. The minister may at any time, including after reviewing any interim consultation reports, provide further direction with respect to consultation with Aboriginal communities or with respect to a proposed Plan for Consultation as the minister, in their sole discretion, considers appropriate in the circumstances.

## Consultation prior to application submission

As outlined in subsection 4(3) of the regulation, you may choose to consult with Aboriginal communities before applying for a recovery permit and receiving formal direction from the minister about your role in Aboriginal consultation. Where you choose to do so, you must first request that the minister identify Aboriginal communities to be notified of your proposed activity. The minister will identify Aboriginal communities to be notified based on the information that you provide about the proposed activity. It is important to note that in the absence of sufficient information about the proposed activity, the minister may request more information. A pre-submission meeting with the ministry is highly recommended so that you can provide sufficient information on your proposed activity in order that the minister may identify Aboriginal communities to be notified of your proposed activity. A pre-submission meeting can also help to clarify the specific requirements for your proposal, including potential issues and approaches to Aboriginal consultation. Note that after receiving a complete application submission the minister may at any time, modify the initial determination of identified Aboriginal communities that must be notified, as the minister in their sole discretion considers appropriate in the circumstances. For example, the minister may identify additional Aboriginal communities to be notified based on the information detailed in the complete application.

If the minister provides you with a predetermination and you consulted with Aboriginal communities before submitting your complete application, you must include an Aboriginal consultation report with your application submission. Detail all comments received from Aboriginal communities, if any, and how they have been considered, mitigated, and accommodated, as appropriate.

The ministry identifies communities based on its current understanding of established and asserted Aboriginal and treaty rights, which continues to develop over time and may change as such rights continue to be clarified through new information or court decisions.

## Other considerations

While agreements between mineral companies and Indigenous communities (sometimes referred to as “arrangements”) are not required to obtain regulatory approvals under the Act and are not regulated under the Act, mineral industry proponents, Indigenous communities, and organizations across Canada have recognized the importance of engaging with one another throughout the mineral exploration and mine production sequence.

Proponents have an interest in building relationships and community support for a project that regulatory approvals alone cannot provide — and Indigenous communities may have an interest in supporting, participating in, and benefiting from, resource development activities. As a result, various forms of community-proponent agreements have emerged, particularly as mineral project activities increase in scale and scope.

## 6.0 Owner consent

Land tenure associated with current and historical mine sites in Ontario can be complex and obtaining written consent from every owner may be time-consuming. You should undertake a search in the local Land Registry Office to research ownership status; we will not perform this research on your behalf. Information on land tenure including parcel abstracts can be obtained through Teraview. If you are unfamiliar with researching land title issues in Ontario, there are law firms or consultants who may be able to help.

In deciding whether to issue a permit and what additional terms and conditions, if any, should apply, the minister is required to consider any arrangements that have been made with a surface rights owner of the land respecting the proposed recovery and remediation. There are a variety of commercial and financial terms which owners may seek to arrange with recovery permit applicants. We will primarily be interested in understanding whether there are any arrangements that limit the project activities, especially as they relate to remediation such as:

- restrictions on site access
- limitations on days or hours of work
- advanced notification of activity commencement

Owners should be advised that any such arrangements will not be binding on the ministry if the ministry or its agents are required to step in and take action onsite following minister's directions under section 152.7 of the Act.

You are solely responsible for obtaining any necessary consents for your proposed project. We will not intercede in obtaining consent from owners on the proponent's behalf, or otherwise provide advice, assistance, or support on business transactions between private parties as they may relate to a proposed mineral recovery project.

# 7.0 Financial assurance

Financial assurance may be required for a recovery permit. Under the Act, financial assurance can be required for the performance of any activity authorized by the permit that is specified in the permit. This includes, but is not limited to, remediation costs and/or measures taken to prevent, eliminate or lessen any adverse effect arising from the recovery or remediation undertaken under the permit.

If your application is approved and financial assurance is required, the financial assurance requirements would be included in the terms and conditions of the permit. You must submit the financial assurance to the ministry in the amount specified in the permit. We must receive the funds by the date specified in the permit prior to the start of recovery activities.

In considering the appropriate amount of financial assurance, the minister would consider the estimated costs given by the applicant in the application form (refer to Section 4.4 Estimated costs of the recovery and remediation activities for examples of recovery and remediation costs). However, these estimates are not binding on the minister in setting financial assurance amounts. Any financial assurance required as a permit condition may be higher or lower than the estimate if merited, for example:

- where the recovery and remediation activity may not fully address long-term issues created by the activity, such that long-term monitoring or other work may be required
- where the methods are novel and untested and may have unpredictable results for the condition of the site
- or where there is otherwise a risk of adverse effects

Financial assurance will typically be taken for remediation costs rather than recovery costs; however, where recovery is a necessary condition for the remediation to occur, the minister may consider requiring financial assurance for both. For riskier proposals, the minister may consider requiring financial assurance in an amount that goes beyond the costs of recovery and remediation, to assure against the contingency of potential adverse effects.

If you are applying for an amendment or renewal of a permit, the financial assurance may need to be updated.

In general, financial assurance requirements will be commensurate with the complexity of the proposed activities, for example:

- activities limited to sampling and investigation of relatively small quantities of mine waste to test initial resource potential would not typically be expected to be subject to financial assurance requirements except where the activities occur in proximity and possibly have potential impacts to tailings dams or tailings storage facilities
- more advanced resource testing procedures such as metallurgical testing involving larger samples of waste material would not typically be expected to be subject to

financial assurance requirements, except where remediation work is complex, where the activities present environmental risks or where the activities occur in proximity and possibly have potential impacts to tailings dams or tailings storage facilities

- activities that involve the recovery of tailings or other mine waste on a commercial scale would typically be expected to require financial assurance

Acceptable forms of financial assurance would include cash, a letter of credit, a surety bond, or such other forms as the minister may accept. When determining acceptable forms of financial assurance, the minister would consider reliability and accessibility to ensure that the ministry has guaranteed access to the funds on demand. Financial assurance can be returned to the permit holder, on request, at any point during the life of the recovery project, or after the recovery project is over, if the minister is satisfied that the amount is not required in respect of the permit (for example, if some or all the recovery and remediation work has been completed).

## Return or Release of Financial Assurance

The minister may, on the request of a recovery permit holder to return or release any or all financial assurance provided by the permit holder in accordance with the permit, make an order returning or releasing the amount, if the minister is satisfied that the amount is not required in respect of the permit (refer to section 152.5 of the *Mining Act*).

# 8.0 Application checklist

To help expedite application review by the ministry, it is important that you ensure that the application is complete prior to submission.

Ensure all required forms and attachments are included in the application. Failure to include one or more of the items listed in the checklist will result in the application being returned as incomplete.

# 9.0 Attestation by applicant

The person submitting the application must attest to the completeness and accuracy of the information in the recovery permit application.

If the person submitting is not a sole proprietor, written authorization from the applicant must be included with the application. For example, if the person submitting is an employee of the corporation, written authorization from the corporation (typically from an officer of the corporation) must be provided.

If the applicant is a partnership, the person submitting must be authorized by the other partners to submit on the partnership's behalf.

## Knowingly providing false statements

It is very important that you do not make any false statements in respect of your application. Under subsection 164(2), every person is guilty of an offence who knowingly makes a false statement in an application, certificate, report, statement or other document filed, made, or submitted as required by or under the Act or its regulations. Persons who are guilty of this offence are liable on conviction to a fine of up to $25,000 and the court has the power to make other orders as well. Note that if a corporation commits an offence, any officer, director, employee or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to and guilty of the offence, and may be liable on conviction to the same punishment, whether the corporation has been prosecuted.

# Appendix A: Supporting Technical Documents

Technical studies may be required for your recovery project to inform baseline conditions and potential impacts on the environment. The studies required will depend on the nature of the activities. Technical studies must be prepared by either a professional engineer or a professional geoscientist eligible to practice in Ontario with appropriate training and expertise.

A “professional engineer” is a professional engineer as defined under the *Professional Engineers Act*.

A “professional geoscientist” is a member of the Association of Professional Geoscientists of Ontario.

The chart in Appendix B provides a summary of what technical documents may be needed depending on the proposed activities and the individual who must prepare the document. It is highly recommended that you contact the ministry for a pre-submission meeting to confirm the requirements for your project. If your proposed project is located on Crown land and you need to access the area to gather data which will result in alteration of the land, (such as you need to clear trees, or install groundwater monitoring wells to inform a characterization study), you should first request a pre-submission meeting with the ministry to determine the type of authorization needed (such as you may need approval from the Ministry of Natural Resources).

Each report must include the qualifications of the individual(s) that have prepared the report(s). A description of each of the technical documents that may be needed is provided below. Each document must include the qualifications of the individual(s) that has prepared the document.

## Geochemical assessment report

The purpose of a geochemical assessment report is to determine whether the recovery activity has the potential to negatively impact the chemical stability of the environment and to identify if further assessment is required. This report must include:

- mineralogical data
- geology discussion
- hydrology discussion
- characterization of the mining waste
- description of any water chemistry data available
- description of any metal leaching test data
- description of any acid rock drainage data

- recommendations for further assessments, mitigation measures and monitoring strategies

## Characterization studies

### Groundwater characterization study:

The purpose of this study is to determine the types and concentrations of contaminants present in the groundwater. The study must include discussions of:

- contaminant sources
- groundwater quality monitoring up gradient and downgradient of the mining waste of interest for mineral recovery
- expected uses of area groundwater including sensitive receivers
- the existence or potential for development of groundwater contamination, the nature of the contamination and the potential of contaminants to migrate
- the degree of attenuation expected and any future monitoring

The study can be used to inform:

- baseline groundwater quality associated with historical or current mining activities
- development of remediation plans, such as the selection of appropriate technologies and methods to clean up or monitor contaminated groundwater

If the study describes an existing or potential negative impact to the use of groundwater, recommendations to assess the magnitude of that negative impact and proposed remediation methods should be provided.

### Hydrogeological study:

A hydrogeological study is required only if the geochemical assessment report or groundwater characterization study concludes that the mineral recovery activity has the potential to negatively impact the chemical stability of the site drainage and underlying groundwater quality.

The purpose of the study is to provide information on hydrogeological conditions such as groundwater flow patterns, recharge rates and the aquifer properties.

The information gathered can inform the following:

- an understanding of how water moves through the subsurface
- identification of potential sources of groundwater contamination and assessing the risks to public health and the environment

- design and implementation of remediation strategies to clean up contaminated groundwater
- planning for sustainable development by ensuring that groundwater extraction, if required, does not exceed the natural recharge rate

**Surface water characterization study:**

The purpose of the surface water characterization study is to provide details of the surface waters on, flowing through, or receiving flow from the recovery project area.

The study should include:

- monitoring of discharge exiting on-site sources
- characterization of on-site water bodies, downstream receiver water bodies and upstream background reference sites

Monitoring should consider the size of the recovery project, the proximity to receiving watercourses, and must be adequate to establish the potential for impacts to surface waters. The length of monitoring needed would be assessed in consideration of site-specific characteristics. The magnitude of any potential negative impacts and proposed remediation methods should also be provided.

The information gathered can inform the following:

- baseline surface water quality associated with historical or current mining activities
- development of effective water management plans during recovery and remediation activities

**Metal leaching or acid rock drainage (ML/ARD) characterization study:**

The purpose of this study is to determine the metal leaching or acid rock drainage (ML/ARD) potential of tailings and other mine wastes from which the recovery of minerals is proposed. The sampling and testing shall be conducted in accordance with a report prepared by William A. Price on behalf of the Mine Environment Neutral Drainage (MEND) program, entitled "Prediction Manual for Drainage Chemistry from Sulphidic Geologic Materials", MEND Report 1.20.1, dated December 2009.

The study can be used to inform:

- predicted effects on adjacent land, groundwater, and surface water quality
- design requirements for the prevention, mitigation, and monitoring strategies of identified ML/ARD concerns

- baseline conditions related to ML/ARD to help inform future remediation activities

## Tailings stability assessment

The purpose of the tailings stability assessment study is to ensure the structural integrity and safety of any tailings dams or tailings storage facilities (collectively referred to as 'tailings dams'). In addition to dams retaining tailings, a tailings dam may also include dams retaining sludge, effluent, process water or other substances on a mine site. A tailings storage facility encompasses the tailings dams as well as the stored contents.

### Screening assessment report:

For all recovery projects where the activity occurs on or near a tailings dam, you must submit a **screening assessment report**. This report should assess whether the activity has the potential to impact the physical stability of the dam or the environment. The assessment should consider the:

- design and intended function of the tailings dam
- location and method of tailings removal
- quantity of tailings proposed to be removed
- state in which the area will be left following tailings removal

The assessment must consider other activities which may impact the stability of tailings dams, such as:

- use of the dam crest as an access road
- installation of a pilot plant in the vicinity of the dam
- excavation of materials near the dam toe

If the residual tailings will be re-deposited in the tailings storage facility following reprocessing, the assessment must consider the tailings deposition strategy and anticipated tailings properties.

### Detailed assessment report:

Where the screening assessment report confirms that the activity has the potential to impact the stability of a tailings dam, you must provide a detailed assessment report. This report must indicate how the proposed recovery activity will impact the stability of the tailings dam(s) and the hydrotechnical regime of the tailings storage facility. It needs to assess the physical stability of the tailings dam against the static and dynamic loadings.

The assessment report must also consider the potential impact of all activities associated with the recovery project, including:

- establishment of access roads to the work location
- construction and operation of reprocessing facilities
- removal of tailings from the tailings storage facility
- re-deposition of the residual tailings following reprocessing.

The detailed assessment report must include descriptions of recommended protective measures to avoid potential impacts to the tailings dam resulting from recovery activities. Protective measures can include adding buttressing, increasing storage capacity or improving water management.

**Alterations and modifications of a tailings dam:**

Where any construction, alteration, or modification of a tailings dam is proposed, you must submit the detailed design of the proposed works. This submission must include any tailings dam assessment reports to allow the ministry to understand whether the proposed work would be expected to require approval of Ministry of Natural Resources (MNR) under the *Lakes and Rivers Improvement Act, R.S.O. 1990, c. L.3* (LRIA). The information provided should include a **detailed design report and issued for construction drawings with associated technical specifications** for the dam alteration.

If we determine that work is likely subject to the LRIA (As in, “online”), we will inform you that LRIA approval would likely be required. Where the tailings dam is “offline” within the meaning of the LRIA administrative guide, we will review the design of the proposed dam alteration or modification. This review will confirm that the design engineer has adhered to the procedures and requirements set out in the Canadian Dam Association’s (CDA) guidelines and technical bulletins (together, the “CDA Guidelines”). We will advise you if further technical documents are required to support the application review. Additional documents that may be required, depending on the proposed activity and other site-specific considerations, include:

- as-built reports from previous dam construction activities
- dam safety reviews
- dam safety inspections
- an operations, maintenance and surveillance manual
- a tailings deposition plan or management plan

# Appendix B: Summary of supporting technical studies required

The chart below provides a summary of the supporting technical studies that may need to be submitted with your application based on your proposed activities. We may require additional information depending on the specific project proposal and site characteristics. If you do not provide a technical study, other supporting rationale must be provided by the professional engineer or a professional geoscientist. For example, there may be existing data available for the tailings and other mine wastes, historical studies that can be relied upon, or no negative impacts are anticipated.

| Supporting technical study | Prepared by | When is study required? |
|---|---|---|
| Geochemical assessment report | Professional engineer or professional geoscientist | May be required to provide an assessment of whether the activities have the potential to negatively impact the chemical stability of the land. |
| Groundwater characterization study | Professional engineer or professional geoscientist | May be required to provide an assessment of whether the activities have the potential to negatively impact groundwater quality. |
| Surface water characterization study | Professional engineer or professional geoscientist | May be required to provide an assessment of whether the activities have the potential to negatively impact surface water quality. |
| Metal leaching or acid rock drainage (ML/ARD) | Professional engineer or professional geoscientist | May be required to provide an assessment of whether the activities have the potential to impact ML/ARD from the project site. |
| Hydrogeological study | Professional engineer or professional geoscientist | May be required if the activity has the potential to negatively impact the chemical stability of the site drainage and underlying groundwater quality. |
| Tailings stability screening assessment report | Professional engineer | Required if the activity occurs on or near a tailings dam or tailings storage facility to determine if the work has the potential to impact the physical stability of the dam or the environment. |
| Tailings stability detailed assessment report | Professional engineer | Required if the screening assessment report confirms that the activity has the potential to impact the physical stability of the tailings dam or the environment. |

| | | |
|---|---|---|
| Dam alteration or modification: Detailed design report and issued for construction drawings and specifications | Professional engineer | Required for all activities where alteration or modification of a tailings dam is required to determine if the tailings dam is “online” and falls under the authority of the Ministry of Natural Resources (MNR) under the *Lakes and Rivers Improvement Act* (LRIA). |

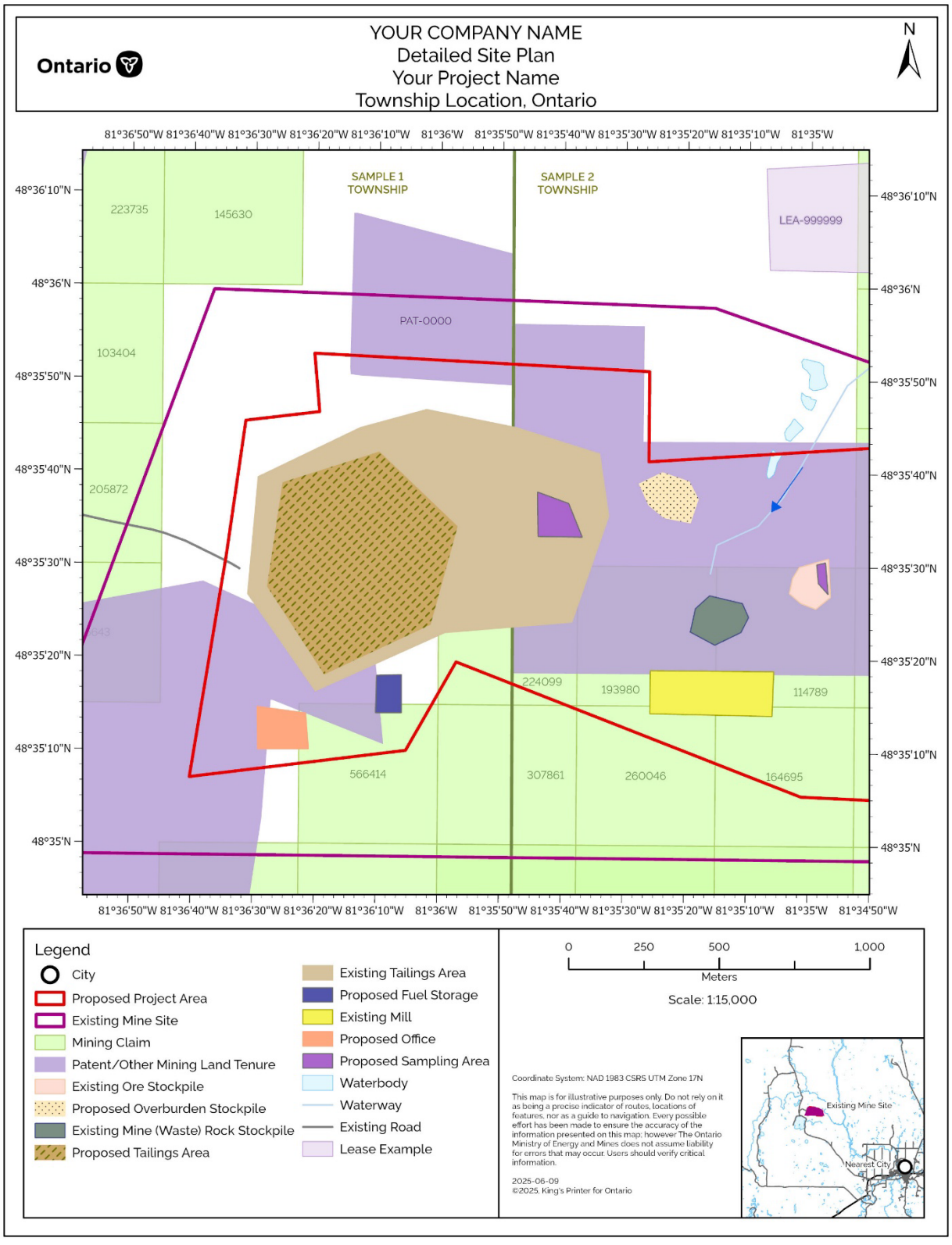
# Appendix C - Mapping standards

All maps must be prepared according to the following minimum information requirements:

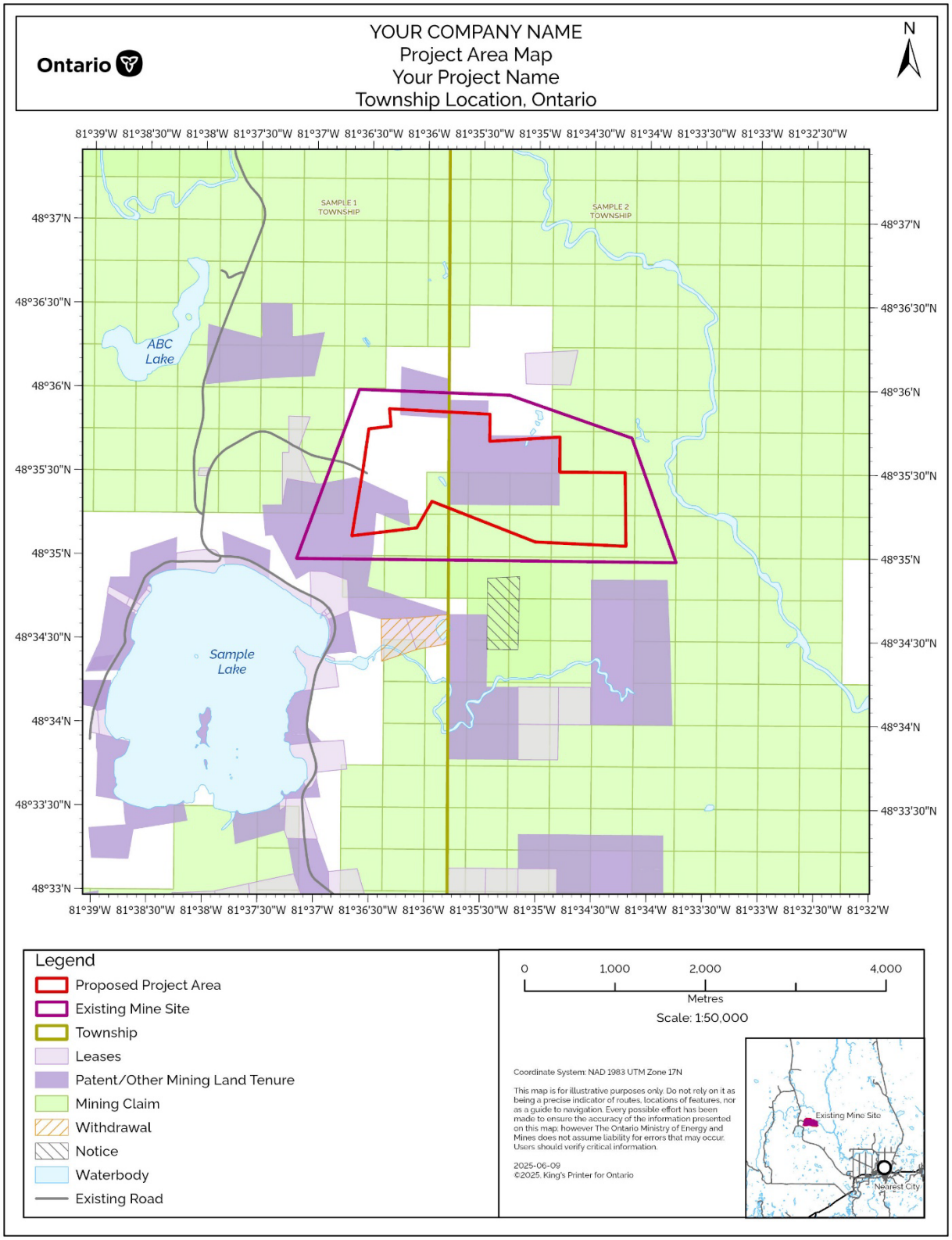
- a key map showing the location of the proposed site
- should not be larger than 11” by 17” (B size drawing format)
- a graphic or bar scale
- a north direction arrow
- units of measures are in metric
- grid coordinates in UTM and NAD83 datum
- a legend with a descriptive list of all symbols used on the map

Refer to examples below of maps for a proposed recovery project.

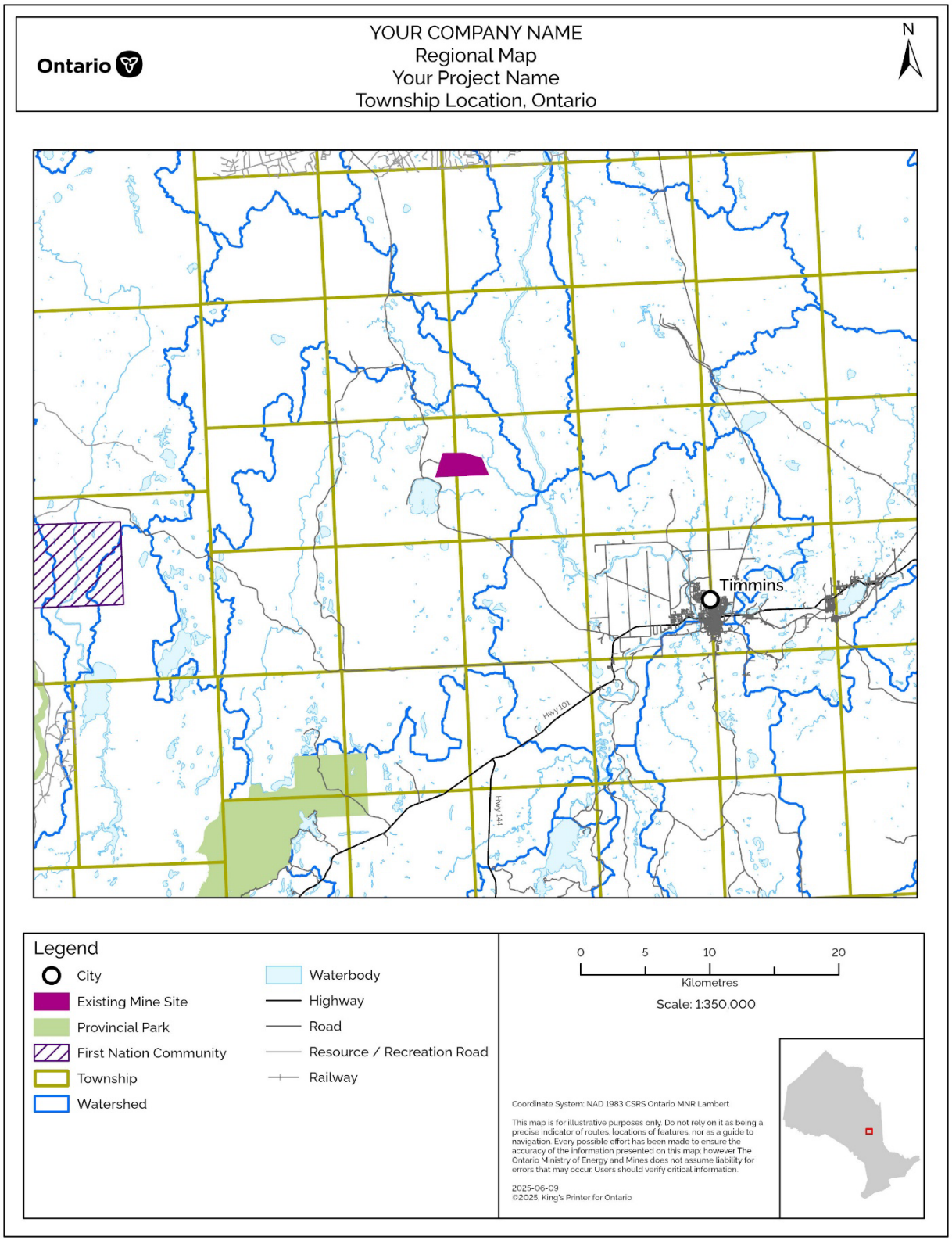
## Example A: Detailed site plan



## Example B: Project area map



## Example C: Regional map



# Appendix D: Questions and Answers

**What is the difference between an exploration plan or exploration permit and a mineral recovery permit?**

Exploration plans and permits must be held by the holder of an unpatented mining claim, mining lease, or exploratory licence of occupation. They authorize exploration activities only, but do not authorize the reprocessing and sale of minerals, nor do they convey a property right in and to the extracted minerals. The activities under an exploration plan or permit are not restricted to the investigation of existing tailings and mine waste materials.

A recovery permit authorizes the extraction of residual minerals from tailings and other mine wastes on producing or abandoned mine sites where previous mining activities have taken place. A person does not need an unpatented mining claim or any other type of tenure to apply for a recovery permit, however, they do need written consent from every owner of the land (as defined in the *Mining Act*) within the proposed recovery project area other than the applicant and the Crown.

The recovery permit conveys not only permission to undertake the recovery and remediation activity, but also, if on Crown land, a property right to any materials removed during the permitted activity. However, activities are restricted to existing tailings and waste materials; a recovery permit would not be available at a greenfield site as there would be no existing tailings or waste materials from which to recover minerals.

**What is the difference between a recovery permit and a closure plan?**

The filing of a closure plan does not convey rights to land or minerals. The proponent of a closure plan can be:

- the owner in fee simple (owner with exclusive, unlimited or unconditional rights on a property).
- lessee of the mining rights to the project,
- the holder of unpatented mining claims (in the case of some advanced exploration closure plans)

By contrast, a recovery permit can be applied for and held by any person, regardless of whether they hold tenure to the site, if the consent is obtained from every owner within the proposed recovery project area (other than the applicant or Crown).

Another key difference is the complexity and scope of the authorization. The required content of a closure plan is heavily codified by O. Reg. 35/24, and the prescribed technical standards for closure plans are set out in the Mine Rehabilitation Code. This means that closure plans tend to be long and complex.

Finally, in the context of closure plans, financial assurance is a legislative requirement and must be submitted in an amount that is equivalent to the estimated costs of rehabilitation required. In the context of recovery permits, financial assurance is

discretionary and where required it does not need to be tied dollar-for-dollar to the costs of remediation. It could be lower (where the project is low-risk) or higher (to address possible risk-based contingencies).

**If the proposed recovery project is located within a site that has a filed closure plan, does the closure plan need to be amended because of recovery activities undertaken in the same area?**

As per subsection 144(2) of the *Mining Act*, a proponent shall promptly notify the minister in the prescribed form and manner if a change that could reasonably be expected to have a material effect on the adequacy of the proponent's filed closure plan is planned, has occurred or is likely to occur. Where the tailings or other mine wastes of interest are in an area where there is a filed closure plan and planned mineral recovery activity could reasonably be expected to have a material effect on the adequacy of the proponent's filed closure plan, a Notice of Material Change must be submitted by the proponent. This is the case irrespective of whether the proponent would be the applicant for the recovery permit, or whether the applicant is a third party. However, if the closure plan remains adequate in all material respects (For example, where the recovery activity would result in the removal of a waste rock pile that would otherwise need to be rehabilitated, and where the remainder of the closure plan remains practicable in all respects) a Notice of Material Change would not be necessary.

Additionally, under subsection 143(1) of the *Mining Act*, a proponent shall not undertake advanced exploration or mine production activities that are not included in or consistent with the proponent's filed closure plan for the project. If the proponent is undertaking mine production and is adding a recovery activity to its existing closure plan for mine production, the proponent should consider whether it would be more efficient to submit a closure plan amendment to amend its project details and, to the extent necessary, its rehabilitation measures, rather than applying for a recovery permit. However, nothing in the *Mining Act* prevents a proponent from undertaking mine production pursuant to a filed closure plan, and undertaking recovery activities pursuant to a recovery permit, at the same site. It is recommended that the proponent contact the ministry for a pre-submission meeting to discuss what would be the best course of action for the proponent (As in, closure plan amendment or recovery permit application).

**Can I apply for a recovery permit if the tailings or other mine waste on the proposed recovery project area have been rehabilitated?**

As per section 164(3) of the *Mining Act* , every person who alters, destroys, removes or impairs any rehabilitation work made in accordance with the Act or a filed closure plan, or made by the Crown, without the written consent of the minister, is guilty of an offence and on conviction is liable to a fine of not more than $500,000 or to imprisonment for a term of not more than one year, or both.

If the proposed recovery activity would alter or impair a rehabilitation work, the recovery permit may serve as the minister's consent, but only where the recovery permit specifically indicates that the minister has consented for the purposes of subsection 164(3) of the *Mining Act.*

**What is the difference between 'rehabilitation' and 'remediation'?**

"Rehabilitate" is a defined term in the *Mining Act*. Rehabilitation is tied to the prescribed standards in O. Reg. 35/24, including the Mine Rehabilitation Code, and to the outcome of restoring the site to its former use or condition to the extent required by the prescribed standards, or changing the site to a different use or condition that is approved by the minister. The term "rehabilitate" in Part VII of the *Mining Act* is used in relation to the closure of advanced exploration or mine development sites.

The term "remediation" is not defined in the *Mining Act*, and its ordinary meaning applies: correcting, improving or remedying some thing (For example, a mine hazard) or some situation (For example, a mine site). The prescribed standards in O. Reg. 35/24 do not necessarily apply to remediation activities on lands where recovery activities occur. The intended outcome of remediation activities under a recovery permit is set out in subsection 152.1(2) of the *Mining Act*: ensuring that the condition of the land with respect to public health and safety and the environment, following the recovery and remediation, is comparable to or better than it was before the activities, as ultimately determined by the minister. The choice of "remediation" as a standard reflects that recovery permit activities will be happening on brownfield sites, and that remediation work at a site under a recovery permit should be tied to the impacts of the recovery activity rather than the broader historical legacy of the site.

Notably, the issuance of a recovery permit does not exempt any proponent from the liability to rehabilitate the site under Part VII of the *Mining Act*. Subsection 153.3 of the *Mining Act* provides that "a lessee or patentee of mining rights is, unless a contrary intention is shown, liable in respect of the rehabilitation under [Part VII] of all mine hazards on, in, or under the lands, regardless of when and by whom the mine hazards were created", and clarifies that "the issuance of a recovery permit does not constitute a contrary intention under subsection (1)."

**What happens if I can't get consent from an owner of the lands where the tailings or wastes are located?**

An application cannot be submitted without the consent of every owner of the land on which the tailings or other waste materials are located if the owner is not the applicant or the Crown. "Owner" is a defined term under the *Mining Act* and includes "every current owner, lessee, or occupier of all or part of a mine, mine hazard, or mining lands" (and, where applicable, its agent, and any secured lender in possession of such lands).

If the applicant cannot obtain the necessary consent(s), the application is incomplete and will be refused.

Where the surface rights to the lands are privately held or leased by someone other than the applicant, the applicant will typically need to make commercial arrangements with that owner, to ensure access to the land, deal with any private liability issues and to avoid any disputes over ownership of extracted minerals. Where an arrangement is in place with a surface rights owner, the minister can consider that arrangement in deciding whether it is appropriate to approve the recovery permit, and if so, what terms and conditions may apply.

**Can I apply for a recovery permit if I want to use the mine waste for aggregate?**

The purpose of a recovery permit is to allow the recovery of residual minerals or metals from mine waste. Mine waste for use as aggregate for construction purposes is governed under the *Aggregate Resources Act*. You may need authorization from the Ministry of Natural Resources to conduct aggregate operations.