



Overview of Proposed Canadian Impact Assessment Act

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IAIA Webinar Series

19 March: Reforming the Environmental Permit and Review Process – A Case Study

- Lost in Time: The Black Hole Between ESIA Completion and Project Implementation
- Health Impact Assessment of a Night Time Economy
- Empowering Indigenous Voices in Impact Assessment
- Understanding Impacts on Vulnerable Populations through Psycho-Social Impact Assessment
- Health Considerations in Impact Assessment
- Resettlement and Impact Assessment – Points of Intersection
- More to come...

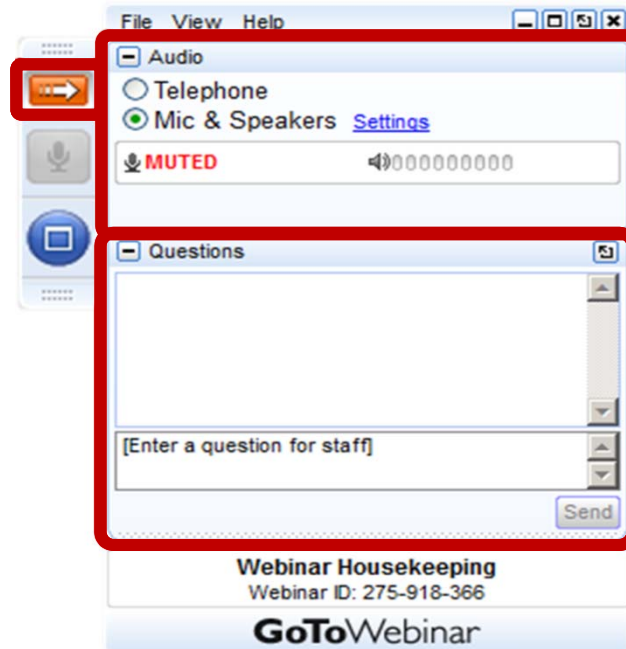
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Overview of Proposed Canadian Impact Assessment Act

Christine Loth-Bown

New Impact Assessment System

- Context
- Overview
- Current system to proposed system
- Project List
- Participation in the Parliamentary Process

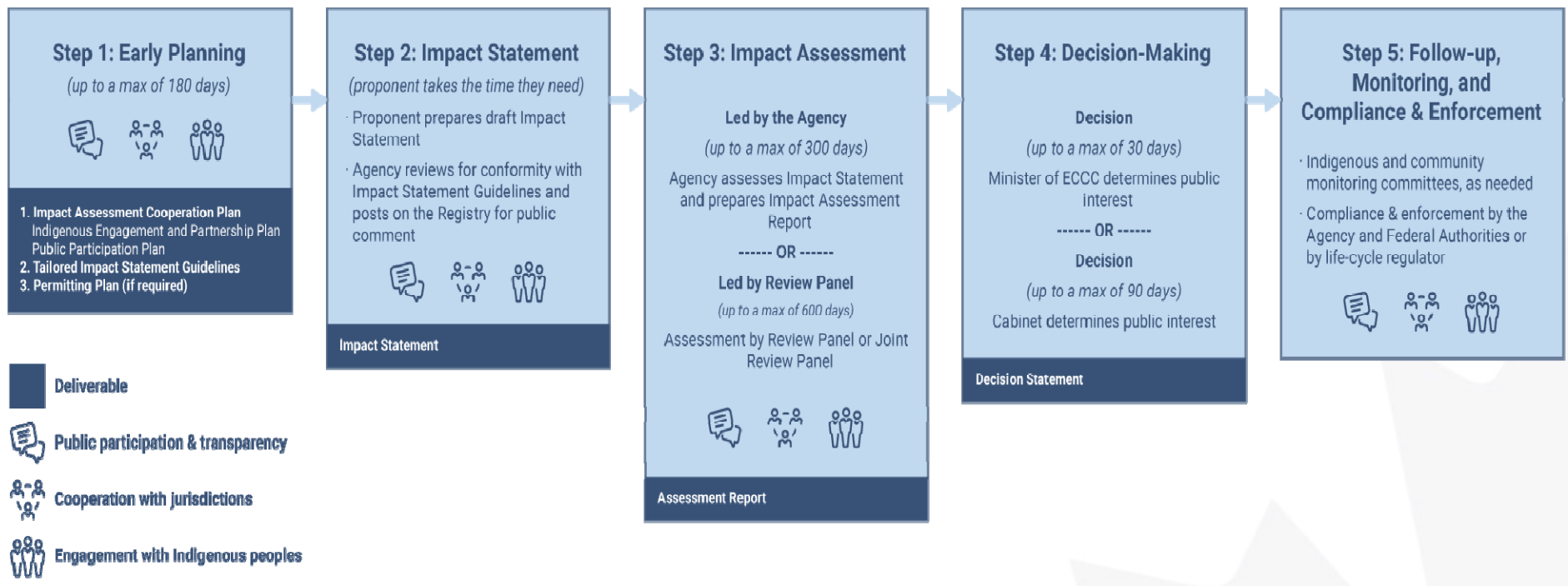
Context

- On February 8, 2018, the Minister of Environment and Climate Change tabled Bill C-69
- The bill proposes to repeal the *Canadian Environmental Assessment Act, 2012* and replace it with the Impact Assessment Act
- The proposed Impact Assessment Act sets out a federal process for impact assessment of major projects and the prevention of significant adverse environmental effects for projects on federal lands and outside Canada

Overview

- A single agency – the Impact Assessment Agency of Canada would be responsible for conducting impact assessments
- Broadens the scope of assessments to include environmental, social, health and economic
- Early, inclusive and meaningful public engagement
- Certainty and predictability through timelines
- Nation-to-nation, Inuit-Crown, and government-to-government partnerships with Indigenous peoples
- Decisions based on science and Indigenous traditional knowledge
- Regional and strategic assessments to support impact assessments

IA Process



*Regional and strategic assessments would be proactively conducted outside of individual project reviews. This will help inform project assessments, manage cumulative impacts, and support decision-making.

Early Engagement

FROM	TO
No mandatory early planning and engagement phase	<ul style="list-style-type: none">• A new mandatory early planning and engagement phase• Would begin when the proponent provides an initial description of a proposed project• Will result in early dialogue with Indigenous peoples, provinces, the public and stakeholders to identify and discuss issues early, leading to better project design and coordinated assessment• Agency confirms whether an assessment is required and then issues to proponent:<ul style="list-style-type: none">• Impact Assessment Cooperation Plan (including Indigenous Engagement and Partnership Plan, and Public Participation Plan)• Tailored Impact Statement Guidelines• Permitting Plan (if requested)

Broadened scope of assessment

FROM	TO
Environmental assessments	<ul style="list-style-type: none">• A move to impact assessment based on the principle of sustainability• Broaden the scope of assessments to include positive and negative environment, economic, social and health impacts• An assessment of the impacts of a project on Indigenous peoples and their rights would be required
Limited list of factors to consider - Indigenous traditional knowledge and community knowledge not mandatory	<ul style="list-style-type: none">• Broader set of factors that includes requirements to consider Indigenous traditional knowledge and community knowledge, and gender-based analysis in order to support holistic and integrated decision-making.

Regulatory Certainty

FROM	TO
Three responsible authorities	<ul style="list-style-type: none">• A single Agency to conduct assessments and coordinate Crown consultations with Indigenous peoples• Lifecycle regulators and Offshore Boards would work collaboratively with the Agency to provide expertise as needed
Legislated timelines	<ul style="list-style-type: none">• Legislated timelines will be maintained for impact assessments and extended to the planning and decision phases• Ability for Minister to set timeline for the assessment at the outset would facilitate harmonized processes
Generic review guidelines	<ul style="list-style-type: none">• Key issues to be raised in early planning process, providing companies clarity with respect to expectations from the outset

Reconciliation with Indigenous Peoples

FROM	TO
<p>Indigenous participation in reviews driven by the duty to consult</p>	<ul style="list-style-type: none"> • Aiming to secure consent through processes based on recognition of rights • Explicit requirements to consult and cooperate before an assessment is begun and throughout • Co-developed Indigenous engagement and partnerships plans
<p>Limited options for cooperation with Indigenous governments</p>	<ul style="list-style-type: none"> • Expanded definition of jurisdiction enables opportunities for Indigenous governments to exercise powers and duties under the Act, including substitution • Collaboration on regional assessments and monitoring
<p>Legislation silent on consideration of Indigenous rights in EA process</p>	<ul style="list-style-type: none"> • Requirement to address impacts on Indigenous rights in decision-making: <ul style="list-style-type: none"> • Minister's power to designate projects • Agency's decision whether to require an assessment • Minister/GIC public interest decision at end of assessment • Purpose of Act includes respect for rights

Reconciliation with Indigenous Peoples

FROM	TO
Participant funding available for project consultations	<ul style="list-style-type: none">• Increased support for Indigenous participation and capacity development• Support available for early planning phase
Indigenous traditional knowledge optional, limited protections	<ul style="list-style-type: none">• Mandatory consideration and protection of Indigenous traditional knowledge, if provided, alongside other sources of evidence• Respect for Indigenous laws and protocols for its use
Limited engagement on policies and guidelines	<ul style="list-style-type: none">• Co-development of policies of interest to Indigenous peoples, e.g. traditional knowledge, Indigenous cooperation regulations• Indigenous Advisory Committee to work with the Agency on policy and technical guidance on issues of concern to Indigenous peoples

Public Participation

FROM	TO
Participation in review panels limited to interested parties	<ul style="list-style-type: none">• All Canadians would be able to participate in impact assessments• Public participation opportunities provided during early planning and impact assessment process
Limited posting requirements on Registry	<ul style="list-style-type: none">• Enhanced Registry to provide greater access to information
Participant Funding Program available	<ul style="list-style-type: none">• Participant Funding Program would be expanded to include broader eligible activities and Indigenous capacity and support

Science and Transparency

FROM	TO
No advisory committee required	<ul style="list-style-type: none">• Establishment of an Expert Advisory Committee on Science and Knowledge
Limited user-friendly information posted on Registry	<ul style="list-style-type: none">• Plain language summaries to increase accessibility to complex scientific and technical information• Requirements to post rationale for decisions
Availability, accessibility and integration of science and knowledge varies	<ul style="list-style-type: none">• Decisions on projects are guided by science, evidence and Indigenous traditional knowledge• An open science and data platform to provide access to information related to cumulative impacts, impact assessments, and regulatory processes• Mandatory consideration and protection of Indigenous traditional knowledge alongside other sources of evidence in impact assessment• Federal and, when needed, independent reviews of science

Decision-making

FROM	TO
Decisions based on whether the project is likely to cause significant adverse environmental effects	Decision whether the adverse effects are in the public interest, in light of the following factors: <ul style="list-style-type: none">• designated project's contribution to sustainability• Extent of impacts and mitigation measures• impacts on Indigenous peoples and rights; and• Impact on Government of Canada's environmental obligations and climate change commitments.
GIC decision only if there are likely significant adverse environmental effects	<ul style="list-style-type: none">• Minister decides for assessments conducted by the Agency• GIC decides for assessments conducted by review panel

Project List

- The Act applies to designated projects – those projects described in the *Regulations Designating Physical Activities*
- Minister may designate any project not described in regulations
- The Government has launched consultations to review the existing entries of the current regulations in a transparent manner (impactassessmentregulations.ca)
- A criteria-based approach is being used to review the regulations to focus federal impact assessment on projects that have the most potential for adverse environmental effects in areas of federal jurisdiction

Participating in the Parliamentary Process

- Any individual or organization may submit a brief to a committee of the House of Commons, even if they are not given the opportunity to appear before the committee
www.ourcommons.ca/Committees/en/Participate
- A member of the Canadian public who wishes to express his/ her views or comment on a bill before the House can write or phone his/her Member of Parliament. Any correspondence addressed to a Member of Parliament is free of postage
www.ourcommons.ca/Parliamentarians/en/members/addresses

Thank you!

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Questions?



Thank you!

Next webinar:

19 March: Reforming the Environmental Permit and Review Process – A Case Study

The logo for the International Association for Impact Assessment (IAIA) consists of the letters 'IAIA' in a bold, green, sans-serif font. The letters are slightly shadowed, giving them a three-dimensional appearance as if they are floating above a surface.

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