Next generation environmental assessment for Canada: basic principles and components of generic design

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Environmental assessment after 40 years

• positive evolution in concept and best practice
• main public venue for engagement in decision making about major undertakings
• resistance to expanded application
• increasing pressures for fast, positive decisions
• larger and longer issues (climate change, cumulative effects, …)
• public skepticism, unwillingness to tolerate negative effects for others’ benefit

> EA: promising, needed, stalled, backsliding
The big current context

• increasing unsustainability (need to reverse adverse cumulative trends)
• recognition of complexity (interactions at many levels, uncertainty and surprise, non-linear change)
• unproductive oppositions: more ambitious or more modest government interventions, openness or authority, traditional or modern culture, stimulus or austerity, inter-jurisdictional collaboration or local self-reliance, resilience or transition, immediate worries or future legacies

> need to shift basic premises
Obsolete basic premises

in a world of probably overshot limits:
• economic growth based on greater resource exploitation cannot improve overall wellbeing
• trickling-down of expanding material wealth cannot deal with poverty
• impact mitigation cannot protect valued ecological and social qualities
> major transition required and most of the culpability and capacity lies in the rich countries
Obsolete EA premises

- focus on individual effects of big projects
- mitigate particular adverse effects
- determine the “acceptability” of proposed projects
- rely on fragmented, regulatory agencies to govern narrowly motivated proponents
- give separate attention to economic, ecological and social objectives
- make trade-offs that are “acceptable in the circumstances”
- assume efficiency means faster, easier and cheaper
Aim higher:
EA law and policy regimes must

- require every undertaking to make a positive contribution to sustainability
- identify best options
- seek multiple, mutually reinforcing, fairly distributed and lasting gains, while avoiding significant adverse effects
... and must also

- be the core planning and decision making process for all undertakings (and sets of undertakings) that may be significant for sustainability transition
- apply explicit, sustainability-based criteria
- link strategic and project assessment
- focus on cumulative effects
- compare alternatives and pick the best
- integrate with multistakeholder engagement
- coordinate with regulatory licensing
- monitor
- foster learning
- harmonize upward
Basic next generation components based on typical EA process steps

- the purpose of environmental assessment
- scope of assessment requirements
- sustainability-based criteria for evaluations and decision making
- application rules
- streams
- linked tiers
- effects assessment
- participation
- review and decision-making processes
- monitoring of effects and compliance, and response to findings
Basic next generation components
whole process considerations

- authoritative requirements in legislation, regulation and guidance
- learning
- process administration
- linkages beyond assessment

creeping away from the precipice, one undertaking at a time
Basic next generation components effectiveness, efficiency and fairness considerations

- within regime
  - clear rules, broad and early application, consistent guidance, contextual flexibility, assessment at centre, collaboration with licensing

- within jurisdiction
  - sustainability agenda/guidance, shared information, equivalencies, tiering

- across jurisdictions
  - upward harmonization

- beyond assessment
  - common agendas, larger motivation shifts

creeping away from the precipice, one undertaking at a time
Particular items of interest

- “contribution to sustainability” test
  - based on broad requirements for progress towards lasting wellbeing
  - specified for particular applications (based on characteristics of desired futures, key issues and aspirations, etc.)
  - jurisdictional specification
  - sectoral and regional specification
  - case/context specification
  - links to other areas (future visioning, sustainability strategies, …)
Particular items of interest

• broad definition of “environment”
  - adopt scope of effects integrating social, economic and cultural as well as biophysical effects and interactions (cumulative as well as individual effects; positive as well as adverse effects)
  - focus on cumulative effects, including legacies

• mandatory identification and comparison of potentially reasonable alternatives vs determination of “acceptability”
Particular items of interest

- extension of application to strategic level assessment, with tiering
  - existing strategic undertakings (which ones? what priorities? …)
  - needed strategic undertakings (identified through project EA; what other routes? how to motivate governments to undertake?)

- anticipatory application (how to anticipate atypical cases?)

- interactive and cumulative effects assessment
  - integrated consideration of complex socio-biophysical systems
  - recognition of uncertainties
Particular items of interest

- engagement, learning and collaboration, enhancing and mobilizing capacities
  - whose responsibility?
  - how to begin early, with whom and with what information?
  - engagement in criteria specification, alternatives identification, consultant selection, methodology selection, alternatives comparison, assessment review, trade-off justification, approval selection, monitoring, …
Particular items of interest

- assessment at the centre of administration
  - at core of decision making while maintaining ecological emphasis
  - regional/collaborative bodies

- decision making authority
  - arm’s length body that heard the case and accountable elected official(s)
  - transparency of decisions and reasons
  - independent auditing

- other models for collaborative applications
Particular items of interest

- linkages beyond assessment
  - jurisdictional sustainability principles, criteria
  - equivalencies, esp. at strategic level (e.g. regional planning)
  - strengthening sustainability motivations (ecological and equity tax reform, duty to consult and accommodate/free prior and informed consent/social licence, …)
But is all that practical?

efficiency concerns and other complaints

- requires integration of ecological, social and economic expertise
- is beyond the capacities and authority of most proponents
- involves multiple overlapping jurisdictions
- there will be no clear answers
- will take too long
- will cost too much
- will delay and discourage needed development

Mike Baldwin, Cornered
Big efficiencies

- early initiation
- tiering: strategic guidance to project assessments; coordinated with licensing
- learning and mobilization of more capacities (e.g. stronger reviews, follow-up knowledge)
- harmonization
- systemic motivational shifts (tax reform, FPIC, etc.)
- less conflict
- fewer adverse effects to suffer and repair
- fair transition to sustainability
Getting there: upward harmonization and transition strategies

• incremental law, policy and administrative reforms as openings emerge across Canada (starting within existing law and structure)
• pilot projects testing major improvement options (e.g. collaborative strategic assessments, experimental tiering, case applications of sustainability criteria)
• focus on use of particular tools (e.g. standardized federal/provincial/territorial cooperation agreements)
• specify reform path for the most promising jurisdiction(s)
• multi-stakeholder development and adoption of a next generation best practice guidance standard
• combinations