



Improving the efficiency, efficacy and trustworthiness of major project decisions

West Coast Environmental Law Submission on “Getting Major Projects Built in Canada - Discussion Paper on Proposed Legislative, Regulatory, and Policy Reforms”

July 22, 2026

Thank you for the opportunity to comment on the “Getting Major Projects Built in Canada” discussion paper published in May of this year. We appreciate the extension of the comment period, which allowed us to better understand the proposals and coordinate with other experts and environmental organizations in our response and recommendations.

West Coast Environmental Law (“WCEL”) harnesses the power of law to solve complex environmental challenges. Our non-profit group of environmental and Indigenous rights lawyers work to transform environmental decision-making and strengthen legal protection for the environment through collaborative legal strategies that bridge Indigenous and Canadian law. Since 1974, we have successfully worked with communities, non-governmental organizations, the private sector, and federal, provincial and Indigenous governments to develop proactive legal solutions to protect and sustain the environment. Throughout that time, West Coast has been deeply involved in the development of every iteration of federal and BC environmental assessment law, as well as other laws relevant to major projects, including the *Fisheries Act*, *Canadian Navigable Waters Act*, *Species at Risk Act* (SARA), *Canadian Energy Regulator Act*, *Canadian Environmental Protection Act, 1999* and *Canada Marine Act*. A staff lawyer sits on the Minister’s Advisory Council on Impact Assessment (MINAC) and two staff lawyers participated in the Multi-Interest Advisory Committee that advised on the design of the *Impact Assessment Act* (IAA). We also co-chair the Environmental Planning and Assessment Caucus of the Canadian Environmental Network that advises the Impact Assessment Agency of Canada (the Agency) on implementation of the IAA.

In addition to this submission, West Coast is a signatory to the joint submission “Building Canada Faster, Better, Fairer,” submitted by major Canadian environmental and conservation groups and, as a member of SeaBlue, participated in the development of that coalition’s submission. This submission is intended to complement and build on those submissions.

RESPONSES TO DISCUSSION PAPER QUESTIONS

1. General views on the proposals to improve regulatory efficiency

With one limited exception,¹ we oppose the measures proposed in the Discussion Paper. We agree that major project decision making processes could be made more efficient. However, we do not believe that the proposals described in the Discussion Paper would achieve that objective. Instead, the proposals amount to significant weakening of environmental protections and processes as well as greater inefficiencies.

Impact assessment

“Efficiency” means minimizing the time and resources needed to achieve objectives. The objectives of the IAA are threefold. As stated in section 6, the purpose section, they are:

- (1) To “prevent or mitigate significant adverse effects within federal jurisdiction — and significant direct or incidental adverse effects — that may be caused by the carrying out of designated projects, as well as significant adverse environmental effects, as defined in section 81, that may be caused by the carrying out of projects, as defined in that section, by establishing processes to anticipate, identify and assess the potential effects of those projects in order to inform decision making under this or any other Act of Parliament in respect of those effects.”
- (2) To ensure that “[t]he Government of Canada, the Minister, the Agency and federal authorities, in the administration of this Act... exercise their powers in a manner that fosters sustainability, respects the rights of the Indigenous peoples of Canada recognized and affirmed by section 35 of the Constitution Act, 1982, takes into account Indigenous knowledge, considers the cumulative effects of physical activities, applies the precautionary principle and promotes cooperation among jurisdictions and with the Indigenous peoples of Canada.”
- (3) And to ensure that “[t]he Government of Canada, the Minister, the Agency and federal authorities,... in the administration of this Act, exercise their powers in a manner that
 - a. “ensures that processes referred to in subsection (1) are fair, predictable and efficient; and
 - b. “adheres to the principles of scientific integrity, honesty, objectivity, thoroughness and accuracy.”

Impact assessment is not a check-box exercise. It is meant to inform project decisions in order to (as described in section 6) prevent and avoid significant adverse effects, foster sustainability, respect Indigenous rights, apply the precautionary principle, promote jurisdictional cooperation, and ensure that decisions are based on Indigenous knowledge and sound science.

There is considerable knowledge about how to improve IA efficiency. Simply shortening timelines is not among them. As the Expert Panel appointed to review federal assessment processes and advise on a new law found, establishing mandatory timelines under the *Canadian Environmental Assessment Act, 2012* failed to streamline

¹ We do not object to the proposal to allow for third-party habitat banking under the *Fisheries Act*, provided that it is accompanied by strict guardrails to ensure that it does not compromise habitat protection or result in net loss of fisheries habitat. Specifically, third-party habitat banking must be accompanied by legislated requirements to apply the mitigation hierarchy to prevent a rush to offsetting. Legislation and policy should also ensure nature-positive like-for-like offsetting, and comprehensive and transparent monitoring and adaptive management.

assessment processes.² As the Canada West Foundation reports, the Agency is meeting its legislated time limits under the IAA and any delays have been at the request of proponents or cooperating jurisdictions.³ The experience has been similar outside of Canada. From Europe to Australasia to Africa to South America, efforts to simplify and streamline EIA through reduced scope and application and shorter timelines has largely failed to reduce overall timelines while compromising the comprehensiveness and quality of information, limiting participation opportunities, eroding public trust and shifting the focus of authorities from assessment quality to checking administrative boxes.⁴

There is widespread agreement among experts that initiating processes early and getting planning right (including through meaningful Indigenous engagement and public participation and leadership of assessment authorities) are key to improving decision-making efficiency.⁵ As Flyvbjerg and Gardner note, “Good planning boosts the odds of a quick, effective delivery, keeping the window on risk small and closing it as soon as possible.”⁶

We recognize that the establishment of a legislated planning phase has enabled critics of the IAA to point to the five-year assessment timeline and claim that it is delaying project approval and hindering investment (however, we are unaware of any research showing causal links between the IAA and investment chill or decision delays). At the same time, shortening the planning phase will push even more project and assessment planning to the pre-planning phase. For that to occur without undermining efficacy, trust and overall efficiency, guardrails will need to be in place to ensure information and planning decisions like scope of assessment and alternatives identification are credible, and that participation and engagement opportunities are meaningful.

Recommendation 1: Establish guardrails to ensure the credibility and trustworthiness of pre-assessment participation and engagement, as well as decisions made and information relied on for those decisions, including:

² Expert Panel for the Review of Environmental Assessment Processes. 2017. [Building common ground: a new vision for impact assessment in Canada](#). Minister of Environment and Climate Change at 72.

³ Orenstein M. 2023. [Federal Impact Assessment Act under review: measuring progress on projects & timelines](#). Canada West Foundation at 17.

⁴ See, e.g., Medlock F, Chick R. 2025. One step forward, two steps back-EPA, EIA, and the long awaited reforms of Australia's Environmental Laws. *Environmental and Planning Law Journal*. 41(2): 90-107; Arts J, de Vries H. 2023. [Don't shoot the messenger: reflections on streamlining and simplification of environmental assessment in the Netherlands](#). *Impact Assess Project Appraisal*. 41(3): 238-243; Fonseca A. 2023. [Weak participation and ideological exemption: The latest stage of EIA simplification in Brazil?](#) *Impact Assessment and Project Appraisal*. 41(3): 199–204; Matome, GK, Fischer, T B. 2024. [Environmental assessment simplification in Botswana – is it fit for purpose?](#) *Impact Assessment and Project Appraisal*. 42(3): 267-280.

⁵ See, e.g., Expert Panel, *supra* note 2; Orenstein, *supra* note 3; Minister's Advisory Council on Impact Assessment. 2023. [Second Report to the Honourable Steven Guilbeault Minister of Environment and Climate Change](#). Minister of Environment and Climate Change; Technical Advisory Committee on Science and Knowledge. 2026. [Ltr to Terrence Hubbard, President, Impact Assessment Agency of Canada](#) (23 March 2026).

⁶ Flyvbjerg B, Gardner D. 2023. How big things get done: The surprising factors that determine the fate of every project, from home renovations to space exploration and everything in between. Penguin Random House Canada at 188.

- (a) Offer Agency-led engagement and participation, including on scoping, alternatives decisions and assessment planning;***
- (b) Require proponents to submit notes of proponent-led engagement and public participation (other than information identified by Indigenous communities as confidential) and post those notes for review and comment by Indigenous peoples and the public.***
- (c) Require assessment scope to include all key issues and be accompanied by detailed reasons, with justification, for scoping decisions.***
- (d) Provide a minimum 60-day comment period on the sufficiency and accuracy of proponent studies and assessment reports.***
- (e) Inspired by the BC Environmental Assessment Act, require Indigenous consent at key decision points, including assessment scope and planning, impact statement and studies sufficiency, and assessment reports, with dispute resolution options where consent is not granted.***
- (f) Establish technical and community advisory committees for each assessment to advise on key assessment information and decisions.***

Additionally, we oppose the proposal to exempt pipelines from the IAA and make their decision before environmental reviews have occurred. Pipelines are controversial projects with the potential for catastrophic impacts due to spills. Approving a pipeline prior to an environmental review puts the cart before the horse, and exempting pipelines from the IAA would mean that a pipeline that requires more than 75 kilometres of new right-of-way would be assessed by the Canadian Energy Regulator rather than an independent panel. Expert review panels are the most credible assessment bodies and should be appointed for all complex major project assessments. For these reasons, pipelines should also not be subject to the *Building Canada Act* (BCA).

Recommendation 2: Subject all pipelines to assessments under the IAA and do not designate any pipelines as projects of national interest under the BCA.

Project deregulation

We strenuously oppose amendments to the SARA to override the no-jeopardy provisions, as well as amendments that would exempt more projects from the *Canadian Navigable Waters Act*, allow ministers to weaken existing conditions of approval, allow construction activities that may cause adverse federal effects before assessments or reviews are complete, create deregulation (or ‘wild west’) zones in which projects would be exempt from assessments and possibly from regulatory approval processes, and that would limit conditions of approval to those determined to be technically and economic feasible. The proposed measures constitute unacceptable and dramatic weakening of environmental safeguards that exist to protect Canadians and the environment from unwanted and dangerous project effects.

2. Opportunities to improve assessments and permitting processes

Mitigation hierarchy

We echo calls for a whole-of-government mitigation hierarchy policy⁷ that requires proponents to apply the mitigation hierarchy from the early stages of project design and throughout project planning, including in any adaptive management. In impact assessment and regulatory approval processes, proponents should be required to demonstrate how they have applied the mitigation hierarchy to identify and select project design options that prioritize avoiding harm to nature, then minimizing it, then mitigating, and finally, as a last resort, offsetting biodiversity loss. A mitigation hierarchy policy should also place clear limits on which biodiversity losses can be offset (e.g., extinction cannot be compensated)⁸ and require consideration of the ‘no-go’ alternative.⁹

We applaud the commitment to the mitigation hierarchy in *A Force of Nature: Canada's Strategy to Protect Nature*¹⁰ and encourage officials to work with experts and Indigenous rights-holders and authorities to develop the policy forthwith. In addition to the policy, we recommend entrenching the mitigation hierarchy in key legislation like the *IAA*, *Fisheries Act*, *Species at Risk Act* and *Migratory Birds Convention Act* to ensure its application.

Recommendation 3: Create a whole-of-government mitigation hierarchy policy and legislate its application in impact assessment and regulatory permitting processes.

Biodiversity net gain

Significant uncertainty exists in effects prediction and biodiversity offsets.¹¹ As a result, and to help achieve the Kunming-Montreal Global Biodiversity Framework Target 2 (restoration),¹² the goal of biodiversity offsets should be net gain rather than no net loss.¹³ Because fast-tracking introduces greater uncertainty due to shorter timelines for information-gathering and comparative evaluation of alternatives, greater reliance on standard mitigation and fewer and more compressed opportunities for Indigenous engagement and public participation, net-gain requirements should be even more stringent for projects allowed to go through the fast track.

⁷ Wildlife Conservation Society Canada. 2026. [WCS Canada Response to Proposed Government of Canada Major Projects Reforms](#). Wildlife Conservation Society Canada.

⁸ Business and Biodiversity Offsets Programme (BBOP). 2012. [Biodiversity Offset Design Handbook Updated](#). BBOP at 10-11.

⁹ Brownlie S, King N, Treweek, J. 2013. Biodiversity tradeoffs and offsets in impact assessment and decision making: can we stop the loss? [Impact Assessment and Project Appraisal](#). 31(1): 24–33.

¹⁰ Environment and Climate Change Canada. 2026. [A Force of Nature: Canada's Strategy to Protect Nature](#) at 12.

¹¹ Brownlie, King & Treweek, *supra* note 8.

¹² Convention on Biological Diversity. 2022. [Kunming-Montreal global biodiversity framework: Decision adopted by the Conference of the Parties to the Convention on Biological Diversity](#) (CBD/COP/DEC/15/4). United Nations Environment Programme.

¹³ BBOP, *supra* note 7 at 10.

Recommendation 4: Require projects to be nature net-positive with an increased offsets ratio for projects that go through the fast track.

Make regional assessments a planning tool, not a project assessment exemption tool

Regional assessments are a well-known instrument for improving impact assessment efficiency and efficacy, particularly through their ability to better identify and prescribe management tools for cumulative effects and their utility in identifying and offering options for addressing strategic questions for which project-level assessment is ill-equipped.¹⁴ Experience with regional assessment in Canada remains limited, particularly at the federal level, but the series of initiatives in Atlantic Canada aimed at exempting projects from project-level impact assessment is concerning. The regional assessment of offshore exploratory drilling in Newfoundland and Labrador has been criticized for its inadequate assessment of cumulative effects, lack of risk assessment, lack of meaningful public participation opportunities, failure to identify no-go zones, limited assessment of climate impacts and failure to assess oil and gas exploration implications on Canada's international obligations.¹⁵ A similar regional assessment of offshore drilling in Nova Scotia is slated to occur within six months,¹⁶ a timeline too short to possibly identify cumulative effects in the region or effective means of managing those effects.

More fundamentally, regional assessment is no substitute for project assessment. While it can identify key issues and cumulative effects and provide important guidance for project assessment, regional assessment cannot effectively predict the project and site-specific effects of individual projects or the conditions of approval that would minimize uncertainty and maximize a project's contributions to sustainability. Importantly, using regional assessment to exempt projects from impact assessment also removes an invaluable engagement and participation opportunity for Indigenous peoples and the public.¹⁷

Instead, regional assessment should be used to identify the regional baseline, along with stressors, trends and ecological limits, develop a vision for the region and alternative pathways for achieving it, undertake a cumulative effects assessment of each pathway, identify the preferred pathway and mitigation and management actions for achieving that pathway, identify no-go zones for areas of high ecological importance and cultural importance for Indigenous rights-holders, and develop a follow-up and monitoring plan to evaluate performance and adaptive management where appropriate.¹⁸ Applying regional assessment in these

¹⁴ Sinclair AJ, Doelle M, Gibson, RB. 2022. [Next generation impact assessment: Exploring the key components](#). Impact Assessment and Project Appraisal. 40(1): 3–19; Clogg J, Smith G, Carlson D, Askew H. 2017. [Paddling together: Co-governance models for regional cumulative effects management](#). West Coast Environmental Law.

¹⁵ East Coast Environmental Law. 2024. [Narrative report: Newfoundland and Labrador regional assessment of offshore exploratory oil and gas drilling](#) at 17-18.

¹⁶ Impact Assessment Agency of Canada. 2026. [Regional Assessment of Oil and Gas Exploratory Drilling in the Canada-Nova Scotia Offshore Area](#).

¹⁷ See, e.g., González A, Sobrini, I. 2023. [Environmental assessment simplification in Spain: streamlining or weakening procedures?](#) Impact Assessment and Project Appraisal. 41(3): 190–193; Fonseca, *supra* note 4.

¹⁸ Gunn JH, Noble BF. 2009. [A conceptual basis and methodological framework for regional strategic environmental assessment \(R-SEA\)](#). Impact Assessment and Project Appraisal. 27(4): 258–270; Olszynski *et al.* 2024. [Environmental impact reviews should take a more regional perspective](#). Policy Options (25 June 2024); Sinclair *et al.*, *supra* note 14.

ways rather than as an exemption tool would deliver significant efficiencies in project assessment and decision making while also enhancing the federal government's ability to achieve its various obligations and commitments.¹⁹ To ensure that regional assessments achieve these objectives and deliver true efficiency gains, the IAA should be amended to both expand the potential application of regional assessment and prescribe its objectives as described here.

Recommendation 5: Amend the IAA to improve regional assessments by providing for regional planning with regard to areas of federal jurisdictional responsibility and the creation of no-go zones, proceed-with-caution zones and zones such as brownfield sites where fast-tracking may be permitted through simplified assessment.

Exclude high-risk projects from the fast track

Where regional or strategic assessments have addressed strategic questions and provide a greater informational basis for project assessment, there may be opportunities for simplified assessments that require shorter timelines. Some projects, however, are too high risk, too controversial, or both, for fast tracking. Because of the potential for catastrophic spills and because fossil fuels are driving the climate crisis, oil and gas projects should always be required to undergo a comprehensive assessment by a joint review panel. Similarly, due to the potential for catastrophic impacts arising from accidents and malfunctions, as well as the fact that nuclear waste is hazardous in perpetuity, nuclear projects should not be allowed to go through the fast track. Projects with potentially highly significant impacts on biodiversity, such as those that jeopardize the survival or recovery of species at risk or otherwise significantly undermine Canada's ability to achieve its biodiversity obligations, should be exempt from simplified or expedited processes. Finally, Indigenous consent should be required before projects are allowed on the fast track.

Recommendation 6: Do not permit high-risk projects, such as nuclear and oil and gas projects, or projects with significant impacts on biodiversity, to take the fast track. Indigenous consent should be a prerequisite for any project to be granted permission to be reviewed under a simplified process.

Strengthen monitoring and cross-assessment learning to reduce uncertainty and improve the efficacy and efficiency of conditions of approval

A longstanding criticism of federal assessment and regulatory processes is its shortcomings regarding follow-up and monitoring programs with standardized data that evaluate the accuracy of predictions and efficacy of mitigation, and apply those findings across federal processes in a manner that fosters learning.²⁰ For example, a 2019 study of science in impact assessment in Canada refers to widespread methodological inconsistencies and consistent understating of environmental impacts and undermeasuring of ecosystem services.²¹

¹⁹ E.g., those pursuant to the Kunming-Montreal Global Biodiversity Framework, Convention on Biological Diversity, Paris Agreement, Sustainable Development Goals, High Seas Treaty, Espoo Convention.

²⁰ Expert Panel, *supra* note 2; Commissioner of the Environment and Sustainable Development. 2018. [Report 1: Toxic substances](#). Reports of the Commissioner of the Environment and Sustainable Development to the Parliament of Canada.

²¹ Westwood AR *et al.* 2019. [The role of science in contemporary Canadian environmental decision making: The example of environmental assessment](#). UBC Law Review Society at 273-74.

Importantly, standard mitigation is not synonymous with effective mitigation, and mitigation efficacy remains at best only partially understood. As a result, we recommend strengthening and standardizing follow-up and monitoring and implementing systems to ensure learning from assessment and regulatory processes among regulatory authorities, proponents, the public and independent experts, and Indigenous peoples and knowledge holders.²²

Recommendation 7: Improve and standardize monitoring and follow-up requirements within and across assessments and regulatory approval processes to better understand the effectiveness of mitigation measures.

Submitted by,



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²² Murray, M. 2026. [Canada's industrial ambitions require robust environmental governance](#). Policy Options (30 June 2026).