

Environmental Assessment: Time to Hit the Reset Button

**Next generation environmental
assessment:
basic principles, key components and
implications for Ontario**

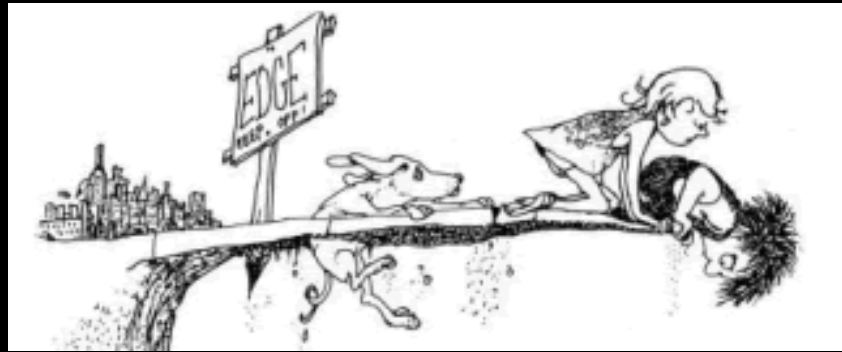
**Robert B. Gibson
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Environmental assessment at 40

- big advances in concepts and best practices
- often the only potentially credible venue for public engagement in deliberations about contentious undertakings
- increasingly evident deficiencies:
 - > mitigating adverse effects when transition to sustainability is needed
 - > emphasizing individual effects despite realities of dynamic complex systems
 - > inadequate treatment of cumulative and interactive effects, broad alternatives and big policy issues, Indigenous rights
 - > too little multijurisdictional cooperation
 - > associating efficiency with fast, positive decisions



Warner Brothers Inc.



Shel Silverstein, *Where the Sidewalk Ends*

Next generation EA

- Robert B. Gibson, Meinhard Doelle and A. John Sinclair, “Fulfilling the promise: basic components of next generation environmental assessment,” *Journal of Environmental Law and Practice* 27 (2016), pp.251-276; available at <https://uwaterloo.ca/next-generation-environmental-assessment/research-contributions/published-papers>
- Anna Johnston, *Federal Environmental Assessment Reform Summit: Proceedings* (Vancouver: WCEL, August 2016); available at <http://wcel.org/EASummit>

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

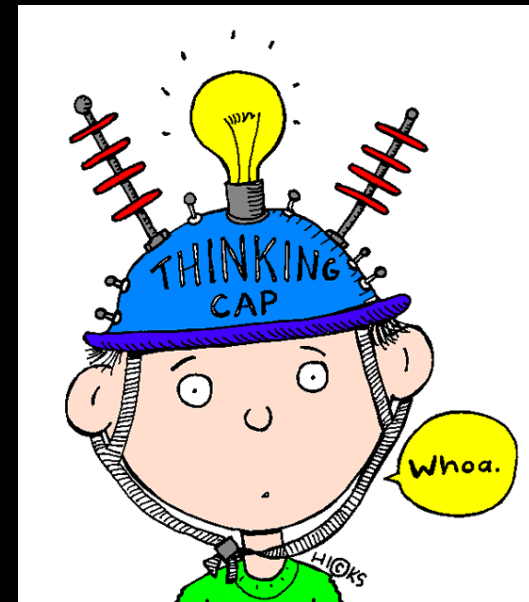
... and must also



- be the core planning and decision making process for all undertakings 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 multi-stakeholder and multi-jurisdiction engagement
- coordinate with regulatory licensing
- monitor
- foster learning
- harmonize upward

Particular items of interest for Ontario

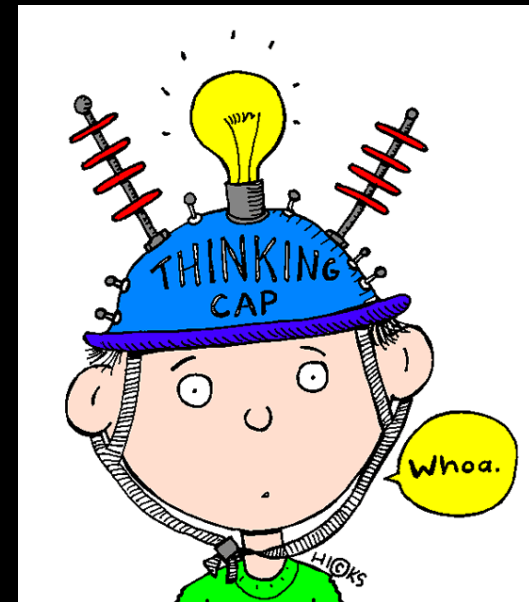
- “contribution to sustainability” test
 - based on broad requirements for progress towards lasting wellbeing
 - specified for particular applications (based on characteristics of desired futures, key issues and aspirations, etc.)
- jurisdictional specification
- sectoral and regional specification
-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



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Particular items of interest for Ontario

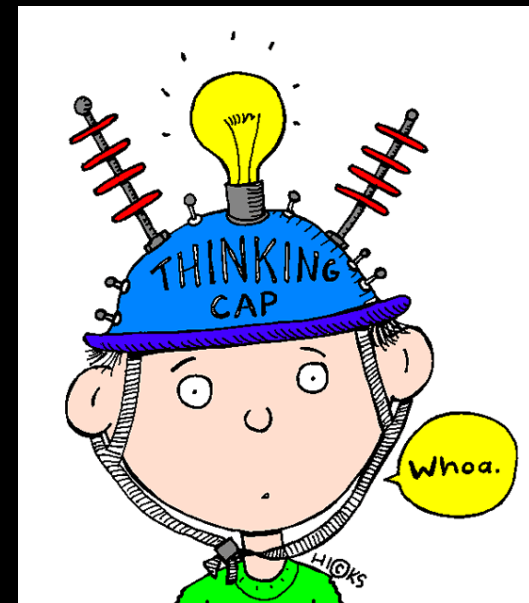
- broad definition of “environment”
 - adopt scope of effects integrating social, economic and cultural as well as biophysical effects and interactions (cumulative as well as individual effects; positive as well as adverse effects)
 - focus on cumulative effects, including legacies
- mandatory identification and comparison of potentially reasonable alternatives vs determination of “acceptability”



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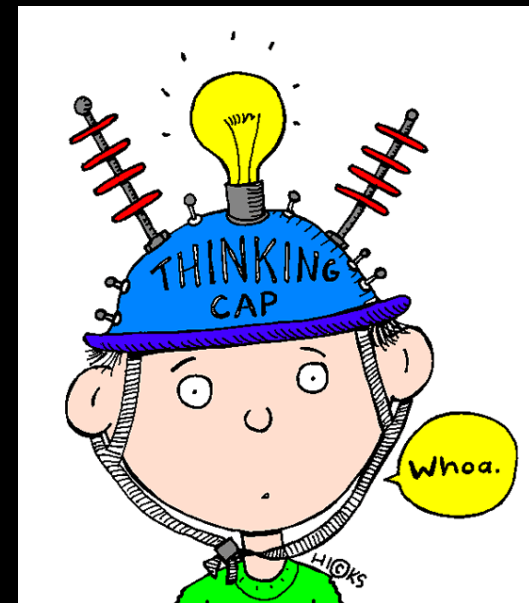
- extension of application to strategic level assessment, with tiering
 - existing strategic undertakings (e.g., growth management planning, long term energy system planning)
 - needed strategic undertakings (e.g., regional planning for the Ring of Fire, climate change mitigation pathways plan)
- interactive and cumulative effects assessment
 - integrated consideration of complex socio-biophysical systems
 - recognition of uncertainties



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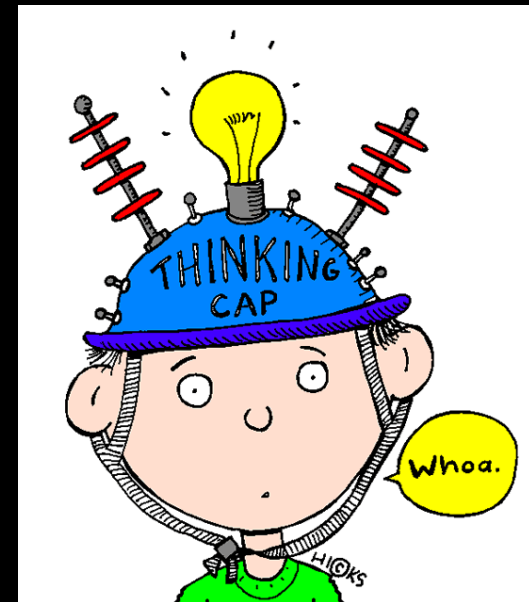
- engagement, learning and collaboration, enhancing and mobilizing capacities
- begin early with engagement in criteria specification, alternatives identification, consultant selection, methodology selection, alternatives comparison, assessment review, trade-off justification, approval selection, monitoring, ...
- learn from experience



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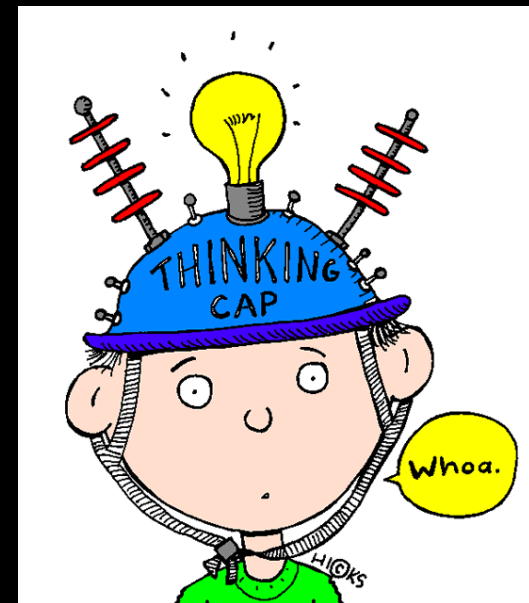
- assessment at the centre of administration
 - at core of decision making while maintaining ecological emphasis
 - regional/collaborative bodies
- decision making authority
 - arm's length body that heard the case and accountable elected official(s)
 - transparency of decisions and reasons
 - independent auditing
- other models for collaborative applications



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Particular items of interest for Ontario

- 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, ...)



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But is all that practical?

efficiency concerns and other complaints

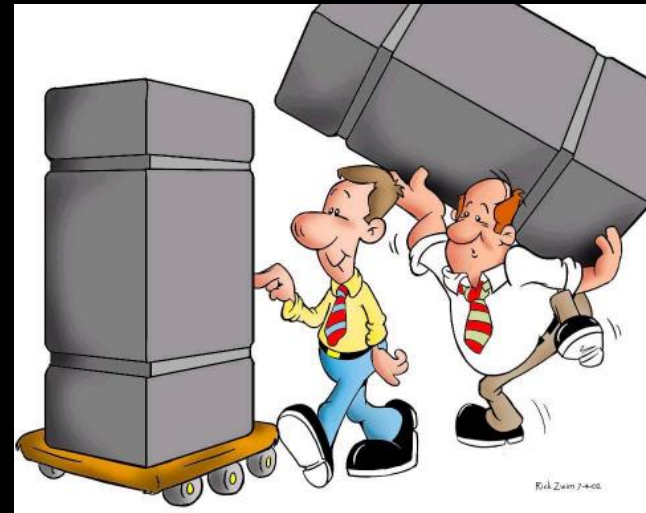


Mike Baldwin, Cornered

- 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
- makes my tiny little brain hurt

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.)
- credible public process
- fewer adverse effects to suffer and repair
- fair transition to sustainability



Getting there: next generation in Ontario



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some basics already in place:

- “betterment” as the purpose of EA
- broad definition of “environment”
- some attention to alternatives, despite terms of reference narrowing
- opening for assessment of plans
- availability of the Environment Review Tribunal
- authoritative decisions

Getting there: next generation in Ontario



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remaining needs:

- betterment purpose defined as positive contributions to sustainability, with explicit sustainability-centred criteria
- anticipatory application to the private sector
- serious commitment to tiered regional/strategic assessment
- facilitation of multi-jurisdictional collaboration
- explicit inclusion of cumulative, interactive and legacy effects
- meaningful public engagement, including reinstatement of intervenor funding, use of ERT
- serious commitment to learning