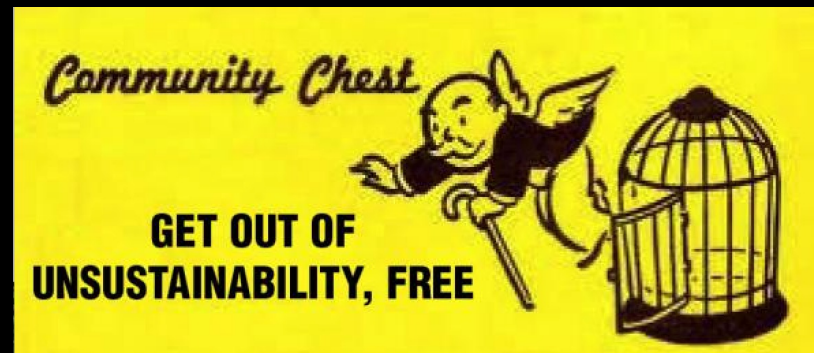


Sustainability, betterment and wellbeing: the new federal “contribution to sustainability” test and approaches in other jurisdictions

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apologies to Parker Brothers

presentation in panel on How Canada's *Impact Assessment Act* stacks up

20 October 2021

**The hesitant but
best section of the
*Impact
Assessment Act***



63 The Minister's determination under paragraph 60(1)(a) in respect of a designated project referred to in that subsection, **and the Governor in Council's determination** under section 62 in respect of a designated project referred to in that subsection, **must be based on the report with respect to the impact assessment and a consideration of the following factors:**

(a) the extent to which the designated project contributes to sustainability;

[the other considerations:

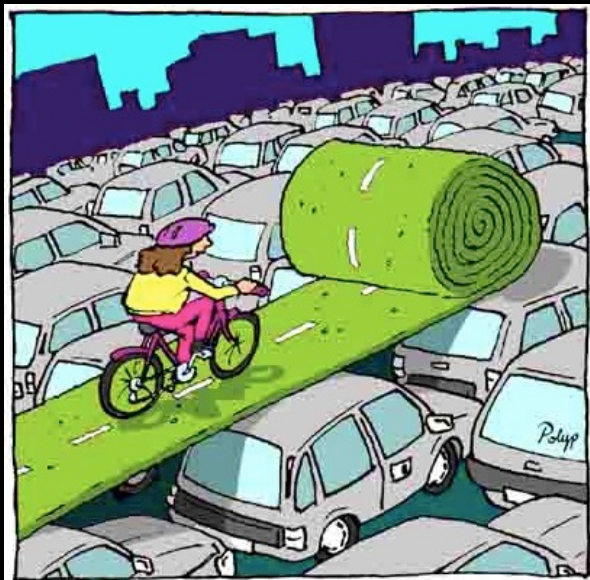
(b) the significance of adverse effects

(c) mitigation measures

(d) impacts on Indigenous groups and Indigenous rights

(e) effects on meeting Canada's environmental obligations and climate change commitments]

IAAct on sustainability



Polyp

IAAct, s.63(a)

decision makers on assessed projects must consider “*the extent to which the designated project contributes to sustainability*”

- scope and purposes: expanded from mitigating significant, adverse, largely biophysical effects to making positive contributions to sustainability

IAAct, s.2 definitions:

“*sustainability means the ability to protect the environment, contribute to the social and economic well-being of the people of Canada and preserve their health in a manner that benefits present and future generations*”

Precursors



lib.washington.edu

- Ontario: EAAct (1975),
 - Québec: Loi sur la qualité de l'environnement (1978),
 - territories: MVRMA (1998), YESAA (2003), NPPAct (2013)
- all established broad scope of effects and forward-looking public interest objectives
- Ontario: betterment
 - territories: environmental protection and community wellbeing
 - also five joint review panels used sustainability-based test

IAAct sustainability strengths and limitations



Disney, *Alice in Wonderland*, 1951

- comes long after earlier Canadian steps
- important explicit adoption of “contribution to sustainability” language and test
- clearly mandatory only in project assessments
- so far, little clarity on how to determine “contribution to sustainability”

Why are criteria crucial in assessments?

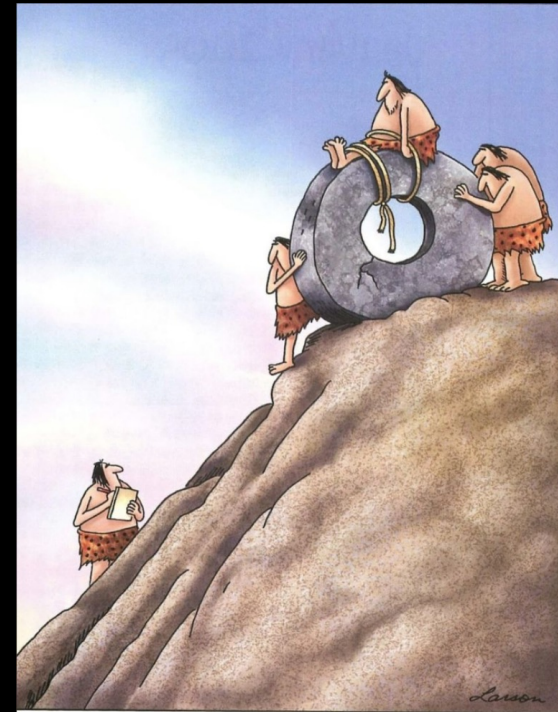


Bill Watterson

- tie broad objectives for lasting well-being to specific concerns and opportunities of case and context
- provide explicit and accountable basis for making and justifying decisions
- inform planning, assessing, implementing, monitoring
- encourage discussion, learning and thinking ahead about futures to pursue or avoid
- provides core task for strategic and regional assessments in guiding project planning

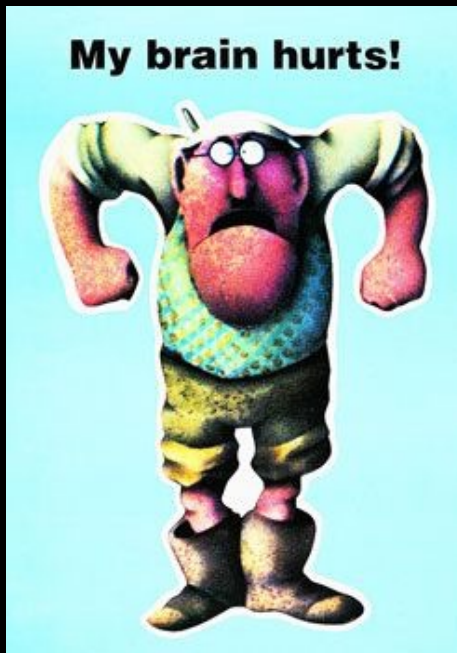
Core policy guidance on contributions to sustainability

- two policy documents with four reasonable but general principles
 - good on systems and interactions
 - silent on environmental and equity
- no basic criteria for determining contribution to sustainability
- no guidance on specifying criteria for particular cases and places
- nothing on use in comparative evaluation of alternatives
- aimed at project proponents rather than reviewers and decision makers
- not clear who does analysis of contribution to sustainability



Gary Larson

Current individual case guidance



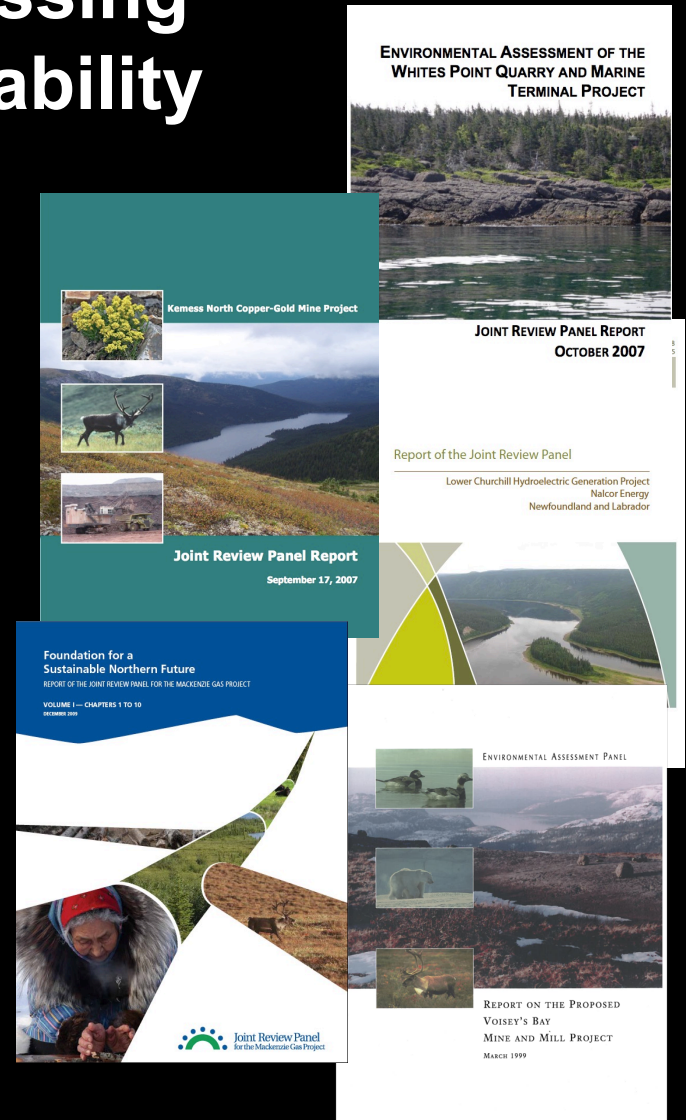
Monty Python

Tailored Impact Statement Guidelines for individual assessment cases

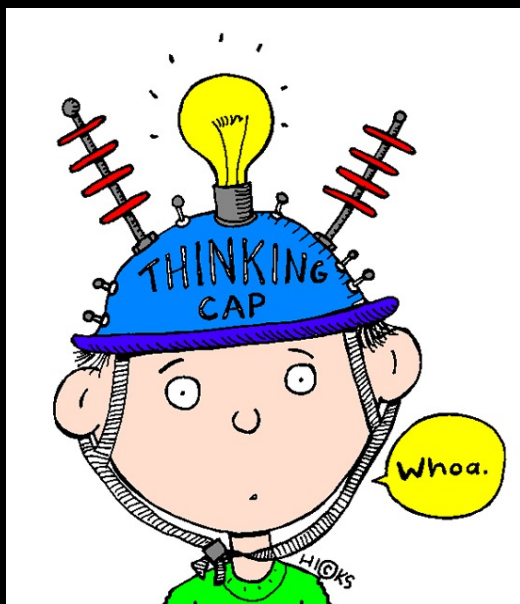
- no basic criteria for determining contribution to sustainability
- no guidance on specifying criteria for particular cases and places
- nothing on development of a contribution to sustainability evaluation framework to guide assessment from the initial planning stage (and earlier)
- nothing on use in comparative evaluation of alternatives
- TISGs Heartland Bitumen Upgrader (many other criteria, even mentions trade-offs; no contribution to sustainability criteria)

Good guidance on assessing contributions to sustainability

- clear and defensible frameworks for sustainability assessment necessary and not especially difficult
- used by all five of the sustainability-based assessments by joint review panels under CEAA 1995
- generic criteria for undertakings in Canada from key components of the Act
- clarification of how to specify for individual cases and contexts long available



Implications



Hicks

- need for advances in federal policy and practice
- similar needs in existing broadly scoped assessment regimes, e.g.:
 - Ontario: betterment in EAAct
 - territories: environmental protection and community wellbeing in MVRMA, YESAA, NPPAct
- openings for interjurisdictional collaboration
- may be important insights and advanced from engagement with Indigenous assessment authorities