

Impact Assessment Agency of Canada

PRESENTATION AT THE 2022 ONTARIO ASSOCIATION FOR IMPACT
ASSESSMENT CONFERENCE



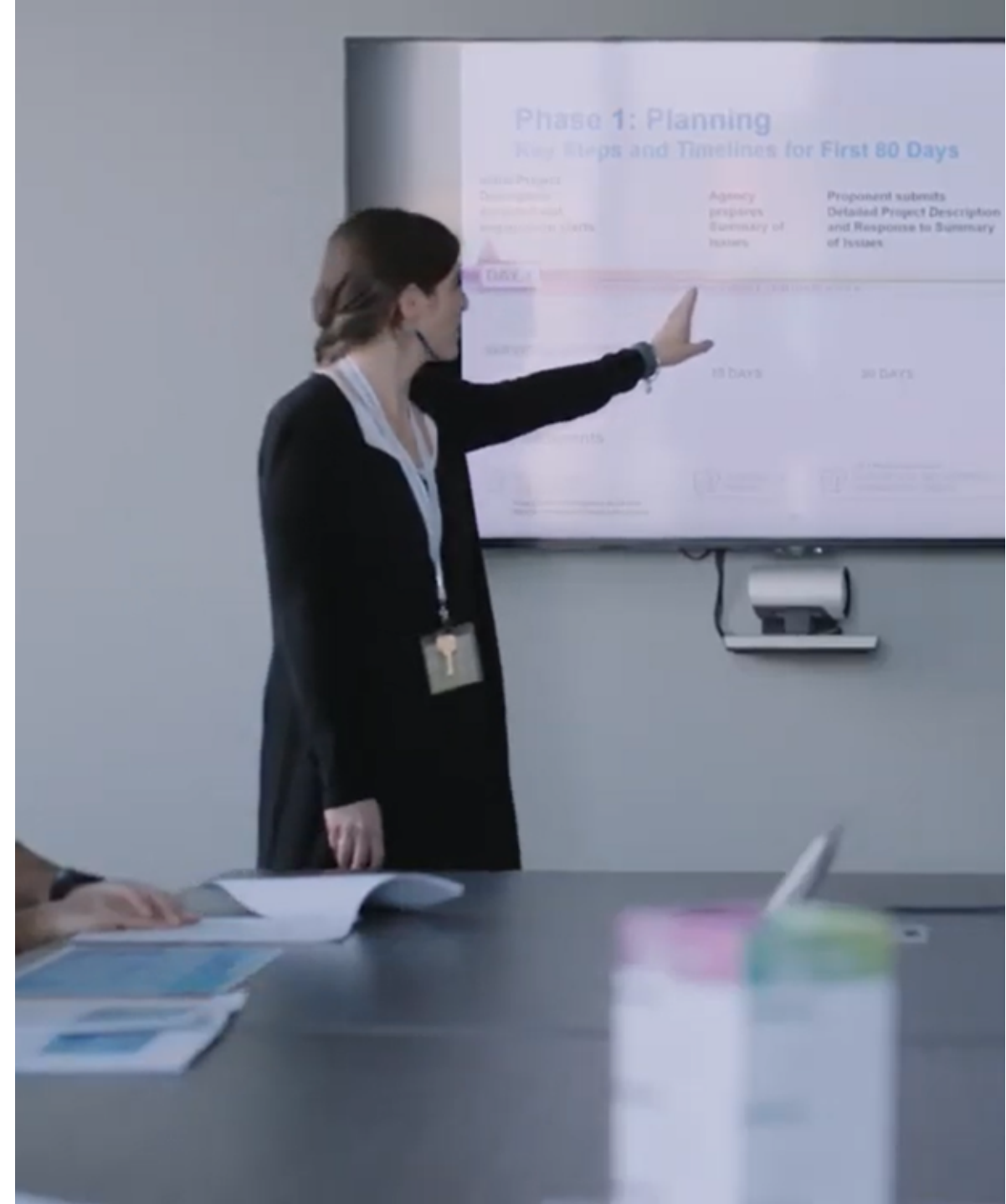
Impact Assessment
Agency of Canada

Agence d'évaluation
d'impact du Canada

Canada

Three Presentations

- **Presentation 1:** Impact Assessment Agency of Canada practices in implementation of the UNDRIP
- **Presentation 2:** Advice and Guidance: The Impact Assessment Agency of Canada's Work with Proponents
- **Presentation 3:** Impact Assessment Agency of Canada's approach for involving Indigenous groups and others during the post-decision phase

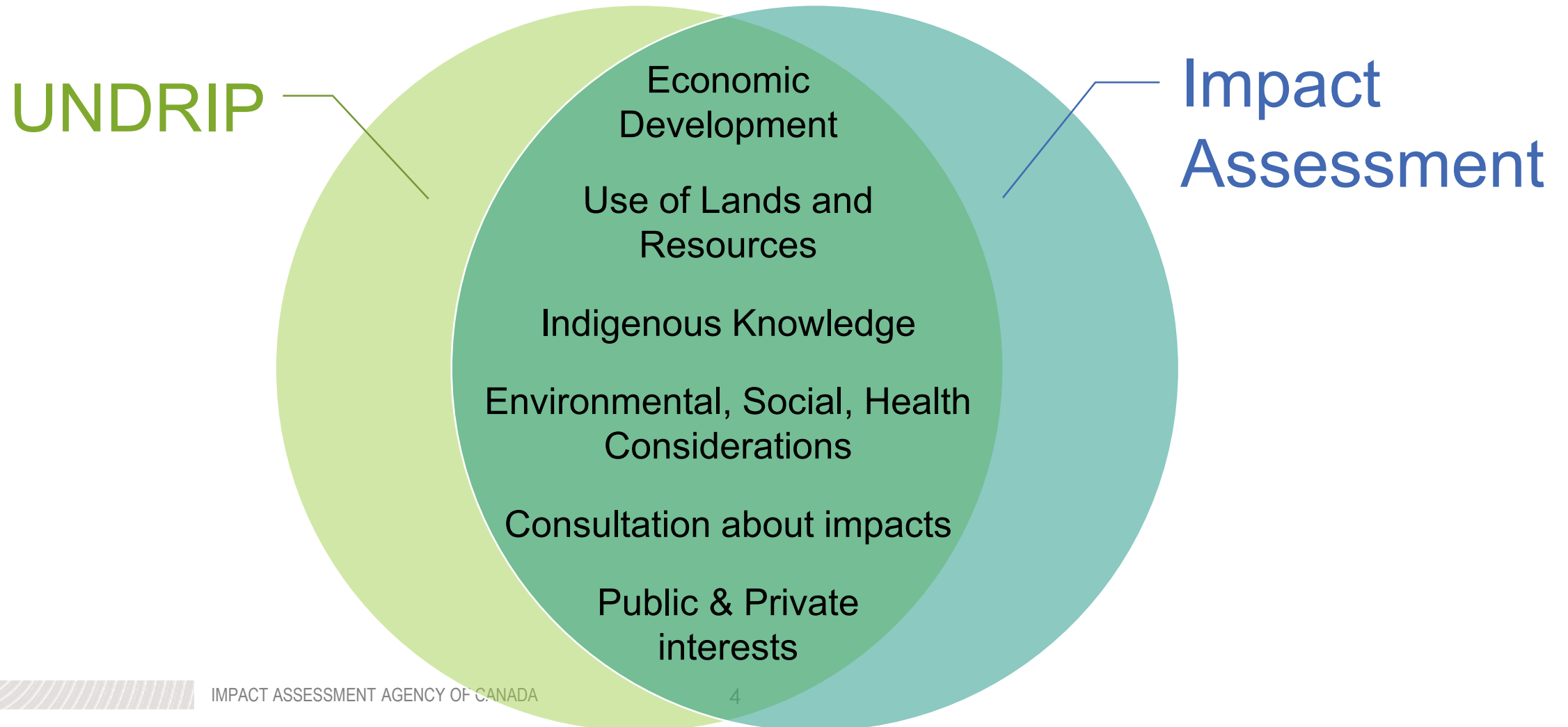


Presentation 1

Presentation 1: Impact Assessment Agency of Canada practices in implementation of the UNDRIP

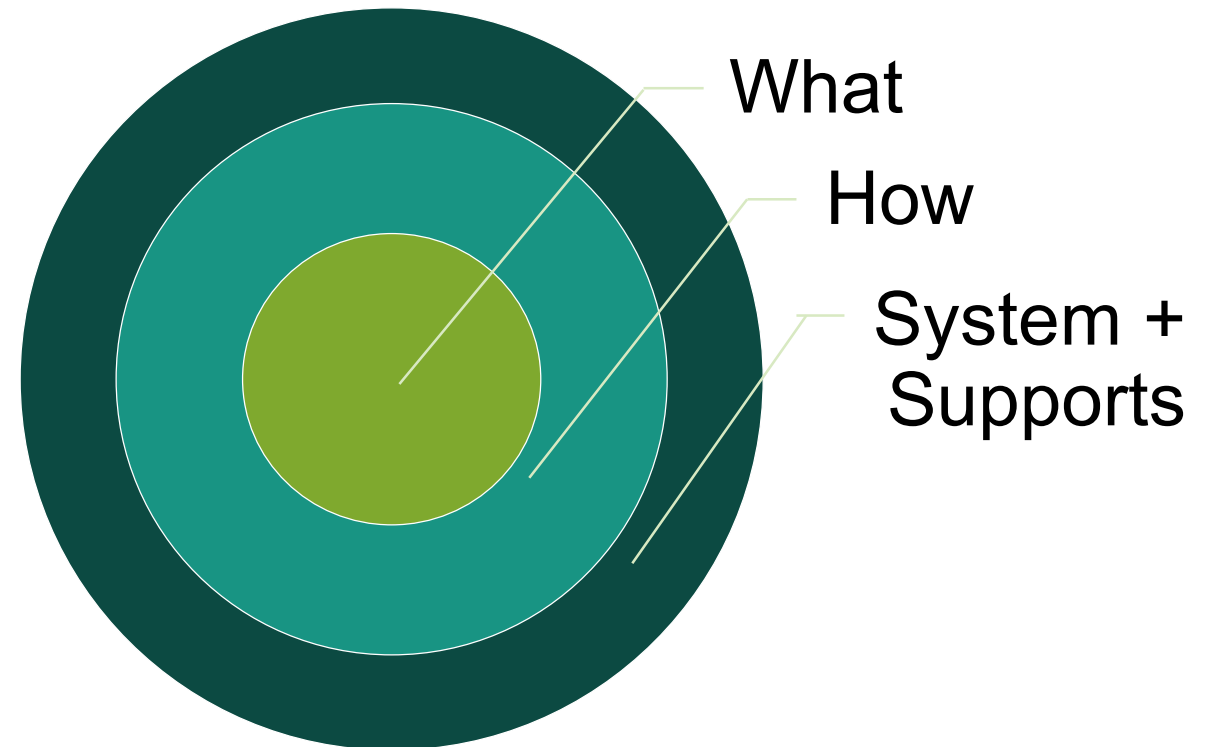


Why UNDRIP + IA?



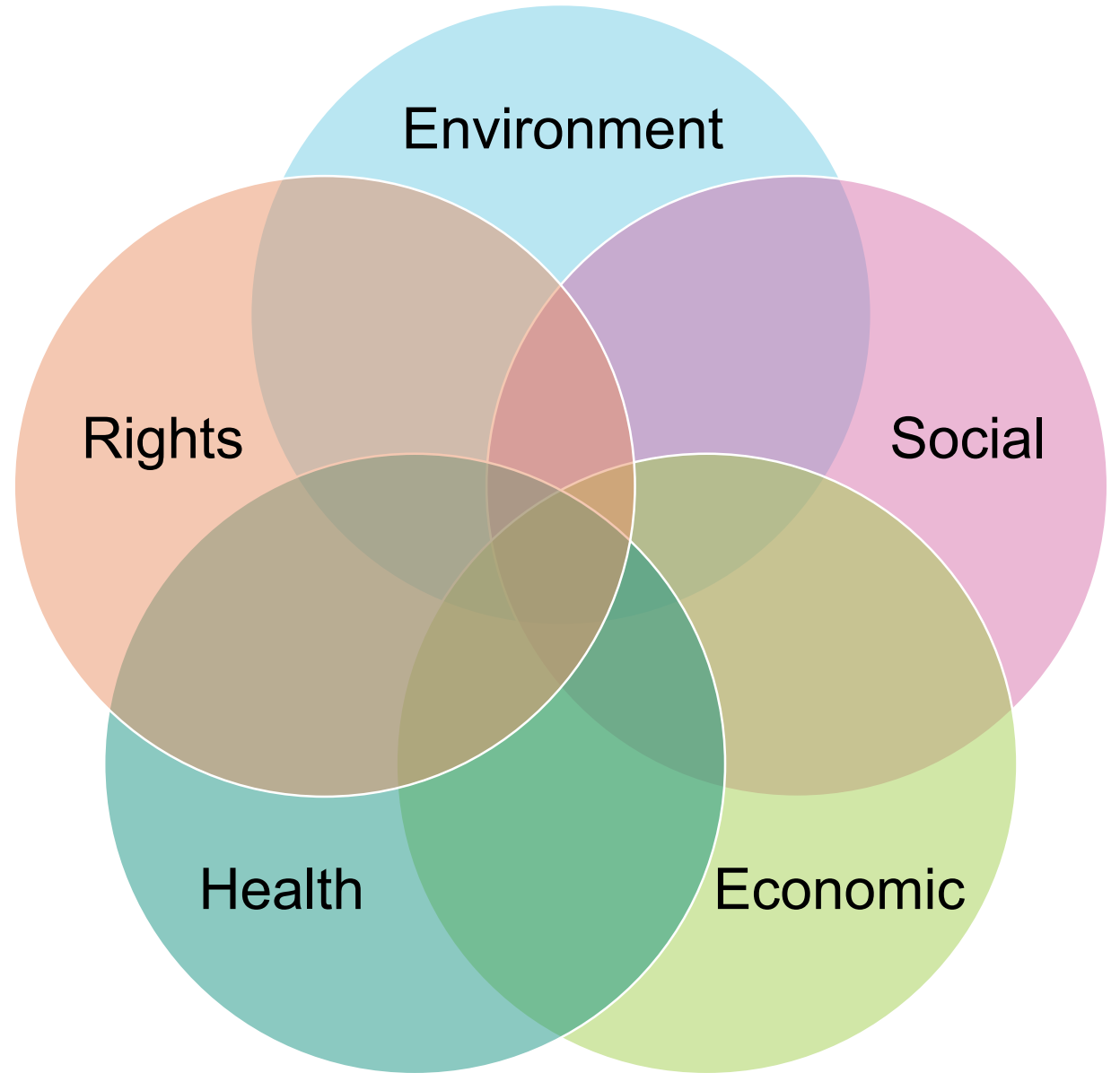
Impact Assessment Act

- Guided by the UN Declaration
- Key themes:
 - Respecting and protecting rights of Indigenous peoples
 - Partnerships and participation
- Implementing UNDRIP
 - *What* goes in an IA
 - *How* an IA is done
 - Systems and supports



What

- ✓ Gender-based analysis plus
- ✓ Cumulative effects
- ✓ Sustainability
- ✓ Purpose, need and alternatives
- ✓ Indigenous knowledge
- ✓ Indigenous plans and studies
- ✓ Indigenous culture
- Better understanding of how a project could affect Indigenous peoples and their rights



How

Cooperation and participation throughout the process, based on respecting rights and aiming to secure free, prior and informed consent

- Early engagement on issues, tailored impact statement guidelines
- Indigenous engagement and partnership plan
- Collaboration and cooperation:
 - Indigenous-led studies
 - Co-writing assessment documents
 - Coordination with Indigenous-led assessments
 - Co-developing mitigation or accommodation measures
- Cooperation agreements with Indigenous governing bodies
- Indigenous participation in follow-up, monitoring programs



Systems & Supports

- Participant Funding Program
- Indigenous Capacity Support Program
- Indigenous Advisory Committee
- Consultation and co-development for policies and guidance
- Training
- Plans and priorities



Convinced that control by indigenous peoples over developments affecting them and their lands, territories and resources will enable them to maintain and strengthen their institutions, cultures and traditions, and to promote their development in accordance with their aspirations and needs

- Preamble to the *UN Declaration on the Rights of Indigenous Peoples*



Application of UNDRIP in Practice: IAA

Impact Assessment Act creates space

- Statutory requirements to respect and consider impacts on rights of Indigenous peoples
- Opportunities to work with Indigenous governments as jurisdictions
- Indigenous knowledge and considerations related to Indigenous cultures required

Aiming to achieve free prior and informed consent

- Working with Indigenous groups to build consensus throughout the process prepares the ground for achieving FPIC
- Collaborative and flexible: community preferences and direction honoured where feasible

Still exploring options with respect to decision making processes

- Indigenous peoples seeking shared decision making
- Central agency direction needed on managing tension between principles of cabinet confidence and goals of participatory decision-making
- Regulations on cooperation offer an avenue; still to be determined what powers Canada would share with Indigenous governments



An aerial photograph of a yellow tracked vehicle, possibly a bulldozer or crawler tractor, positioned on a dark, textured surface. The surface is covered in deep, parallel tracks from the vehicle's tracks. The vehicle is oriented vertically in the frame, with its front towards the top. The background is a dark, almost black, surface with a repeating pattern of tracks, suggesting a construction or mining site.

Presentation 2

**Presentation 2:
Advice and
Guidance: The
Impact Assessment
Agency of
Canada's Work
with Proponents**

Context

EXAMPLES

- The *Impact Assessment Act* applies to designated projects are described in the *Physical Activities Regulations* ([Project List](#))
 - Minister may designate—through Designation Requests—any project not described in regulations, based on factors set in the legislation (section 9)
 - Non-designated projects on federal lands and outside Canada are assessed by other federal authorities before decisions are made
- Renewable energy
 - Oil and gas
 - Linear and transportation-related
 - Marine and freshwater
 - Mining
 - Nuclear
 - Hazardous waste
 - Federal lands and protected areas

Objective

Through case studies, the Impact Assessment Agency of Canada will highlight advice and guidance that it provides proponents.

Highlights will include:

- ✓ work done during the pre-planning phase to inform the preparation of the Initial Project Description,
- ✓ work done in the planning phase to focus the Tailored Impact Statement Guidelines, and
- ✓ work done in the impact statement phase to guide the development of the Impact Statement.



Advice to Proponents

Pre-Planning Phase

Challenge Function

- Instructions on preparing the Initial Project Description
- Guidance on presenting information on potential effects to facilitate review by experts, members of the public and Indigenous groups


Engagement

- Encouragement to not come into the impact assessment (IA) process until relationships have been established



Outcome



Pre-Planning Phase

- Case study 1: 
 - ✓ Southern Ontario infrastructure project, public sector proponent
 - ✓ Subject to IAA a surprise, proponent's studies well advanced
 - ✓ Agency offered to participate in public and Indigenous meetings prior to the planning phase with the proponent
 - ✓ Worked with experts to review a draft Initial Project Description
 - ✓ Proponent took the time to address the comments (it took them several months) with a view to a no-IA decision or significant scoping



Outcome

Pre-Planning Phase

- Case study 2: 
 - ✓ Southern Ontario infrastructure project, Indigenous proponent
 - ✓ Proponent worked with Indigenous communities prior to submitting their Initial Project Description
 - ✓ Few comments and many communities expressed support for the project
- Case study 3: 
 - ✓ Northern Ontario infrastructure project, Indigenous proponent
 - ✓ Proponent was unable to build relationships with communities
 - ✓ Many comments and general lack of support for the project

Advice to Proponents

Planning Phase

Challenge Function

- Instructions on how to respond to the Summary of Issues
- Instructions on taking the time to when preparing the Detailed Project Description (to facilitate tailoring)



Engagement

- Encouragement to work with Indigenous groups throughout the planning phase to meaningfully respond to the Summary of Issues





Outcome

Planning Phase

- Case study 1: 
 - ✓ Southern Ontario infrastructure project, public sector proponent
 - ✓ Key issue remained following the comment period on the Initial Project Description
 - ✓ Proponent asked for a timeline suspension to address the issue prior to submitting the Detailed Project Description
- Case study 2: 
 - ✓ Southern Ontario infrastructure project, Indigenous proponent
 - ✓ Planned for a long timeline suspension to prepare its Detailed Project Description with a view to providing enough evidence for either a no-IA decision or significant scoping

Outcome

Planning Phase

- Case study 3: 
 - ✓ Northern Ontario infrastructure project, Indigenous proponent
 - ✓ Proponent decided not to suspend the timeline to respond meaningfully to issues and did not provide sufficient information to allow scoping of the Tailored Impact Statement Guidelines
- Case study 4: 
 - ✓ Central Ontario infrastructure project, public sector proponent
 - ✓ Proponent was coached on consultation, so they would understand concerns from Indigenous groups and consider how they can address them, including through mitigation or existing regulations
 - ✓ Proponent asked for a timeline suspension to further engage prior to submitting the Detailed Project Description, and agreed to share a draft version with the Agency

Advice to Proponents

Impact Statement Phase

Challenge Function

- Improve story telling
- Involve participants in the study process (meaningfully)
- Manage timelines (three years is very fast)



Engagement

- Collect and integrate Indigenous and community knowledge
- Validate findings and ground-truth assumptions




Outcome

Impact Statement Phase

- Case study 3: 
 - ✓ Northern Ontario infrastructure project, Indigenous proponent
 - ✓ Reviewed study plans for the proponent to support its development of the Impact Statement
 - ✓ Proponent's weak relationship with Indigenous groups is resulting in low participation in engagement to inform the Impact Statement
- Case study 5: 
 - ✓ Northern Ontario infrastructure project, Indigenous proponent
 - ✓ Reviewed study plans for the proponent to support its development of the Impact Statement
 - ✓ Difficulties in managing the three-year timeline partially due to lack of readiness when the federal impact assessment started and desire for coordination with provincial process

Outcome

Impact Statement Phase

- Case study 6: 
 - ✓ Central Ontario resource extraction project, private proponent
 - ✓ Proponent plans to provide draft Impact Statement for Agency review to create efficiencies in process
 - ✓ Proponent actively engaging with Indigenous communities, federal authorities and public to inform Impact Statement



Observations

Challenges

- ✓ Often choose to postpone activities to later in the process, making it challenging to scope and tailor
- ✓ Often come into the system without having invested in relationship building

Opportunities

- ✓ Space to make assessment processes more efficient
- ✓ Space to involve Indigenous groups
- ✓ Space to resolve well understood technical issues early to the satisfaction of all participants

A scenic view of a dam with a person on a wooden walkway. The dam is a large concrete structure with a metal gate, and water is cascading over it, creating white rapids. A person in a red jacket is standing on a wooden walkway with a metal railing, looking out over the dam. The background features a forested hillside and mountains under a blue sky with white clouds.

Presentation 3

Presentation 3: Impact Assessment Agency of Canada's approach for involving Indigenous groups and others during the post-decision phase

Introduction

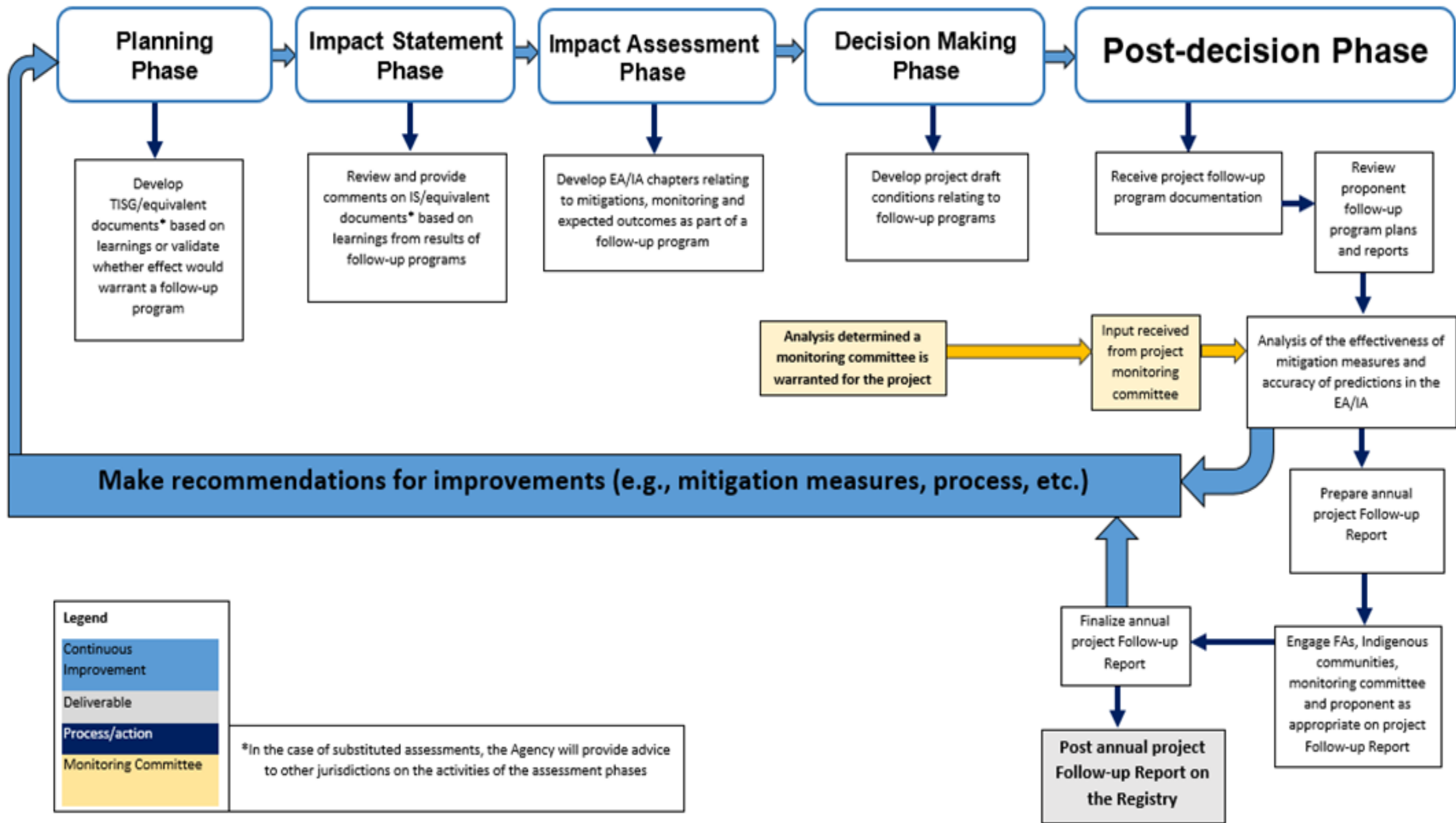
- *Impact Assessment Act (IAA)* came into force 2019.
- Under IAA, the purpose of follow-up programs are to verify the accuracy of the impact assessment predictions of a designated project and determine the effectiveness of any mitigation measures
- IAAC set up a team to track and report on follow-up programs



Follow-up Framework

- IAAC developed a framework that sets out a process for tracking and reporting on project-specific follow-up programs.
- Identified challenges through a review of CEAA 2012 projects currently submitting follow-up program results.
 - Quality and quantity of information provided varies greatly.
 - Currently proponents report on effectiveness of mitigation measures in relation to thresholds in conditions
 - Assume that if they stay below these thresholds that measures are effective





Concepts & Practices from Program Evaluation

- Evaluation is the systematic and neutral collection and analysis of evidence to determine information about a program's performance.
- Would be used to answer two questions:
 1. Were the predictions made in the impact assessment accurate?
 2. Are mitigation measures working effectively?
- Encourages proponents to state outcomes resulting from follow-up program implementation and develop targets to assess whether these are met

Engagement

- Where appropriate, engage with federal authorities, Indigenous groups, the public and monitoring committee (if one has been established) in post-decision phase.
- Seek feedback and comments on:
 - IAAC's analysis of proponent's follow-up program results and any recommendations developed.
 - Whether their input was implemented in a meaningful way through the development of a proponent's follow-up programs.



Monitoring Committees

- IAA provides the authority to establish monitoring committees for matters relating to follow-up programs and adaptive management.
 - Distinct from the requirement for monitoring led by proponents as part of a follow-up program.
- Not all projects will warrant a monitoring committee:
 - IAAC developed a framework outlining criteria to determine if a monitoring committee is appropriate.



Reporting

Annual Follow-up Report posted to the Registry that contains:

- ✓ Dashboard showing follow-up performance of each project over time
- ✓ Summary of post-decision activities during the reporting period
- ✓ Evaluation of predictions and effectiveness of mitigation measures, including recommendations for improvement
- ✓ Summary of complementary measures and mitigation measures implemented by other jurisdictions
- ✓ Summary of engagement with Indigenous groups, federal authorities and stakeholders
- ✓ For IAs by review panel, report on government commitments made in response to review panel recommendations



THANK YOU

