MAKING THE MID-TERM GRADE:
A REPORT CARD ON CANADA'S PROPOSED NEW IMPACT ASSESSMENT ACT

March 2018

On February 8, 2018, the federal government tabled Bill C-69, which introduces a proposed new *Impact Assessment Act* (IAA) to replace the current *Canadian Environmental Assessment Act, 2012* (CEAA 2012). Bill C-69 follows more than 18 months of consultation and discussion of Canada's environmental assessment (EA) processes, and is claimed to fulfill the government's commitment to introduce new, fair processes to ensure decisions are based on science and Indigenous knowledge, and win back public trust. The Bill has been sent to the Standing Committee on Environment and Sustainable Development for review and potential amendments, and is expected to be passed in 2019.

How does the proposed new IAA measure up? We graded the Act against the "essential elements of next generation EA" described in our *Guide for Reviewing the Environmental Assessment Bill*, which are based on the leading edge thinking of experts across the country, the collective recommendations of its authors, and the conclusions of the expert panel appointed to review Canada's EA processes.[1]

Each essential element is necessary to ensure that the new law promotes environmental, social, cultural and economic sustainability, allows the public a meaningful say in decisions that affect them, advances reconciliation with Indigenous peoples, and achieves Canada's climate change commitments and biodiversity conservation obligations.

While the overall grade of C- is disappointing, the Standing Committee's review has the potential to fix many problems through amendments, and to ensure the IA Act makes the Honour Roll.

Overall Grade

C-

[1] In particular, the essential elements are based on:

- Anna Johnston, *Federal Environmental Assessment Reform Summit Proceedings* (West Coast Environmental Law: 2016): https://www.wcel.org/sites/default/files/publications/WCEL_FedEnviroAssess_proceedings_fnl.pdf.
- Environmental Planning and Assessment Caucus, Achieving a Next Generation of Environmental Assessment: Submission to the Expert Review of Federal Environmental Assessment Processes (14 December 2016): http://rcen.ca/sites/default/files/epa_caucus_submission_to_expert_panel_2016-12-14.pdf.
- Lisa Gue *et al*, *Getting it Right: Strong Laws for Healthy Communities and a Resilient Environment* (2017): https://www.wcel.org/sites/default/files/publications/2017-11-gettingitright-envlawsbriefingnote_final.pdf.
- Expert Panel, *Building Common Ground: A New Vision for Impact Assessment in Canada* (2017), online: https://www.canada.ca/content/dam/themes/environment/conservation/environmental-reviews/building-common-ground/building-common-ground.pdf.

Overall, while the Act touches on many of the basic requirements of next generation EA, it falls far short of ensuring they will be implemented in practice. These requirements include sustainability as a core objective, greater attention to regional and strategic assessment, meaningful public participation for everyone, strengthening the foundation of evidence used in decisions, and consideration of whether projects will help or hinder Canada's efforts to uphold its climate obligations. Other essential elements are missing entirely, such as recognition of Indigenous authority, mention of the United Nations Declaration on the Rights of Indigenous Peoples, mandatory tiering of regional and project assessments, and ensuring sustainability in IA decisions and after the assessment. The new law also fails to include many smaller projects, and leaves the Minister and Cabinet without clear direction, criteria, and accountability for decision-making.

Essential Elements of a Next Generation EA Bill	Grade[2]	Rationale, and how the IAA stacks up
I. Sustainability as the core objective	**C**	***The law should help us choose the best options for long-term social, economic and ecological wellbeing, through a clear sustainability purpose along with rules and criteria for how decisions are made.*** **While the IA Act contains sustainability purposes and a requirement to consider sustainability when making final decisions, it leaves too much discretion to the Minister and Cabinet, risking sustainability taking a back seat to other considerations.**
1. Purpose provision stating that sustainability and meeting Canada's international commitments, including those on climate change and biodiversity, are core purposes of the Act.	**B+**	Sustainability has long been a main purpose of environmental assessment in Canada, and a purpose provision is an important way of maintaining and achieving that goal. **IA Act contains purposes related to fostering sustainability, protecting the environment and the precautionary principle. No purpose related to international commitments.**
2. Sustainability test requiring the decision-maker to select the option that makes the greatest, fairly-distributed contribution to sustainability.	**C+**	A substantive sustainability test is required to operationalize sustainability goals. **Test is whether a project is in the "public interest" with sustainability one factor among five to guide that determination. No mention of selecting the best option (among alternatives), seeking the best option, or distribution of benefits and harms.**

[2] Letter grades are assigned for each element of each "class", and averaged to find the overall grade for the class. Letter grades represent the following percentages: A+ 95%, A 90%, A- 85%, B+ 80%, B 75%, B- 70%, C+ 65%, C 60%, C- 55%, D 50%, F 0%.

3. Provisions establishing sustainability-based decision-making criteria and rules to ensure decisions meet the sustainability test and avoid unwanted trade-offs.	**D**	Decision criteria that emphasize ecological, social, cultural and health benefits, and rules defining unacceptable trade-offs (such as crossing an ecological limit), are necessary to ensure decisions meet sustainability purposes and the test. **No sustainability criteria or rules appear in the Act, but requirement for reasons for decision give hope for transparency regarding how determinations are reached.**
4. Provision enabling regulations setting out detailed decision criteria and rules.	**C+**	Detailed criteria and rules can assist proponents, decision-makers and the public, ensure consistency and credibility, enhance transparency and accountability, and help achieve sustainability objectives. **IA Act contains a general regulation-making power, but no mention of regulations specifically for decision-making. Instead, it appears that criteria and rules will be left to unenforceable policy guidance.**
5. Factors to consider include environmental, social, health, cultural, gender and economic factors.	**A**	Sustainability means lasting social, economic, cultural, health and ecological wellbeing. **IA Act requires consideration of a broad range of factors, including gender, with "effects" defined as changes to environmental, social, health and economic conditions (culture not mentioned).**
6. Effects to consider include direct, indirect, lifetime and lifecycle, inter and intragenerational, cumulative and interactive, positive and adverse effects and their distribution.	**B**	Understanding the full range of effects and their implications is crucial to making well-informed decisions that work for the environment, communities and the economy. **IA Act requires consideration of direct, incidental, cumulative, positive and negative effects, and refers to future generations. No mention of inter- or intra-generational equity.**

7. Legislated project EA triggers, including of: a. Projects identified in a project list, b. Projects with climate implications, c. Projects on federal lands, that have a federal proponent, or that receive federal funds, and d. Projects requiring environmental permits, e.g., under the *Fisheries Act*, *Species at Risk Act* and *Navigation Protection Act*.	**F**	The most important effects are cumulative effects. It is important to ensure that a broad range of undertakings within federal jurisdiction are assessed to avoid or mitigate unwanted effects, and encourage and heighten positive ones. **No legislated triggers in IA Act; project list/major project approach maintained (with the exception of more limited review of non-designated projects on federal lands or projects outside of Canada with federal proponent or federal funding).**
8. Provisions establishing different assessment streams suitable to the size and nature of undertakings, the potential magnitude of effects, and level of public or Indigenous interest or concern.	**C+**	Different assessment streams recognize that not all projects and effects are equal, and help achieve the dual goals of rigour and efficiency. **IA Act maintains only two assessment streams for projects on project list: standard assessment by the Impact Assessment Agency, and panel review. Lesser review of federal projects falls short of minimum assessment standards.**
9. Requirement that all federally-regulated undertakings be registered on a central federal database.	**D**	A registry of all federally-regulated undertakings would help identify potential sources of cumulative effects, ease the burden on proponents conducting cumulative effects assessments, and help identify project types or regions that should be subject to EA. **IA Act only requires "designated projects" to appear on registry.[3]**

[3] Note: amendments to the *Fisheries Act* and *Navigable Waters Act* would require registration of some undertakings by the Department of Fisheries and Oceans and Transport Canada, respectively; however, those requirements do not apply to all federally-regulated undertakings, and the registries are not consolidated.

II. Integrated, tiered assessments starting at the strategic and regional levels	**C-**	***EA should go beyond a project-by-project approach and examine whole regions and government policies so that individual projects can be assessed based on a strategic and informed view of the long-term needs of people and the environment.*** **The IA Act allows for regional and some strategic assessments at the discretion of the Minister, but triggers are limited, process requirements basic, and there is no requirement that outcomes be applied.**
10. Establishment of a technical advisory committee to, among other things, recommend when to conduct regional (REA) and strategic (SEA) assessments, help determine the scope of assessments, and provide other scientific and technical advice.	**A-**	In addition to an interest-based committee, a technical advisory committee could provide useful technical and regulatory guidance, including identifying regions and policy gaps in need of REA or SEA. **IA Act requires the Agency to establish an expert committee with a mandate to support the Agency with respect to technical advice. Although it does not explicitly task the committee with assisting with REA or SEA, it does not preclude that assistance.**
11. Legislated "triggers" requiring a Ministerial decision as to whether an REA or SEA must go ahead, including: a. Where a development-inducing project is proposed in a relatively undisturbed area, b. When requested by an Indigenous authority, provincial or territorial government, or the public, and c. When recommended by the technical advisory committee.	**B**	Strategic and regional assessments are crucial for addressing cumulative effects and big policy issues that cannot be addressed effectively and efficiently by project level assessments alone. Without a legislated trigger for decision, SEA and REA will remain aspirational, unachieved goals. A trigger that requires a Ministerial response retains federal discretion while assisting in the identification of priority regions and policy gaps in need of assessment, and encouraging designation of regions and policy gaps. **IA Act requires Ministerial decision, with reasons within prescribed time limit, when "any person" requests an REA or SEA (presumably includes expert committee), although falls short of legislative requirement to conduct REAs or SEAs.**
12. Firm legislated trigger for SEAs of all federal policies, plans and programs currently subject to SEA under the *Cabinet Directive on the Environmental Assessment of Policy, Plan and Program Proposals*	**D**	Numerous reports by the Commissioner of the Environment and Sustainable Development have shown that the *Cabinet Directive* is not being followed. SEA requirements for federal policies, plans and programs should be entrenched in legislation.

		While SEA trigger provision gives the Minister the discretion to conduct SEAs of policies, plans and programs covered by the *Cabinet Directive,* SEAs are not required and IA Act limits SEAs to only policies, plans and programs relevant to impact assessment.
13. Basic process requirements for REA and SEA (e.g., early and meaningful public participation, transparent determination of scope and alternatives, and mandatory reasons for decision based on the legislated criteria).	**B-**	Basic process requirements are important to ensure that REAs and SEAs are conducted according to best practices, gain public credibility, and achieve the greatest sustainability outcomes. **SEA and REA process requirements appear in IA Act but are minimal and very high-level, e.g., that information be public, participation opportunities be provided, etc.**
14. Requirement to periodically update REAs.	**D**	REAs go out of date as landscapes and stressors change with time. Updating REAs helps maintain their relevance. **No requirement in IA Act, although any person, group or jurisdiction, or expert committee, may request.**
15. Provision requiring project EAs to be consistent with the outcomes of SEAs and REAs.	**C**	The findings of SEA and REA can give authoritative guidance for project planning and assessment, help avoid project-stage conflicts, and other benefits. If REA and SEA merely "inform" project assessments, outcomes may be ignored. **No mention of what REAs or SEAs would produce. No requirement that project assessments be consistent with REAs and SEA outcomes, but they are "factors to consider".**
16. Requirement that REAs and SEAs identify alternative development scenarios, the preferred scenario, pathways to the desired goals, and implications for individual projects.	**D**	To provide clear and authoritative guidance, REAs and SEAs cannot be mere information-gathering exercises; they should also help identify desired development and ecological goals, and how to achieve those goals. **IA Act is silent on what REAs and SEAs consider, although does not preclude such consideration.**
17. A provision establishing a fund to finance federal engagement in REAs and SEAs.	**F**	REAs and SEAs require resources. A legislated fund would encourage government to ensure sufficient resources to conduct REAs and SEAs as needed. **No fund established.**

III. Cumulative effects done regionally	**C**	***The law should require a hard look at historic, current and future impacts and identify limits that ensure a healthy environment.*** **The IA Act requires consideration of cumulative effects, but not the identification of ecological limits. Cumulative effects assessments presumed to remain at project level due to lack of REA requirements.**
18. Requirement that cumulative effects assessment include historic, current and reasonably foreseeable future multiple and interactive stressors.	**B-**	Currently, assessment (such as in the case of the Site C dam) can ignore historic cumulative impacts that have had substantial impacts on the local environment. Without a pre-industrial baseline and an explicit link to project-level decision making, cumulative effects assessments will fail. **IA Act requires consideration of project effects with current and future projects' effects, and interactions of effects, but not historic effects.**
19. Requirement that REAs identify ecological and community limits.	**D**	Staying within ecological limits is critical to ensuring the maintenance of ecosystem health. **IA Act is silent on what REAs must identify and consider. Even if limits are identified, outcomes of REAs are not binding.**
IV. Collaboration and harmonization	**C+**	***The law should require collaboration with willing provincial and Indigenous governments to avoid duplication and keep key players at the table, throughout all stages of assessment.*** **While a purpose of the IA Act is to promote collaboration, there is no assurance of harmonization to the highest standard, substitution is allowed, and collaboration on assessments of projects regulated by lifecycle regulators is prohibited.**
20. Requirement that the federal authority collaborate with willing provincial and Indigenous governments in all levels of assessment.	**B+**	Multijurisdictional cooperation avoids duplication while ensuring that all necessary decision-makers are at the table, identifying issues, information needs and relevant laws, standards and principles. **IA Act requires the Minister or Agency to offer to collaborate with other jurisdictions for project and regional IA, but allows substitution.**

21. Provision enabling entering into cooperation agreements with provincial and Indigenous jurisdictions based on upward harmonization principles.	**B**	Cooperation agreements help pave the way to coordinated assessments. **IA Act allows Minister to enter into cooperation agreements, except for panels reviewing projects regulated by lifecycle regulators, but is silent on harmonization principles.**
22. Provisions requiring the assessment authority to lead an assessment planning phase in all levels of assessment, and to collaborate with relevant jurisdictions in this stage.	**B+**	A mandatory, government-led assessment planning phase will help facilitate coordination. Coordination in the design stages facilitates nation-to-nation decision-making and the implementation of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). **IA Act requires Agency to lead an assessment planning phase and offer to consult with any jurisdiction during that phase, but does not impose the phase on REA or SEA. However, planning phase may be primarily a tool for determining whether an IA is required, and most Indigenous governing bodies are excluded from the IA Act definition of jurisdiction.**
23. Requirement that collaboration occur to the highest standard of assessment among the jurisdictions.	**D**	Harmonization should occur to the highest standards of assessment to ensure that EA contributes as much as possible to meeting sustainability objectives. **IA Act is silent on standards of collaborative assessment, and substitution provisions merely establish some basic requirements without requiring federal standards to be upheld. Indigenous and provincial/territorial collaboration of IAs of pipeline and nuclear projects is forbidden.**
24. Provision(s) setting out minimum standards of harmonized assessments, including sustainability, meaningful public participation, and precaution.	**D**	Minimum standards in legislation will provide direction to the exercise of harmonizing to the highest standard. **IA Act is silent on standards of collaborative assessment, and substitution provisions merely establish some basic requirements without requiring federal standards to be upheld.**

V. Co-governance with Indigenous Nations	**C**	***Reconciliation should be a stated purpose of the law, which should further Canada's commitment to implement the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).*** **While the IA Act acknowledges reconciliation and recognizes some Indigenous jurisdictions, it is silent on UNDRIP, and limits recognition of Indigenous jurisdictions to those acknowledged or created under Canadian law.**
25. Provision enabling the establishment of regional co-governance boards.	**C-**	Regional co-governance boards can be useful in implementing UNDRIP, conducting REAs and providing ongoing regional management. **IA Act recognizes existing co-management boards under land claims agreements as jurisdictions, but creates many legal hurdles for Indigenous peoples seeking to establish new co-governance arrangements for IA at any scale.**
26. Purpose provision stating reconciliation with Indigenous peoples is a purpose of the Act.	**B**	Reconciliation should be an objective of all federal decisions. **IA Act's preamble recognizes a federal commitment to reconciliation, but does not include in purposes.**
27. Requirement that EA processes and decisions uphold Indigenous jurisdiction, law and rights in accordance with the UNDRIP.	**D**	Enshrining UNDRIP standards in EA law will assist with fulfilling Canada's commitment to UNDRIP implementation. **IA Act recognizes constitutional rights, but is silent on UNDRIP, does not recognize the jurisdiction of most Indigenous peoples, and fails to require upholding Indigenous decision-making authority.**
28. Provision(s) recognizing Indigenous ownership of Indigenous knowledge, requiring respectful consideration of Indigenous knowledge, and allowing for the maintenance of confidentiality of Indigenous knowledge where requested, in accordance with Indigenous law.	**B**	Indigenous knowledge plays a critical role in EA. The law should set out principles, protections and assurances that Indigenous knowledge will be respected, considered and, where required, kept confidential. **IA Act requires consideration of Indigenous knowledge and allows for confidentiality of that knowledge, with some exceptions, but describes "integrating" Indigenous knowledge and science into decision-making under the Act, without guidance**

		about relative weight to be given to different factors to be considered.
VI. Climate assessments to achieve Canada's climate goals	**C+**	***The Act should mandate assessment of all climate implications and set out clear requirements and guidance for considering climate in order to ensure Canada meets its international goals and obligations.*** **The IA Act requires consideration of extent to which a project will help or hinder Canada's meeting its international climate obligations, but is largely silent on how it will analyse climate impacts and base decisions on climate considerations.**
29. Purpose provision stating that a purpose of the Act is to contribute to maintaining a healthy and stable climate for future generations.	**C**	EA is a key tool for ensuring that Canada meets its climate commitments, and that goal should be explicitly articulated as a purpose of the Act. **Climate not a purpose of IA Act, although sustainability purpose could be read as including climate.**
30. Requirement to consider all undertakings that may affect Canada's chances of meeting international climate change mitigation commitments, including projects that have direct or indirect lifetime implications for GHG emissions or GHG sinks, and projects that may hinder or delay the transition to a clean economy.	**C-**	In order to ensure that Canada meets its international climate obligations, it is imperative that all projects and strategic undertakings with climate implications are assessed to ensure their consistency with GHG reductions goals. **Only designated (major) projects and some federal projects will be subject to IA Act. No assurance that the project list will include all climatically-important projects.**
31. Factors to consider should include implications for meeting Canada's international climate change mitigation commitments over the life of the project or other undertaking.	**A+**	The legislation should set out clear requirements and guidance for considering climate, in order to help ensure Canada meets its international goals and obligations. **IA Act requires consideration of extent to which a project help or hinder Canada's international climate commitments.**

32. Provision prohibiting the approval of projects that would foreseeably hinder Canada's ability to meet international climate commitments.	**B-**	A rule against approval of projects that would impede Canada's climate obligations will provide clarity and help ensure climate goals are met. **IA Act does not prohibit approval of projects that would hinder meeting climate commitments, but climate considerations are a factor to guide decision-making.**
33. Factors to consider should include direct and reasonably foreseeable indirect lifecycle emissions over the lifetime of a project.	**B**	The full spectrum of climate implications must be assessed in order to help avoid catastrophic climate change. In the context of fossil fuel projects, this includes upstream, direct and downstream sources of greenhouse gas emissions associated with projects. **IA Act requires consideration of direct and incidental effects, but is silent with respect of lifecycle or lifetime emissions.**
34. Provision enabling regulations specifying or clarifying climate-related requirements.	**C+**	It is anticipated that the understanding of what is needed for Canada to meet its international climate obligations will evolve over time, and the legislation should reflect the flexibility required to ensure that assessments adapt to evolving information. **IA Act contains a general regulation-making power, but no mention of regulations specifically for climate.**
35. Provision requiring regular review of climate regulations to ensure they reflect best available information and practices.	**D**	Climate science and policy is evolving, and regulations should likewise evolve. **IA Act is silent on review of any climate regulations, although does not preclude a review.**

II. Credibility, transparency and accountability throughout	**C-**	***Canada needs a single, independent assessment authority to ensure that all EAs are conducted according to consistent standards. Regulators, such as the NEB, CNSC or offshore petroleum boards, should not lead environmental assessments, and decisions of the Minister should be subject to appeal.*** **The IA Act establishes the Agency as the sole authority and limits lifecycle regulators to review panel members, although does not preclude their appointment as chairs or majority members. It requires consideration of science and Indigenous knowledge but does not strengthen the evidence used or require that they form the basis of decisions. Also, the Act requires reasons for decision but not justification, and is silent on appeals.**
36. Assessment authority is an independent, impartial body appointed with the objective of achieving sustainability goals – regulators like the National Energy Board are not established as sole or joint responsible authorities.	**B+**	A single assessment authority will best ensure that all EAs are conducted according to consistent standards, that EA processes and outcomes meet EA objectives, and that the public trusts assessments and decisions. **IA Act continues the Canadian Environmental Assessment Agency as the Impact Assessment Agency. Lifecycle regulators are no longer responsible authorities, but are to be appointed to review panels, without limit on their membership.**
37. Provisions make clear that the assessment authority, not a regulator, leads the assessment and that EA processes are distinct from regulatory processes.	**B**	EA is a planning tool, not a regulatory tool. Attempts to merge EA and regulatory processes have failed, resulting in weaker, restricted assessments and compromised credibility. Regulatory processes should be kept distinct from planning-based assessment processes. **Agency or review panels with Agency as secretariat will lead assessments. Lifecycle regulators will be appointed to review panels, and may be chairs and majority panel members. Assessments of projects regulated by lifecycle regulators are to stand-in as regulatory hearings for major, but not all, regulatory processes.**

38. Provision designating the Minister of Environment and Climate Change as the final decision-maker in project assessments.	**B**	Decisions made in the "black box" of Cabinet secrecy have contributed greatly to the lack of trust in EA. To help build public trust, legislation should require that the Minister apply decision criteria and rules, and provide detailed reasons for decision. **IA Act establishes the Minister or Cabinet as decision-makers, but requires reasons for decisions by both.**
39. Requirement that decisions be based on best available scientific, community and Indigenous evidence and knowledge, and the precautionary principle.	**B**	Decisions should be based on science and Indigenous knowledge, not political considerations. **IA Act requires assessments to *take into account* science and Indigenous knowledge, but not be based on them, and all federal authorities must apply the precautionary principle.**
40. Requirement that the Minister provide detailed reasons for decision, including how s/he applied decision-making criteria and trade-off rules, the scientific and Indigenous evidentiary basis for decisions, and explicit justification of any trade-offs.	**B**	Reasons for decision are crucial for public trust, accountability, and achieving sustainability objectives. **IA Act requires the Minister to provide reasons for decision, including how s/he considered legislated decision factors, but no requirement to apply decision criteria or rules, show the evidentiary basis for decision, or justify trade-offs.**
41. Right of appeal of process (interim) and final decisions.	**F**	Without a right of appeal, it is much more difficult for the public, Indigenous peoples and parties to hold decision-makers to account, and ensure processes are fair and decisions promote sustainability. **IA Act does not establish a right of appeal.**
42. Establishment of an independent and impartial appeals tribunal to hear appeals.	**F**	Tribunals like Ontario's Environmental Review Tribunal provide specialized expertise in the resolution of environmental disputes without the time and expense of resorting to the courts. **IA Act does not establish an appeals tribunal.**

VIII. Participation for the people	B	*The public should be involved at the earliest stages, help design processes and have access to funding. Participation should be able to affect decisions: comment periods and hearings are not enough.*
43. Requirement to provide meaningful public participation processes at the earliest possible stages, beginning in the assessment planning phase.	**B+**	Public participation is invaluable in assessments and should allow the public to have a meaningful say. Early engagement allows the public to help design leading-edge, effective processes. **IA Act establishes a planning phase and requires "an opportunity for the public to participate" in it, but does not prescribe how.**
44. Requirement that participation processes are designed according to the key principles of meaningful public participation and are deliberative in orientation.	**B-**	To be meaningful, public participation must be more than a check-box exercise. Public comment periods and public hearings are not enough – the legislation should require the assessment authority to design deliberative options to suit processes and participant needs. **A purpose of IA Act is to ensure meaningful participation, but Act does not contain principles or require participation to be deliberative.**
45. Provision requiring public engagement in the design of participation processes in the assessment planning phase.	**B**	Consulting the public on participation process design helps ensure processes work best for communities and includes the meaningful consideration of public knowledge, aspirations and concerns. **IA Act requires public participation opportunities in planning phase to help prepare for assessments, but does not mention design of participation processes.**
46. Requirement to provide robust participant funding to support participation.	**B-**	Funding is essential to enabling meaningful participation, including funding to retain experts. **IA Act requires establishment of participant funding program, but does not require funding to meet any specific standard.**
47. Requirement to show how process and final decisions have considered public input.	**B-**	The public should be able to see how participation has informed decisions. **IA Act requires assessments to take into account public comments, but does not require assessment**

		reports or decisions to show how input was considered.
48. Lack of any restriction on who is allowed to participate in EA processes, and in particular, the repeal of the "directly affected" provisions in *CEAA 2012*.	**A+**	All members of the public should be allowed and enabled to participate in assessment processes, in the interest of democracy, fostering learning, and optimizing results. **IA Act does not restrict participation in any assessments.**
IX. Transparent and accessible information flows	**C-**	***All assessment and follow-up information should be made permanently available on an open, accessible and searchable database.***
49. Requirement that all assessment information be made permanently available on an open, accessible and searchable database.	**C+**	Understandable and accessible information is a cornerstone of next-generation assessment. **IA Act requires some information, or summaries of information, to be available, but allows for only notices of information to be posted online, and does not require information to remain accessible.**
50. Provision(s) regarding peer review of proponent information by government and independent experts.	**D**	Peer review by government and independent experts would provide rigour, oversight and public confidence in information. **IA Act is silent on peer review, although does not preclude it.**
X. Ensuring sustainability after the assessment	**C-**	***The Act should mandate follow-up, monitoring, compliance and enforcement measures in order to ensure sustainability after the assessment.*** **The IA Act requires decision-makers to impose conditions related to monitoring and follow-up, and that results of follow-up programs be publicly available, but lacks detail and does not preclude misuse of adaptive management.**
51. Requirements respecting follow-up and monitoring, including that follow-up and monitoring conditions be attached to approvals.	**A-**	Follow-up, monitoring, compliance and enforcement should be robust, well defined and mandatory, in order to ensure sustainability after the assessment. **IA Act requires Minister or Cabinet to establish conditions of approval, including for mitigation and follow-up, and follow-up is defined as including**

		monitoring. However, Minister may exempt conditions if s/he is satisfied another jurisdiction or person will ensure them.
52. Provision respecting clear identification of follow-up and monitoring responsibilities and resources in assessment decisions.	**D**	Identification helps achieve monitoring and follow-up objectives. **IA Act is silent on identification of follow-up and monitoring responsibilities, but does not preclude such.**
53. Provision stating that adaptive management should not be relied upon where there is risk of irreversible or irreparable harms.	**F**	Adaptive management has been greatly misused in EA and cannot be a replacement for application of the precautionary principle. Legislation should specify its appropriate uses. **IA Act is silent on adaptive management and does not preclude misuse.**
54. Requirement that follow-up information be made publicly available.	**A-**	Currently, follow-up information is not made public. Without that information, the public cannot assess whether and how follow-up is occurring. **IA Act requires descriptions of results of follow-up programs to be publicly available, but allows for summaries only to be posted on internet site.**
55. Legal mechanisms for public and Indigenous involvement in follow-up and enforcement, including ability to establish monitoring and follow-up committees.	**C**	Public and Indigenous involvement in follow-up and monitoring has successfully occurred in EAs in Canada. It draws on local knowledge, fosters industry-community relationships, and contributes to learning. **IA Act contains a general provision allowing Cabinet to establish research and advisory bodies in regulations related to impact assessment, but it is unclear whether this provision could apply to monitoring and follow-up committees.**
56. Provisions allowing revocation of authorizations in extreme cases where adverse effects are greater than predicted, and allowing conditions of approval to be adjusted.	**D**	There should be legislated means of suspending, cancelling and decommissioning projects that are unacceptably harming the environment or communities and for adjusting conditions of approval where unexpected changes warrant. **IA Act allows Minister to amend conditions of approval, but not revoke approvals for cause.**

XI. Consideration of the best option from among a range of alternatives	**B+**	***Assessments should evaluate the reasonable alternatives before decisions are made. Not approving a project should always be on the table.*** **The IA Act requires all assessments to consider alternatives to and alternative means, but does not specify how or when such consideration is to occur.**
57. Provision requiring all EAs to assess alternative means of designing and undertaking the project.	**B+**	Consideration of alternatives is an essential element of selecting the best option. **IA Act requires all assessments to consider alternative means, but only those that are "technically and economically feasible".**
58. Requirement that reasonable alternatives to the proposed undertaking be identified in the early planning stage.	**B**	Assessment process questions such as alternatives to consider should be identified in the earliest possible stages, before strategic decisions have been made. **IA Act requires all assessments to consider alternatives, but does not require identification of alternatives in the planning stage.**
59. Provision requiring project EA to assess the "no project" alternative and any other reasonable alternatives.	**A-**	The "no" should always be on the table, as should any reasonable alternatives to the project that exist. **IA Act permits decision-makers to determine project is not in the public interest, and allows Minister to determine following the planning phase that the project cannot proceed into an assessment, but Act is silent on how decision is to consider other alternatives.**
XII. Emphasis on learning	**F**	***Assessments should learn from previous cases, as well as from monitoring and follow-up, in order to continuously improve processes and decisions.*** **The IA Act does not mention learning or considering follow-up or monitoring data from other projects.**
60. Purpose provision stating that fostering learning is a purpose of the Act.	**F**	Fostering learning within and among assessments is a central tenet of next-generation EA. **IA Act does not mention learning.**

61. Requirement that EAs consider relevant monitoring and follow-up data and lessons from adaptive management.	**D**	Assessments should learn from previous assessments, monitoring and follow-up, in order to continuously improve processes and decisions. **IA Act does not require consideration of relevant follow-up or monitoring, but does not preclude such consideration.**

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