

Building Canada Faster, Better, Fairer

Joint submission on May 2026 discussion paper: Getting Major Projects Built in Canada

July 22, 2026

Thank you for this opportunity to comment on the discussion paper published May 8, 2026 titled *Getting Major Projects Built in Canada - Discussion Paper on Proposed Legislative, Regulatory, and Policy Reforms*. We appreciate the decision to extend the comment period deadline to July 22nd, which has afforded us more time to better understand and analyze the proposals.

Many of our organizations have either submitted or will submit an individual response to the discussion paper. This joint submission complements the comments and recommendations in those individual responses. We recognize that this government has committed to reduce the time it takes to make decisions about major projects, and so while this submission explains our concerns with the approach and specific proposals, our main focus is to provide constructive recommendations to help the government improve major project decision-making efficiency and increase the efficacy of environmental laws and processes that form that basis of ongoing public trust.

The submission is organized as follows:

- I. Recommendations
- II. Comments on the ability of the discussion paper's proposals to meet its stated objectives
- III. Guiding principles for improving environmental decision-making efficiency and efficacy

I. Recommendations

The signatory groups make the following recommendations as ways to improve the efficiency and efficacy of environmental decisions while maintaining credibility of processes and decisions. It is not an exhaustive list, but are key recommendations based

on our collective expertise and represent leading thinking on environmental impact assessment and decision making internationally.

These recommendations are complementary to proposals that have been advanced to integrate ecological risk information, the mitigation hierarchy, cumulative effects tools, and ecological mapping into the major projects reform agenda. Those measures would help make federal project decisions more efficient and credible by identifying ecological risks earlier and giving proponents clearer expectations before project pathways are fixed. The recommendations below address the broader impact assessment architecture needed to ensure that those front-end tools operate within a robust, independent, and consistently applied federal assessment system.

1. Apply environmental impact assessment consistently and comprehensively, across sectors

Enhance certainty and consistency by requiring all projects with the potential for significant adverse federal effects to undergo assessments under the Impact Assessment Act.

The discussion paper proposes to further fragment the application of federal impact assessment by exempting pipelines from the *Impact Assessment Act* and making the Canadian Energy Regulator the assessment authority for pipelines and the Canadian Nuclear Safety Commission the assessment authority for nuclear projects. That proposal has two fundamental flaws.

First, it would take Canada backwards to the time prior to 2010 when the *Canadian Environmental Assessment Act* (CEAA) prescribed a ‘self-assessment model.’ Under it, the minister or ministers with the decision-making authority over a project were the assessment authorities for those projects. As the Standing Committee on Environment and Sustainable Development found in 2003, there was widespread mistrust of self-assessment due to concerns over lack of independence, potential conflicts of interest, and incoherence in assessment conduct and quality among departments.¹

Second, impact assessment is already woefully under-applied in Canada. From its enactment to December 31, 2025, the *Impact Assessment Act* (IAA) triggered an average of 2.86 IAs per year.² During that same period, the number of major projects in the federal inventory of major projects planned or under construction in Canada ranged between 443 to 504, with an average of 108.6 major projects added to the inventory each year since

¹ Standing Committee on Environment and Sustainable Development, *Sustainable Development and Environmental Assessment: Beyond Bill C-9* (June 2003) at 17-19:
<https://www.ourcommons.ca/Content/Committee/372/ENVI/Reports/RP1032309/envirp02/envirp02-e.pdf>.

² Impact Assessment Agency of Canada, *At-a-glance report for the third quarter 2025-2026* (2025):
<https://www.canada.ca/en/impact-assessment-agency/corporate/our-impact/iaac-third-quarter-2025-2026-at-a-glance-report.html>.

2016,³ meaning that fewer than 5% of major projects in Canada undergo a federal assessment. In 2022, only one project triggered an IA.⁴

The proposal to exempt pipelines from impact assessment (along with the federal-provincial cooperation agreements the Minister recently entered into with all provinces, largely committing the federal government to stop assessing projects considered to be provincially regulated) would result in the near-total abdication of impact assessment by an independent authority. As a result, Canada could be afoul of its customary and treaty obligations under the Espoo Convention to assess projects with trans-boundary effects, including greenhouse gas emissions.⁵

To enhance predictability, consistency and certainty, the IAA should apply to all projects with the potential for significant adverse federal effects.

We also note the Yukon Environmental and Socio-Economic Assessment Act (YESAA) and the associated Assessment Board (YESAB). This Act and the associated assessment board were developed through modern treaties and are constitutionally protected. Therefore projects subject to that process must be an exception to the proposed federal approach. Furthermore, that legislation and its approaches provide a model of a highly effective impact assessment process that could be replicated effectively in other jurisdictions.

2. Begin processes early, before significant decisions are made

Begin impact assessment processes early on in project design, when decisions about key issues such as alternative locations and means of carrying out projects, key issues and assessment plan have been finalized.

There is general consensus among impact assessment experts and practitioners – including both the Expert Panel and the Multi-Interest Advisory Committee that the Minister of Environment and Climate Change appointed to provide recommendations on improving impact assessment processes – one of the most effective ways to improve IA efficiency and efficacy is to begin IA processes early on in project planning, before

³ Natural Resources Canada, *Major energy and natural resources projects inventory* (updated 2025 Dec 19): <https://natural-resources.canada.ca/science-data/data-analysis/major-energy-natural-resources-projects-inventory>.

⁴ Impact Assessment Agency of Canada, *Canadian impact assessment registry*: <https://iaac-aeic.gc.ca/050/evaluations/index?culture=en-CA>; Minister's Advisory Council on Impact Assessment, *Third report to the Honourable Julie Dabrusin Minister of Environment and Climate Change* (2025): https://publications.gc.ca/collections/collection_2025/aeic-iaac/En104-23-2025-eng.pdf.

⁵ *Convention on Environmental Impact Assessment in a Transboundary Context* (25 Feb 1991), 1989 U.N.T.S. 309; International Court of Justice, *Obligations of States in Respect of Climate Change: Advisory Opinion* (2025 Jul 23): https://www.icj-cij.org/sites/default/files/case-related/187/187-20250723-adv-01-00-en.pdf?_cf_chl_f_tk=Dj78VqYlc1pvl3Uff1XP0BHardBc.Sc7U49vFG99zQ0-1782741741-1.0.1.1-ytsDplt6y1.mNTXxhXFGHbnADvMbdGgVJd6m5Jq2Ycs.

proponents have made decisions about issues such as project alternatives.⁶ That is why the IAA appropriately implemented a planning phase: to improve IA efficiency by creating formal, Agency-led opportunities for the identification of key issues to focus assessments on and develop tailored assessment plans.

While there is no evidence that the planning phase increased assessment timelines (it is intended to overlap with project planning, not add to it, and merely initiates that overlap earlier on in project planning processes), political and industry opponents to impact assessment used its introduction to claim that assessment timelines have become unacceptably long.

We urge the federal government not to throw out the essential with the trivial. The concept of early planning is sound. We recommend that the Agency continue to be responsible for assessment planning, including with meaningful Indigenous engagement, public participation and departmental advice, and that it continue to work with experts to improve assessment planning and scoping.

3. Identify environmental and socio-economic priorities to guide assessments and decisions

Reduce the uncertainty arising out of Ministerial and Cabinet discretion by identifying and making public the federal environmental and socio-economic priorities that will guide assessments (including assessment process decisions like scoping) and decisions to act as a road map for authorities, parties and participants.

Both industry and environmental groups share concerns over the degree of discretion built into assessment processes, particularly regarding final decisions. That discretion is a major driver of uncertainty, which may in turn cause investment hesitation. The IAA was drafted to provide more clarity by introducing factors to guide decision-making, but those factors remain vague. The Strategic Assessment of Climate, while imperfect,⁷ helped to provide clarity respecting scope of climate-related information proponents would be required to provide and that would be considered in final decisions.

To reduce uncertainty and enhance clarity, we recommend the federal government similarly develop guidance to provide clarity on the following decision-making considerations:

- (a) Guidance for federal biodiversity obligations and objectives, clarity on how projects will be analyzed for consistency with those obligations and objectives, and process

⁶ Expert Panel for the Review of Environmental Assessment Processes, *Building Common Ground: A New Vision for Impact Assessment in Canada* (2017): https://publications.gc.ca/collections/collection_2017/acee-ceaa/En106-158-2017-eng.pdf; Multi-Interest Advisory Committee, *Advice to the Expert Panel Reviewing Environmental Assessment Processes* (2016).

⁷ See, e.g., David V. Wright, “Final Strategic Assessment on Climate Change: Zero Net Effect?” *Ablawg* (10 August 2020): <https://ablawg.ca/2020/08/10/final-strategic-assessment-on-climate-change-zero-net-effect/>;

assessments should follow . This should include clear federal direction on early ecological risk identification, consistent application of the mitigation hierarchy, cumulative effects information, and environmental data standards, so that biodiversity considerations shape project planning, assessment, and permitting from the outset.

- (b) A climate ‘test’ for determining whether projects help or hinder Canada’s ability to achieve its climate obligations. In its 2023 opinion on the constitutionality of the IAA, the Supreme Court did not rule out federal jurisdiction over impact assessment. Rather, it held that Canada had failed to demonstrate how all GHGs at any level met the test for being a matter of national concern under the federal Peace, Order and Good Government head of power. In our view, there are credible ways for the federal government to assert jurisdiction over GHGs in impact assessment, such as by only considering GHGs that occur at significant levels (defined as hindering Canada’s ability to meet its climate obligations).
- (c) A framework for assessing projects contributions to sustainability that sets out sustainability objectives and indicators (such as those set out in the Federal Sustainable Development Strategy), principles to encourage project design decisions that maximize contributions to sustainability, and clarity on how trade offs will be considered.
- (d) Whether projects have obtained the free, prior and informed consent of Indigenous rights-holders.
- (e) Whether proponents have demonstrated the long-term financial viability of projects, that benefits will be equitably distributed to affected communities, and that taxpayers will not be responsible for the cost to remediate the effects of any accidents or malfunctions, or decommissioning costs.

4. Seek opportunities to cooperate with provincial assessments through harmonization, not substitution

Pursue interjurisdictional cooperation through means such as harmonization and joint review panels, which decades of experience (particularly under the Canadian Environmental Assessment Act) show tend to be the best cooperation tools for enhancing efficiency and efficacy.

Harmonization should include shared ecological data standards, early identification of federal environmental priorities, and consistent application of the mitigation hierarchy across federal and provincial processes, while retaining federal responsibility for matters within federal jurisdiction.

We note that in recent months, Canada has entered into a series of federal-provincial cooperation agreements that agree to exempt projects considered to be primarily

provincially regulated from federal IA, including through substitution and exercising the section 16 power under the IAA to determine that no IA is required.⁸

Neither of those should be an option. By their very nature, provincial assessment regimes lack the expertise respecting federal matters, and focus on federal priorities and policy objectives of federal assessments. Provincial assessment regimes are inconsistently applied and most do not offer participant funding. Many also lack the degree of trust in the system that the federal regime has earned. Abdication of IA through reliance on inferior or absent assessment regimes will likely stoke greater mistrust in processes and projects and erode public buy-in to final decisions, while putting federal environmental matters and communities at greater risk of harm.

Instead, we reiterate the recommendation of the EA Expert Panel to pursue the goal of ‘one project, one assessment’ through cooperation through upward harmonization to the highest standard of IA.⁹

II. The discussion paper proposals will not meet its objectives

We understand that the fundamental goal of the proposals in the discussion paper is to improve the efficiency of major project review and decision making by achieving the following objectives: reducing duplication, improving interdepartmental coordination and making consultation processes easier to navigate, while ensuring environmental protection, respecting Indigenous rights and supporting meaningful Indigenous consultation.

We agree with those objectives. Unfortunately, the proposals outlined in the discussion paper are likely to have the opposite effect.

Efficiency and efficacy are mutually dependent concepts. Decades of experience with environmental impact assessment and regulatory processes have shown that attempts to improve their efficiency without corresponding attention to efficacy backfire, leading to longer processes, fewer environmental safeguards and more public distrust in decisions. Environmental laws are not red tape. They exist to protect Canadians and the environment we love, rely on and live in.

The most recent notable federal example is the 2012 attempts to streamline environmental decision making through omnibus budget bills C-38 and C-45. The result was:

⁸ Impact Assessment Agency of Canada, *Agreements related to assessments*: <https://www.canada.ca/en/impact-assessment/corporate/acts-regulations/legislation-regulations/environmental-assessment-agreements.html>.

⁹ Expert panel, *supra* note 16 at 24-25.

- Successful legal challenges and tens of thousands of people protesting proposed pipelines, which resulted in the rejection of Northern Gateway,¹⁰ the proponent of Energy East cancelling the project¹¹ and the proponent of Trans Mountain (then Kinder Morgan) backing away;¹²
- Longer, rather than shorter, environmental assessment timelines;¹³ and
- Commitments from the new government elected in 2015 to restore the lost protections and to introduce stronger, fairer environmental assessment process.

The *Canadian Environmental Assessment, 2012*¹⁴ and accompanying initiatives, including the Major Projects Management Office, was an attempt to codify many of the approaches that this government is now proposing: shorter timelines, more focused assessments, greater reliance on provincial processes, a heightened emphasis on economic development, increased responsibilities of the pipeline and nuclear regulators. Because it failed to also ensure Indigenous rights were upheld, provide opportunities for meaningful public participation and require decisions to be based on science and knowledge and foster sustainability, it failed and was replaced by the current *Impact Assessment Act* regime.

The proposals in the discussion paper go even further than the 2012 changes. These include by proposing to allow the Governor in Council to override species at risk protections and creation of special economic zones in which projects may be exempt from environmental assessment and legal safeguards. Public and Indigenous concern about those proposals has been significant, and, if implemented, opposition to them is bound to be even stronger.

Canada is on its third federal environmental assessment regime of the last fifteen years. If this government introduces changes that undermine Indigenous rights, prevent the public from meaningfully participating in environmental decisions, sideline science and knowledge and allow unsustainable development, it will also almost certainly result in the need to once again overhaul assessment and regulatory processes. These seismic shifts in the regulatory landscape do not promote investor confidence or public trust.

¹⁰ CBC News, “Thousands protest against pipeline at BC legislature,” CBC News (22 Oct 2012): <https://www.cbc.ca/news/canada/british-columbia/thousands-protest-against-pipeline-at-b-c-legislature-1.1137422>.

¹¹ Evans, Pete, “TransCanada pulls plug on Energy East pipeline,” CBC News (05 Oct 2017): <https://www.cbc.ca/news/business/transcanada-energy-east-1.4338227>.

¹² Gibson, John, “With project in doubt, Kinder Morgan shareholders vote to sell Trans Mountain pipeline to Ottawa,” CBC News (30 Aug 2018): <https://www.cbc.ca/news/canada/calgary/kinder-morgan-canada-shareholders-vote-sale-trans-mountain-pipeline-1.4804503>.

¹³ McDiarmid, Margo, “Short timelines for environmental assessments not working, says expert panel,” CBC News (05 Apr 2017): <https://www.cbc.ca/news/politics/environmental-assessment-expert-panel-1.4056423>.

¹⁴ SC 2012, c 19, s 52.

III. Guiding principles for improving environmental decision-making efficiency and efficacy

As we explain above, efficiency and effectiveness are mutually dependent, and efficiency must be understood as the efficient use of time, energy and resources to achieve desired objectives. To improve process efficiency effectively, those objectives must be clear.

As we also note above, environmental laws exist for a reason. The fundamental purposes of environmental impact assessment are twofold: 1) inform decision makers of the consequences of decisions *before* making them; and 2) help ensure that project design and environmental decisions align with environmental and other objectives.

Those objectives may be found in laws, such as the section 35 rights of Indigenous peoples, the *United Nations Declaration on the Rights of Indigenous Peoples Act*,¹⁵ and the purpose of the *Impact Assessment Act*, which is to prevent or mitigate significant adverse federal effects of designated projects and ensure that federal officials exercise their powers under the Act in a manner that fosters sustainability, respects Indigenous peoples' rights and promotes cooperation.¹⁶

Environmental objectives may also be found in policy, such as the Federal Sustainable Development Strategy, the Emissions Reduction Plan and Canada's A Force of Nature strategy. Extrapolating from those and other key legal and policy objectives, we have identified the following principles that should guide the identification of measures to improve decision making efficiency and efficacy.

1. **Uphold Indigenous rights and respect Indigenous jurisdiction.** Processes should be designed to ensure that federal decisions uphold Indigenous rights and be consistent with the UN Declaration on the Rights of Indigenous Peoples. For example, they should be designed to seek the free, prior and informed consent of Indigenous peoples, and respect decisions to grant or withhold consent.
2. **Foster sustainability.** The Brundtland Commission defined sustainable development as "development that meets the needs of the present without compromising the ability of future generations to meet their own needs."¹⁷ It is widely accepted as having interrelated, equally important aspects: environmental protection, social wellbeing, health and economic prosperity. Like efficiency and efficacy, these sustainability priorities are interdependent. Thus, processes should be designed to:
 - a. **Protect the environment.** In this context, environmental protection means taking all measures to protect species and biodiversity, air and water quality,

¹⁵ SC 2021, c 14.

¹⁶ *Impact Assessment Act*, SC 2019, c 28, s 1, s 6(1).

¹⁷ G.H. Brundtland (chair), World Commission on Environment and Development, *Our Common Future* (New York: United Nations, 1987): https://en.wikisource.org/wiki/Brundtland_Report at 8.

and our climate system while avoiding significant adverse effects. Critically, major projects should contribute to climate change mitigation or adaptation, not contribute to climate harms. Processes must be capable of identifying environmental priorities and key risks, and be designed to be able to be fully informed about impacts and risks to those priorities.

- b. **Protect human health and safety.** Processes must be able to identify all potential direct and cumulative effects and risks to human health and safety, including from pollution, potential accidents and malfunctions, reduced access to food sources, reduced access to health care and housing, increased risk of gender-based violence and teen pregnancy, and increased substance abuse.
 - c. **Economic prosperity.** Processes should identify all the economic benefits, impacts and risks, including those related to job availability, quality and accessibility, whether economic benefits will flow to communities, and potential for boom-and-bust cycles.
 - d. **Ensure inter and intra-generational equity and environmental justice.** Processes should identify who benefits and who is harmed by development among and across generations, and ensure an equitable distribution of the benefits and costs and meaningful participation by vulnerable communities.
3. **Identify and evaluate alternatives.** Environmental impact assessment is a planning tool. It is meant to help in the selection of project design options that minimize harms and maximize benefits. As a result, they must facilitate the identification of alternatives to the project and alternative means of carrying them out, and the comparative evaluation of alternatives so that an environmentally preferable option is approved.
4. **Encourage multijurisdictional cooperation to the highest standard.** Environmental protection requires an “all hands on deck” approach. To be fully informed about the environmental consequences of federal decisions and foster cooperative federalism, federal officials must strive to work in partnership with provincial and Indigenous counterparts, not abdicate the playing field through substitution to provincial processes.
5. **Provide certainty and clarity with flexibility.** Certainty and clarity of process steps and requirements help everyone. At the same time, overly rigid and formulaic procedures can lead to greater inefficiencies, such as when Indigenous rights-holders are forced to go to court to uphold their rights. To that end, information requirements, process steps and timelines, roles and responsibilities and decision-making objectives should be clear, while at the same time flexibilities need to be designed into the system to adapt to circumstances and community priorities and ecological realities.

We trust that the foregoing submissions are of assistance, and we remain available to meet with you and discuss them further. The above submissions are jointly endorsed by:

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CANADIAN ENVIRONMENTAL LAW ASSOCIATION

CANADIAN PARKS AND WILDERNESS SOCIETY

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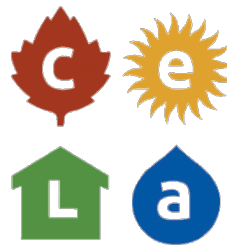
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