

# Does jurisdictional siloing increase or undermine the efficiency and efficacy of next-generation IA in federalist states? A Canadian example

*Environmental Impact Assessment Review*, (2025) 112 at 107738: <https://doi.org/10.1016/j.eiar.2024.107738>.



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# Overview

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Recent developments in Canada that silo IA

- For constitutional reasons
- For efficiency reasons

Lens: Next generation IA

- Sustainability
- Cumulative and interactive effects
- Efficiency

Implications and recommendations

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# Canada's model of federalism

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Regulatory power divided between federal and provincial governments

Constitution does not list environment as a regulatory power

Federal powers:

- Fisheries
- Navigation
- Well-being of Indigenous peoples

Provincial powers

- Natural resources
  - Electricity generation
  - Local works and undertakings
- Long tradition of provincial governments fighting federal environmental regulation

# *Reference re Impact Assessment Act*

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2019: *Impact Assessment Act* enacted

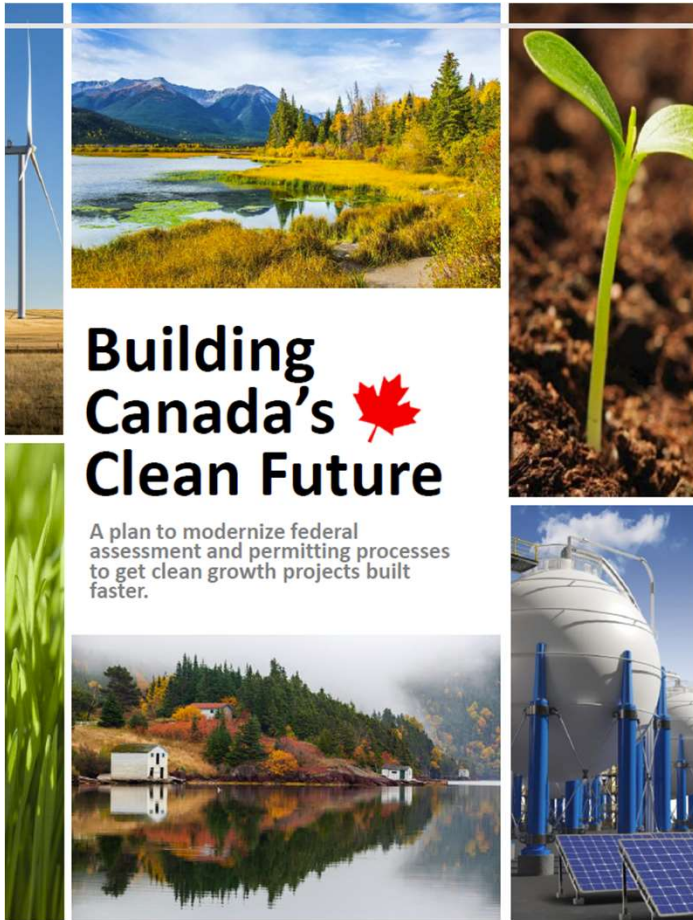
Requires consideration of positive and negative environmental, social, economic effects, sustainability and equity effects (GBA+)

Immediately challenged by Province of Alberta

Court held that for provincially regulated projects (e.g., mines, dams):

- Federal assessment **decisions** can only consider adverse “federal” adverse effects (and all benefits)
- E.g., cannot consider air pollution, health effects, adverse socio-economic effects
- **Forces federal decisions to be siloed.**





# The quest for efficiency

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## Ministerial Working Group on Regulatory Efficiency for Clean Growth Projects

- Committed to “improve the efficiency of the impact assessment and permitting processes for major projects”
- Recommended more “cooperation” with provinces and shorter timelines

## Changes aimed at efficiency and facilitating cooperation

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Federal decision makers can not consider adverse provincial effects

- E.g., impacts on wildlife, air pollution, socio-economic effects

Timelines are less flexible

Full substitution remains possible

Federal officials can substitute parts of provincial assessments (i.e., Frankenstein assessments)



BUT

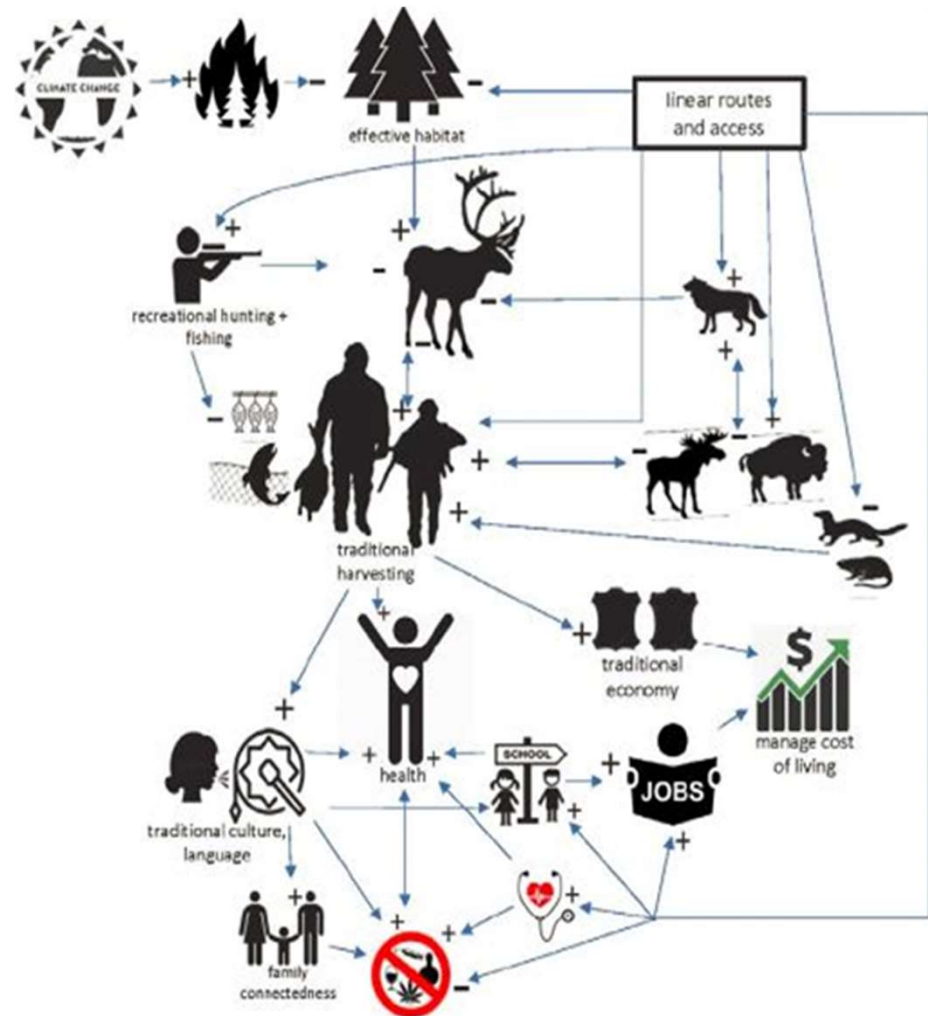
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AND

“the world is made of  
systems, not silos”\*

\*Ehrlich, A. 2022. Collective impacts: using systems  
thinking in project-level assessment. Impact  
Assessment and Project Appraisal, 40:2: 129-  
145, DOI: [10.1080/14615517.2021.1996901](https://doi.org/10.1080/14615517.2021.1996901).





# What is an efficient impact assessment?

**State and industry conception:** Faster, cheaper, less bureaucratic

- Efficiency, fairness and effectiveness are at odds with each other

**Next-generation IA conception:** Efficiency at achieving desired objectives

- Efficiency, fairness and efficacy are mutually-supporting objectives

# Next generation impact assessment

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Five core principles

14 essential elements

Substantive objectives:

- ❖ Sustainability-based purpose, scope and criteria
- ❖ Effective attention to cumulative and interactive effects

# Risk of recent amendments?

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Impact assessments that are

- Less effective
  - Siloed assessments less able to consider cumulative and interactive effects
- Less fair
  - Participants and Indigenous peoples less able to have their concerns heard and interests protected
- Less efficient
  - If IA is not effective or fair, it is not efficient

# Next-generation IA solutions?

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## Multijurisdictional assessment to the highest standard

- When all jurisdictions are involved, there are no credible arguments for ignoring relevant effects, including cumulative and interactive
- Substitution does not facilitate cooperation

## Respecting Indigenous rights and jurisdiction

- UNDRIP: Right to self-determination, decision-making authority (including FPIC), and participation in state decision-making
- Indigenous knowledge understands interconnectedness of values and effects (e.g., Squamish Nation assessment of Woodfibre LNG)

## Regional and strategic assessment

- Can provide credible high-level guidance
  - No final decision = no limit on what can be considered
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# Let's continue the conversation!

Message me your questions or comments in the IAIA25 app.

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