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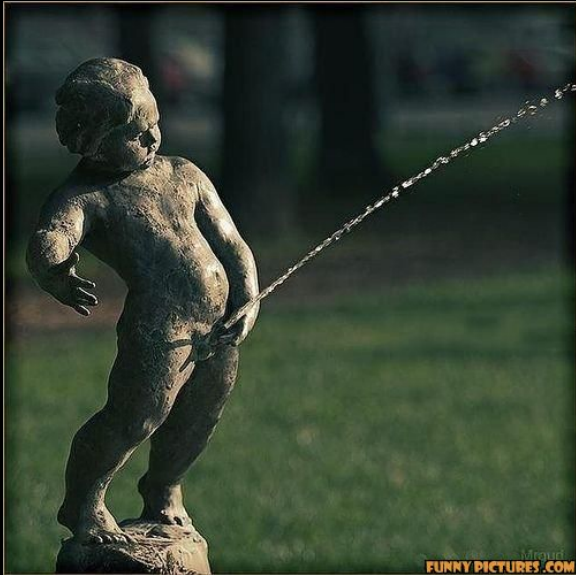
Sustainability in the new federal assessment bill

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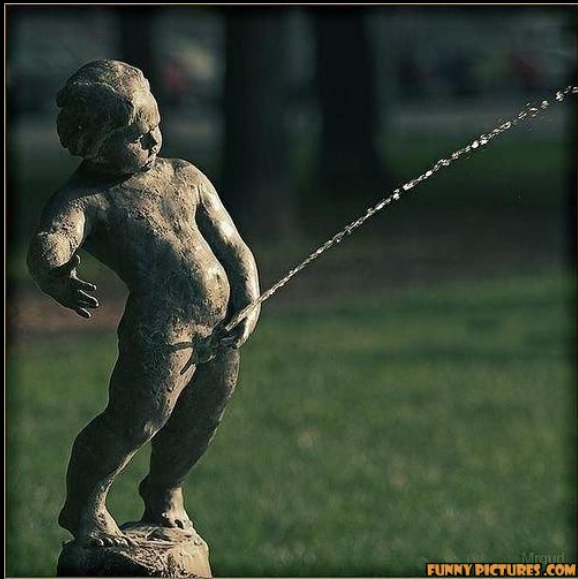
Aim higher sustainability in next generation EA



For sustainability-enhancing purposes the federal process should

- require every undertaking to make a positive contribution to sustainability
- apply explicit, context-specified sustainability criteria
- identify best options
- discourage trade-offs
- seek multiple, mutually reinforcing, fairly distributed and lasting gains, while avoiding significant adverse effects

... also



- be the core planning and decision making process for all undertakings key to the sustainability transition
- link strategic and project assessment
- focus on cumulative effects
- compare alternatives and pick the best
- facilitate public engagement
- coordinate with regulatory licensing
- monitor
- foster learning
- ensure credible process and impartial decision making
- build multijurisdictional collaboration
- harmonize upward

Evaluation of the bill as introduced: key sustainability components



- positive contribution to sustainability [\checkmark , NC]
- integrated concept of sustainability [\sim , NC]
- overall sustainability-based criteria [X, could be provided, but no expressed intent to do so]
- criteria to be specified for context [X, possible at the project level, but not mentioned in the statute]
- avoidance of adverse effects [\checkmark , NC]
- trade-off rules [X, not mentioned]

\checkmark = yes; \sim = mixed; SI = slight improvement; X = no; NC = needs clarification

Evaluation of the bill as introduced: consequential components 1

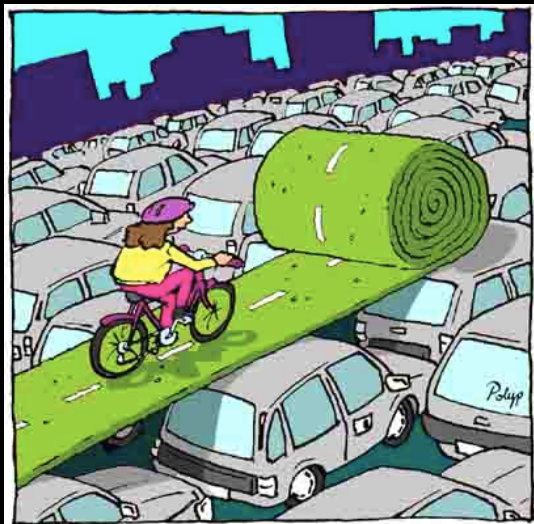


Sesame Street

- broad scope: direct, indirect and cumulative, positive and adverse [\checkmark , but should add inter-generational]
- application to project and strategic level undertakings important in transition to lasting wellbeing
 - projects [\sim , major ones in Designated Projects regulation; apparently no small projects]
 - regional assessment [SI, opening, but apparently for regional studies]
 - strategic assessment [\checkmark , NC, opening, but ill defined, may be rarely used]

\checkmark = yes; \sim = mixed; SI = slight improvement; X = no; NC = needs clarification

Evaluation of the bill as introduced: consequential components 2



Polyp

- comparative evaluation of alternatives in light of context-specified sustainability criteria
- alternatives to and alternative means [~, both listed as considerations in assessments, but no comparative evaluation or specified criteria required]
- meaningful public engagement [U, NC, little elaboration in early planning, Agency reviews or panel reviews]
- monitoring and learning [~, monitoring mostly left to proponents, Registry may be a little better]

√ = yes; ~ = mixed; SI = slight improvement; X = no; NC = needs clarification

Evaluation of the bill as introduced: closely related elements



Monty Python

- credible process and impartial administration [SI, though with some debatable specifics]
- early initiation [\checkmark , planning phase for setting assessment agenda, sustainability framework, scope including alternatives, study responsibilities, etc.]
- respect for and collaboration with Indigenous perspectives, interests, laws and process [\checkmark , \sim , recognition, but no UNDRIP]
- encouragement of multijurisdictional collaboration [U, NC, cooperation agreements, could be some upward harmonization, retains substitution]

\checkmark = yes; \sim = mixed; SI = slight improvement; X = no; NC = needs clarification

Evaluation of the bill as introduced: the strategic assessment parts

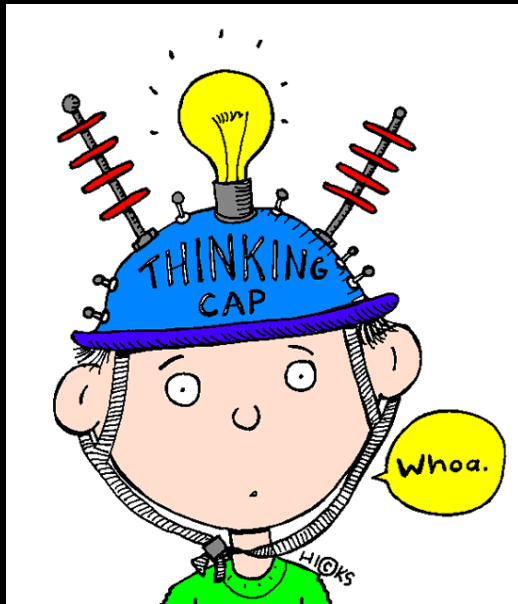
- regional assessments [SI, defined to emphasize regional studies of cumulative effects, nothing on responses to identified issues (e.g., regional plans based on alternative scenarios)]
- strategic assessments [√, NC, potentially broad ambit, no process details, climate SIA promised (not in statute)]
- in both cases [~, opportunity for public participation is required but the product is a mere report with no requirement for Ministerial response or decision]



Seppo Leinonen

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Evaluation of the IA Act as introduced: overall conclusions



Hicks

- commitment to sustainability-based approach included prominently but vaguely
- attention to alternatives but not to comparative evaluation
- application to selected major projects and very few regional studies and strategic assessments
- major uncertainties about
 - what analysis is done by whom
 - earliness of planning stage
 - actual processes for agency and panel reviews

The hesitant but best section of the proposed Impact Assessment Act

introduced
8 February 2018

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 include a consideration of the following factors:

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

(b) the extent to which the adverse effects within federal jurisdiction and the adverse direct or incidental effects that are indicated in the impact assessment report in respect of the designated project are adverse;

(c) the implementation of the mitigation measures that the Minister or the Governor in Council, as the case may be, considers appropriate;

(d) the impact that the designated project may have on any Indigenous group and any adverse impact that the designated project may have on the rights of the Indigenous peoples of Canada recognized and affirmed by section 35 of the *Constitution Act, 1982*; and

(e) the extent to which the effects of the designated project hinder or contribute to the Government of Canada's ability to meet its environmental obligations and its commitments in respect of climate change.