

# Preliminary Recommendations for Improving Impact Assessment Agency of Canada Guidance on Assessing Projects' Contribution to Sustainability

Sustainability Working Group of the Environmental Planning and Assessment Caucus of the Canadian Environmental Network

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## **Introduction**

The Impact Assessment Agency of Canada (Agency) is currently reviewing two documents, “Guidance: Considering the Extent to which a Project Contributes to Sustainability”<sup>1</sup> (Sustainability Guidance) and “Framework: Implementation of the Sustainability Guidance” (Sustainability Framework)<sup>2</sup> with the goal of making targeted fixes based on expert review and experience gained since the *Impact Assessment Act* (IAA)<sup>3</sup> was enacted in August 2019. These recommendations by the Environmental Planning and Assessment Caucus of the Canadian Environmental Network (the Caucus) are made pursuant to the Memorandum of Understanding between the Agency and the Caucus signed February 2020. They begin with what are intended to be targeted fixes to the existing guidance, then identify larger policy and guidance gaps and approaches for addressing those gaps, including making recommendations respecting other connected documents.

## **Targeted Amendments**

The Sustainability Guidance and Sustainability Framework should explicitly apply to Agency and review panel analysis

***Recommendation 1: Amend the Sustainability Guidance and Framework as needed to make clear that the contents, including Guiding Principles and analytical frameworks, apply to Agency and review panel assessment and reporting.***

It is currently unclear to what degree the Sustainability Guidance and Framework are intended to describe and apply to Agency and review panel assessment and reports. They appear in the

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<sup>1</sup> Online: <https://www.canada.ca/en/impact-assessment-agency/services/policy-guidance/practitioners-guide-impact-assessment-act/guidance-considering.html> [Sustainability Guidance].

<sup>2</sup> Online: <https://www.canada.ca/en/impact-assessment-agency/services/policy-guidance/practitioners-guide-impact-assessment-act/guidance.html> [Sustainability Framework].

<sup>3</sup> *Impact Assessment Act*, SC 2019, c 28 [IAA].

Practitioner's Guide, which reads as primarily intended for a proponent audience. However, all parties - including proponents, the public, and Indigenous peoples and authorities, need to know as early as possible how the Agency and review panels will be assessing the extent to which the project and alternatives would contribute to sustainability. Moreover, the Agency needs to follow consistent guidance on sustainability matters for its own roles early in the assessment process, including the preparation of Tailored Impact Statement Guidelines. While the Sustainability Framework and Guidance *could* be interpreted as also applying to the Agency and review panel assessments, they are currently far from clear and inconsistent.

In the mid-term, the Agency should develop a stand-alone policy independent of the Practitioner's Guide that describes the framework it will apply to its sustainability analysis (e.g., sustainability principles, criteria or objectives) and the process for identifying case-specific principles, criteria or objectives to guide the assessment. For the time being, it should amend the Sustainability Framework and Guidance to clearly include the framework that the Agency and review panels will apply when assessing contributions to sustainability and associated considerations.

## Guiding principles must encompass the whole definition of sustainability

### ***Recommendation 2: Add environmental protection as a guiding principle.***

The IAA requires assessments to consider “the extent to which the designated project contributes to sustainability.”<sup>4</sup> In making the public interest determination, the Minister or Governor in Council (as the case may be) also must consider “the extent to which the designated project contributes to sustainability,”<sup>5</sup> along with four other enumerated factors. The act defines “sustainability” as “the ability to protect the environment, contribute to the social and economic well-being of the people of Canada and preserve their health in a manner that benefits present and future generations.”<sup>6</sup>

As we noted in our April 2019 submissions to the Agency on the regulatory and policy framework then being developed to support the IAA,<sup>7</sup> we read this definition as having three aspects:

1. The ability to protect the environment in a manner that benefits present and future generations;
2. The ability to contribute to Canadians’ social and economic well-being in a manner that benefits present and future generations; and
3. The ability to preserve Canadians’ health in a manner that benefits present and future generations.

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<sup>4</sup> *Ibid*, s 22(1)(h).

<sup>5</sup> *Ibid*, s 63(a).

<sup>6</sup> *Ibid*, s 2.

<sup>7</sup> Environmental Planning and Assessment Caucus, *Submission to the Canadian Environmental Assessment Agency from the Environmental Planning and Assessment Caucus of the Canadian Environmental Network Regarding Key Regulation and Guidance Requirements under the proposed Impact Assessment Act* (30 April 2019) at 3.

Combined, the requirements under sections 22(1)(h) and 63(a) and the definition of sustainability are clear that assessments and decision-makers must consider the following:

1. The extent to which the designated project contributes to the ability to protect the environment in a manner that benefits present and future generations;
2. The extent to which the designated project contributes to the ability to contribute to Canadians' social and economic well-being in a manner that benefits present and future generations; and
3. The extent to which the designated project contributes to the ability to preserve Canadians' health in a manner that benefits present and future generations.

Despite the legal requirement to consider the extent to which the designated project contributes to the ability to protect the environment in a manner that benefits present and future generations, the Guiding Principles omit any mention of environmental protection. When the Agency or a review panel is conducting the assessment and preparing the report, the IAA requires them to report on the extent to which the designated project contributes to the ability to protect the environment in a manner that benefits present and future generations. Similarly, when the Minister or Governor in Council is determining whether the project's adverse federal effects are in the public interest, that determination must be made in consideration of the extent to which the designated project contributes to the ability to protect the environment in a manner that benefits present and future generations.

It is therefore puzzling that this legal requirement should be absent from the Sustainability Guidance and Framework. As noted above, as part of the Practitioner's Guide, the Guidance and Framework appear to be intended to assist proponents in the preparation of their impact statements. The Agency and review panels may – and in our opinion are legally required to – assess the extent to which the designated project contributes to the ability to protect the environment in a manner that benefits present and future generations despite the absence of such a principle appearing in the Sustainability Guidance and Framework. Indeed, that task is ultimately the responsibility of the Agency or review panel, not the proponent. However, to not acknowledge that environmental protection is a key aspect of the definition of sustainability and a key assessment consideration appears to misinform the proponent (and public) about the assessment and ultimate decision. Including environmental protection as a guiding principle would not only align the guidance with the law, it would provide clarity and consistency to proponents, the public, Indigenous peoples and other authorities at the outset what the assessment requirements are. It is also necessary for best ensuring that the Agency and review panels properly interpret the sustainability factor and assess projects' contributions to sustainability during assessments.

Clarify the meaning of “well-being of the people of Canada” and “benefits present and future generations”

***Recommendation 3: Add intergenerational and intragenerational equity to the guiding principles.***

The IAA does not define what “well-being” means, nor what it means to benefit present and future generations. While well-being means many things and may vary by context (e.g., depending on different

communities' needs), the equitable inter- and intragenerational distribution of benefits, impacts and risks is fundamental to the well-being and benefit of present and future generations. The inclusion of future generations in the definition of sustainability under the IAA suggests that the Agency recognizes the need to consider intergenerational equity, as benefitting future generations requires leaving resources for those generations and not burdening them with the adverse impacts of today's decisions. However, the Sustainability Guidance and Framework should explicitly include intergenerational equity and intragenerational equity as guiding principles in order to provide greater certainty of and consistency in their promotion.

Inter- and intragenerational equity are cornerstones of sustainability.<sup>8</sup> Equity is featured throughout the 2030 Agenda for Sustainable Development that Canada adopted along with 192 other member countries of the United Nations in 2015,<sup>9</sup> and is recognized in the requirement to assess the GBA+ aspects of projects and their effects.<sup>10</sup> In project assessment, considering inter and intragenerational equity means considering whether some communities bear a disproportionate burden of impacts while others enjoy more of the benefits, and whether future generations will be on the hook for impacts approved by this generation or will be deprived of the ability to enjoy resources – including healthy environmental and socio-economic conditions – due to our generation's decisions. It is not possible to understand the extent to which a project will contribute to (or adversely impact) the well-being and benefit of present and future generations without considering the present and future distribution of impacts, benefits, risks and uncertainties.

The Sustainability Framework acknowledges intragenerational equity through the sample questions it outlines in section 3.9 as considerations for applying Principle 3 (positive and adverse effects). The GBA+ requirement and guidance also help fill that gap. However, section 3.9 appears to be intended to guide practitioners' analysis, not the Agency or review panel's. To ensure that the impact assessment (not just the impact statement) recognizes the inextricable link between equity and sustainability, the Sustainability Guidance must also acknowledge and promote equity. To that end, we recommend replacing Guiding Principle 2 with the following: "Enhance equity in the distribution of positive and adverse effects and risks within and among generations." Alternatively, Principle 3 could be amended to include inter and intra-generational equity. For example (incorporating the changes proposed in our Recommendation 4, below), Principle 3 could read: "Maximize positive effects and minimize adverse effects of the designated project, and seek to ensure the equitable distribution of effects among and within generations in light of the existing context and conditions."

We recognize that it will not always be within proponents' power to ensure equity, although it should usually, if not always, be within proponents' power to select among alternatives and design and

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<sup>8</sup> Marc Fleurbaey *et al*, "Sustainable Development and Equity," in *Climate Change 2014: Mitigation of Climate Change. Contribution of Working Group III to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change*, O. R. Edenhofer *et al*, eds, (UK and NY: Cambridge University Press, 2014, online: [https://www.ipcc.ch/site/assets/uploads/2018/02/ipcc\\_wg3\\_ar5\\_chapter4.pdf](https://www.ipcc.ch/site/assets/uploads/2018/02/ipcc_wg3_ar5_chapter4.pdf) at 287.

<sup>9</sup> Online: [https://www.international.gc.ca/world-monde/issues\\_developpement-enjeux\\_developpement/priorites-priorites/agenda-programme.aspx?lang=eng](https://www.international.gc.ca/world-monde/issues_developpement-enjeux_developpement/priorites-priorites/agenda-programme.aspx?lang=eng).

<sup>10</sup> IAA, *supra* note 3, s 22(1)(s).

implement projects in ways that reduce current inequities and deliver positive contributions through equitable distribution of project benefits, opportunities, risks and damages. Nor will it always be within federal authorities' power to ensure equity but they too should often be able to enable or supplement contributions to equity. For example, ensuring intergenerational equity may require the development and implementation of a collaborative health plan for remote communities near work camps involving a variety of actors, including local and provincial health authorities, the proponent, Indigenous authorities and emergency service providers.<sup>11</sup> While not all response measures may be within the jurisdiction or power of the federal government to provide or ensure, IA must nonetheless identify all potential threats to equity and measures to address those threats and enhance equity. Just as the IAA recognizes the need to consider all positive and negative environmental, social, health and economic impacts,<sup>12</sup> so too must it look at the distribution of those impacts in the context of sustainability in order to seek ways to maximize equitably-distributed benefits while minimizing inequitably-distributed impacts.

## Add respect for Indigenous rights and authority to Guiding Principles

### ***Recommendation 4: Add respect for Indigenous rights and authority to the Guiding Principles.***

Infringing Indigenous rights and disregarding Indigenous authority is not sustainable. Any pathway to sustainability in Canada must include respect for and upholding Indigenous rights and authority. As a result, assessment of the extent to which the designated project contributes to sustainability must include evaluation of the extent to which Indigenous rights and authority are respected, protected, and promoted throughout every stage of the assessment and project lifecycle. While Indigenous rights and authority are not explicitly included in the definition of sustainability under the IAA, the purposes of the act include respecting Indigenous rights and promoting communication and cooperation with Indigenous peoples.<sup>13</sup>

## Establish the Guiding Principles as positive expectations

### ***Recommendation 5: Amend Principle 2 to read "Maximize the well-being of present and future generations," and Principle 3 to read, "Maximize positive effects, minimize adverse effects of the designated project and avoid the risk of irreversible harm."***

### ***Recommendation 6: Amend Principle 4 to read "Apply the precautionary principle, ensure uncertainties are minimized and, where uncertainty exists, ensure it is evaluated and defined."***

The current wording of Guiding Principles 2, "consider the well-being of present and future generations," 3, "consider positive effects and reduce adverse effects of a designated project," and 4 "consider uncertainty and risk of irreversible harm" lacks direction. Considering positive effects and

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<sup>11</sup> The Firelight Group, Lake Babine Nation and Nak'azdli Whut'en, "Indigenous Communities and Industrial Camps: Promoting Healthy Communities in Settings of Industrial Change" (February 2017), online: [https://firelight.ca/wp-content/uploads/2016/03/Firelight-work-camps-Feb-8-2017\\_FINAL.pdf](https://firelight.ca/wp-content/uploads/2016/03/Firelight-work-camps-Feb-8-2017_FINAL.pdf) at 48-50.

<sup>12</sup> IAA, *supra* note 3, s 21(1)(a).

<sup>13</sup> *Ibid*, s 6(f)-(g).

considering uncertainty and harm are mere process requirements, not substantive desired outcomes, and a proponent can follow this guidance while only minimally reducing adverse effects, uncertainty and risk. Rather, IAs should seek to maximize projects' benefits and minimize adverse impacts, uncertainty and risk to the degree possible.

The fact that the public interest determination is based on the project's adverse federal effects, rather than on the project, supports the need to strengthen the Guiding Principles to say "maximize" and "minimize" as opposed to just "consider."<sup>14</sup> Presumably, the Minister or Governor in Council will be more likely to find that adverse federal effects are in the public interest if all adverse effects are minimized and the benefits are maximized. It is in the public's best interest - as well as proponents' interest - to not simply *consider* positive effects and *reduce* adverse effects, but to make the project as beneficial overall by maximizing the (equitably-distributed) benefits and minimizing the adverse impacts. The Sustainability Guidance and Framework should reflect this reality by not just requiring consideration of impacts and benefits, but by seeking to maximize benefits and minimize impacts, uncertainties and risks. We note that additional guidance will likely be necessary respecting the evaluation of uncertainty in the context of sustainability.

## Greater emphasis on alternatives assessment

***Recommendation 7: Add mention of alternatives to the project in the third paragraph of section 1.2 of the Sustainability Guidance.***

***Recommendation 8: Amend section 3 of the Sustainability Guidance, as well as the Sustainability Framework, to state that the Agency or a review panel will apply the Guiding Principles in a comparative assessment of the extent to which the project and alternatives (including alternative means) contribute to sustainability during the impact assessment phase.***

***Recommendation 9: Amend the template TISGs to require proponents to provide the information that the Agency or review panels will need to comparatively assess the alternatives.***

Currently, the Sustainability Guidance and Framework do not mention the Agency or review panels' role in comparatively assessing the alternatives or establish how the Guiding Principles will feature in the IA phase. As we state in our recommendations on the environmental obligations and climate commitments guidance, alternatives assessment "is at the heart of good environmental planning."<sup>15</sup> To achieve the objectives of the IAA, assessments should entail the comparative assessment of the project and alternatives, including the no-project alternative, and the selection of the preferred alternative.<sup>16</sup> This comparative assessment must include the extent to which each alternative will contribute to

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<sup>14</sup> *Ibid*, s 60.

<sup>15</sup> William A. Tilleman, "Environmental Assessment" in *Environmental Law and Policy*, 3rd edition, Elaine Hughes, Alastair R. Lucas and William A. Tilleman eds (Toronto; Emond Montgomery Publications Limited, 2003) 215 at 243.

<sup>16</sup> A.J. Sinclair, M. Doelle & R. B. Gibson, "Implementing next generation assessment: A case example of a global challenge" (2018) 72 EIA Rev 166 at 168; Rod Northey, "Fading Role of Alternatives in Federal Environmental Assessment" (2016) 29 J Env'tl L & Prac 41 at 54; and Nathalie J Chalifour, "Drawing Lines in the Sand: Parliament's Jurisdiction to Consider Upstream and Downstream Greenhouse Gas (GHG) Emissions in Interprovincial Pipeline Project Reviews" (2018) 23 Rev Const Stud 129 at 146.

sustainability (among other things) by applying explicit criteria, principles or objectives. At a starting place, that comparative assessment should apply the Guiding Principles (see recommendations under Gaps and Broader Needs on the need for more detailed principles, criteria or objectives).

Being clear at the outset about the analysis is critical to ensuring that the assessment is properly tailored and that the planning phase identifies the information that will be required for the IA. It would also better ensure that decision-makers have all the information and analyses they need to determine whether the project is in the public interest in light of the extent of its – and its alternatives’ – contributions to sustainability.

The third paragraph of section 1.2 of the Sustainability Guidance acknowledges the role of alternative means in contributing to sustainability, but does not refer to alternatives to the project. No reason for this omission is provided. In any case, the paragraph should be amended to include alternatives to the project (including the null alternative).

Finally, the template tailored impact statement guidelines (TISGs) should be amended to ensure that the proponent provides the information necessary for the Agency and review panels to comparatively assess the extent of the project’s and alternatives’ contributions to sustainability. Currently, the template TISGs only require the proponent to apply the Guiding Principles to the project. The sustainability assessment is more appropriately done by the Agency or review panel in light of the information provided during the assessment, and that information must include information required to assess the extent to which each alternative and each alternative means would contribute to sustainability.

## Ensuring sustainability after the assessment

***Recommendation 10: State in section 5 of the Sustainability Framework that the Agency and review panels will base their recommendations respecting conditions of approval on sustainability goals (or Guiding Principles as amended per our recommendations), such as respect for Indigenous rights and authority, maximizing benefits and equity, minimizing adverse effects, avoiding risks and uncertainty and promoting precaution.***

***Recommendation 11: Revise section 6 of the Sustainability Framework to state that the Agency will base the development of mitigation measures, complementary measures and any supporting adaptive-management program(s) on all the Guiding Principles as amended per our recommendations, or on sustainability goals, such as respect for Indigenous rights and authority, maximizing benefits and equity, minimizing adverse effects, avoiding risks and uncertainty and promoting precaution.***

The Sustainability Framework does not contain any guidance respecting ensuring sustainability after the assessment. Fostering sustainability does not stop at the decision-making stage – indeed, post-decision is when sustainability is fostered (or not). It is critical that conditions of approval and post-decision follow-up and monitoring are designed to foster sustainability by seeking to maximize benefits, minimize or avoid adverse impacts, reduce inequities and promote equity, and avoid or minimize risk and

uncertainty. The Sustainability Framework should recognize this need by setting out the principles or objectives the Agency or review panels will consider when recommending conditions of approval and designing follow-up programs. The Guiding Principles (as revised per our recommendations) are a starting place, although the more detailed principles or criteria we recommend below should also be applied to conditions and follow-up programs.

## **Gaps and Broader Needs**

This section outlines gaps we have identified in the existing Agency guidance and policy respecting sustainability, as well as more significant changes to guidance and policies other than the Sustainability Guidance and Framework. Over the coming months, the EPA Caucus intends to make more detailed recommendations respecting these matters.

Publish detailed principles (or criteria) for the Agency and review panel considerations of the extent to which projects foster sustainability

***Recommendation 12: Create a policy that sets out the considerations, principles or criteria that will guide the Agency and review panel assessments of the extent to which the project and alternatives contribute to sustainability that expand on the strengthened Guiding Principles.***

***Recommendation 13: Require the identification of more detailed, case-specific considerations, principles or criteria to guide the Agency and review panel assessments of the extent to which the project and alternatives contribute to sustainability.***

If amended as proposed, the Guiding Principles would be a good first step towards detailing the analytical framework that the Agency and review panels will apply when assessing the extent to which the project and alternatives contribute to sustainability, but it remains far too high-level to provide any real clarity. For example, what does the well-being of present and future generations mean? It likely includes access to resources, not having to shoulder environmental and socio-economic problems created by previous generations, and a stable and equitable economy with access to quality jobs and livelihood choices, among other things. It also likely means things that are specific to communities, as the Sustainability Framework recognizes.

The Sustainability Framework rightfully recognizes that each of the Guiding Principles can be broken down into different issues, or questions to guide the assessment. However, the questions set out in the Framework appear to be intended to guide the information-gathering process, not the Agency or review panel's analysis. They do not indicate how the Agency or review panels will assess the extent to which projects and alternatives will contribute to sustainability. Proponents, Indigenous peoples, the public, and expert participants need to know what the Agency and review panels will consider and what they will deem to be a contribution or barrier to sustainability. For example, a positive environmental effect may be the protection, enhancement or restoration of an ecological system or at-risk species. The well-being of present generations may entail ensuring that communities have access not just to stable, well-

paying jobs, but also to flexible and lasting career options – i.e., it may require ensuring that a project does not take away from some livelihood options, forcing local workers into a narrower job field.

Further, Agency policy should describe how the Agency or review panels will identify, compare and seek to reduce trade-offs. These considerations should also involve establishment of further principles, or criteria, and should be set out in policy so that all parties know at the outset how the sustainability analysis will be made.

Additionally, Agency policy should acknowledge that case-specific considerations (and principles, or criteria) must be identified in each assessment to further guide the Agency or review panel analysis.

Revisit the “Need for”, “Purpose of”, “Alternatives to” and “Alternative means” guidance

***Recommendation 14: Revise the “Need for”, “Purpose of”, “Alternatives to” and “Alternative means” guidance (or produce new guidance aimed at the Agency and review panel assessment) to require the identification of a public-interest need for and purpose of the project in addition to the proponent’s stated need for and purpose of.***

***Recommendation 15: Revise the “Need for”, “Purpose of”, “Alternatives to” and “Alternative means” guidance to ensure greater rigour of alternatives identification and screening, discourage premature early screening out, and enhance the comparative evaluation of alternatives by the Agency or review panel.***

Currently, the “Need for”, “Purpose of”, “Alternatives to” and “Alternative means” guidance is overly-reliant on proponents and effectively excludes the public, Indigenous peoples and experts from the identification and analysis of need for, purpose of, alternatives to and alternative means. Each of these elements is fundamental to a credible and comprehensive sustainability assessment, and the Agency or review panel, rather than the proponent, must be responsible for the alternatives assessment. For example, identifying a need for and purpose of the project from a public-interest perspective can help the identification of alternatives that would meet those public goals. Also, permitting the screening out of alternatives in the planning phase means that the proponent can declare an alternative to not be economically or technically feasible without scrutiny or public input, meaning that potentially preferable feasible alternatives may not be considered. It is outside the scope of these recommendations to make detailed recommendations on the “Need for”, “Purpose of”, “Alternatives to” and “Alternative means” guidance, but we aim to do so in the upcoming months.

Revise the approach to alternatives in the TISGs

***Recommendation 16: Revise the template TISGs to require proponents to show the criteria and methodology used to identify the proponent’s preferred alternative.***

The template TISGs partially reflect the importance of alternatives assessment, and the importance of alternatives being comparatively assessed using transparent criteria and methodology: section 4.4 states

that the impact assessment must identify “the methodology and criteria used to determine the preferred alternative means and the unacceptability of excluded alternative means, including consideration of trade-offs associated with the preferred and alternative means.”<sup>17</sup> However, the same is not required of the alternatives assessment under section 4.3. The TISGs of the Gazoduq Project go one step further, recognizing that “[t]he application of GBA+ to the analysis of alternative means of carrying out the project is necessary to inform how effects may vary for various subgroups (e.g. by gender, age, ethnicity, socio-economic status, health status, etc.).”<sup>18</sup> But again, the Gazoduz TISGs do not require the proponent to identify the full set of criteria (or principles) and methods used to identify its preferred alternative.

The assessment of alternatives to the project must be transparent and rigorous. To achieve those goals, both the alternatives to and alternative means assessments must entail comparative assessments of the section 22 factors, including the extent to which each option contributes to sustainability, using clear criteria and methods. While the alternatives assessment should be the responsibility of the Agency and review panels, proponents will likely prefer to identify their preferred alternative, which may influence the Agency and review panel determinations. Therefore, it is important that proponents be required to clearly demonstrate the criteria and methodologies they use to identify their preferred alternatives, just as they are required to do for their alternative means assessment.

### Clarify the role of cumulative effects in the sustainability analysis

***Recommendation 17: Create a policy or guidance respecting cumulative effects assessment that clarifies the role of cumulative effects in the determination of the extent to which a project and alternatives foster sustainability.***

There is currently no IAA guidance or policy respecting cumulative effects assessment, and the Sustainability Guidance and Framework only briefly mention cumulative effects assessment’s role in sustainability analyses. Additionally, the template TISGs and TISGs issued to date downplay the role of cumulative effects assessment, relegating that assessment to a chapter near the end of the guidelines, and their chapters on the extent to which the project fosters sustainability do not mention cumulative effects. Given the importance of cumulative effects and therefore their importance in any sustainability analysis, we recommend that the Agency develop guidance or a policy respecting cumulative effects assessment and its role in sustainability analyses (among other things).

### Strengthen the use of monitoring committees and adaptive management

***Recommendation 18: Strengthen the guidance “Framework for determining whether a Monitoring Committee is warranted for a Designated Project under the Canadian Environmental Assessment Act 2012 and under the Impact Assessment Act” to include criteria respecting non-federal effects and sustainability risks, and potentially other matters.***

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<sup>17</sup> *Supra* note 4 at s 4.4.

<sup>18</sup> *Supra* note 2 at s 3.4.

***Recommendation 19: Develop a policy respecting follow-up programs, including the design and application of adaptive management.***

We recommend examining the current guidance and policies respecting decision-making and follow-up, including the guidance respecting the establishment of monitoring committees, to identify broader ways to ensure sustainability in the post-decision project phases that could be addressed through Agency policy. A preliminary scan of the guidance respecting the establishment of monitoring committees reveal additional criteria that should be included for consideration when deciding whether to establish a monitoring committee, such as non-federal impacts and benefits with sustainability implications that factored into decision-making. Additionally, as we noted in our 2019 recommendations respecting Agency policy and regulations, it is important to identify roles and responsibilities relating to the GBA+ in monitoring and follow up plans, as well as define and clarify the role of adaptive management.<sup>19</sup> These and other sustainability-related post-decision needs should be explored, and we intend to make further submissions respecting these issues in the coming months.

## Issue a policy respecting the amendment of decision statements

***Recommendation 20: The Minister or the Agency issue guidance respecting amendments to decision statements, including processes and considerations.***

Currently, there is no policy or guidance respecting the amendments of decisions to amend, remove or add conditions of approval under section 68(1) of the IAA. Such a policy should relate to adaptive management approaches described in recommendation 18, and should describe the criteria the Agency should consider when making any recommendations to the Minister respecting amendments to decision statements as well as the process for making such amendments, such as public participation and Indigenous engagement, Agency/Minister's response to requests for amendments, the posting of reasons, etc.

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<sup>19</sup> Submission to the Canadian Environmental Assessment Agency from the Environmental Planning and Assessment Caucus of the Canadian Environmental Network Regarding Key Regulation and Guidance Requirements under the proposed Impact Assessment Act (April 30, 2019), online: <https://static1.squarespace.com/static/5f7c9e52b7638a64682a4ed0/t/5fbc36542e1a5a318f75e80e/1606170197234/EPA+Caucus+Report+2019.pdf>.