to: Senator Rosa Galvez, Chair, Senate Standing Committee on Energy, the Environment and Natural Resources, Rosa.Galvez@sen.parl.gc.ca;
Senator Michael MacDonald, Deputy Chair, Senate Standing Committee on Energy, the Environment and Natural Resources; Michael.MacDonald@sen.parl.gc.ca**;**
Senator Jane Cordy, Steering Committee member, Senate Standing Committee on Energy, the Environment and Natural Resources, Jane.Cordy@sen.parl.gc.ca; and
the Clerk of the Senate Standing Committee on Energy, the Environment and Natural Resources, enev@sen.parl.gc.ca

Dear Senators,

Please accept the attached submission in aid of your Committee's review of Bill C-69. The main recommendations for amendments are consolidated below. If you or your colleagues need further clarification, please contact me.

Best wishes for your review,

Robert B. Gibson
SERS, University of Waterloo

Recommended amendments to *Impact Assessment Act* in Bill C-69:

- to establish the Agency as an arm's length body (section 153);
- to require that the assessment reports from the independent Agency (s.28 and 59), any substituted body (s.33(2)) and review panels (s.51(1)(d)) provide the needed analyses, reasoning and recommendations to support decisions that address the section 63 components and their overall implications;
- to limit the grounds for exemption at the early planning phase to lack of federal jurisdiction in the case (s.16(2) factor (b));
- to establish case-specific timelines as a task to be completed in the early planning stage of assessments – with due attention to overall timeliness guidance and suitable provisions for adjustments in response to changing needs and opportunities (s.14);
- to specify grounds for extension of decision making time limits (section 65(5-7));
- to clarify provisions for strategic and regional assessment (ss.92-103) to
    - set out the core requirements of strategic and regional assessment processes and content components of the resulting reports;
    - establish application of the section 63 considerations as the basis for strategic and regional assessment recommendations; and
    - enable decision makers to turn the recommendations from credible strategic and regional assessments into authoritative guidance for project assessments;
- to require regular reviews of regulations and policies (ss. 109, 112 and 114), through open processes with provisions for meaningful participation;
- to ensure that the s.63 requirements, apply to regulation and policy making (s.109, 112 and 114) as well as to regional and strategic assessments and project assessments; and
- to strengthen credible participation rather than limit it to the "directly affected."

Submission to the Senate of Canada Standing Committee on Energy, the Environment and Natural Resources for the review of Bill C-69

Robert B. Gibson,[1] *SERS, University of Waterloo*
15 March 2019

This brief to the Senate Committee's review of Bill C-69 addresses

- the substantive concerns of the Bill's most vocal critics,
- key implications for identifying the strengths and limitations of the Bill, and
- amendments to improve provisions that are promising but insufficient.

The submission is centred on the *Impact Assessment Act* and some related provisions of the *Canadian Energy Regulator Act* in Bill C-69 as passed by the House of Commons. Much of the discussion compares the provisions of the *Impact Assessment Act* with those of the current *Canadian Environmental Assessment Act, 2012*.

Many of the attacks on Bill C-69 during this committee's review so far appear to ignore the lessons of experience under the current Act, and to imagine that legislation even more narrowly focused on speedy approvals would do better. That is not reasonable. At the same time, some of the expressed concerns do point to openings for improving the Bill.

The concerns of Bill C-69's most vocal critics

Critics particularly hostile to the assessment aspects of Bill C-69 have identified several alleged problems. The three most salient concerns appear to be

- too little attention to the economic benefits of projects;
- too much discretion at the political level; and
- too much risk of delay in reaching approval decisions

Responses to each are set out below.

Criticism 1. The Impact Assessment Act gives too little attention to the economic benefits of projects

Response:

(i) **The *Impact Assessment Act* would bring more direct, comprehensive, open and rigorous attention to economic as well as social, health and environmental factors in**

[1] Robert B. Gibson is a professor in the School of Environment, Resources and Sustainability at the University of Waterloo, specializing in environmental policy issues and broader sustainability imperatives. He has been involved with environmental assessment law, policy and process issues since the mid 1970s, including work in most provinces, all three territories and several Indigenous jurisdictions. He now focuses mostly on integrating sustainability considerations in a diversity of applications including assessments at the project and strategic levels. His most recent book is *Sustainability assessment: applications and opportunities* (London: Routledge, 2017). Contact (519) 888-4567 ext. 33407, rbgibson@uwaterloo.ca

project assessments. In contrast to the current *Canadian Environmental Assessment Act, 2012,* and contrary to its critics, Bill C-69's comprehensive sustainability framework paves the way for a full economic analysis of projects.

• As is signalled by the name change, the *Impact Assessment Act* would replace relatively narrow environmental impact assessment under the *Canadian Environmental Assessment Act, 2012* with more comprehensive sustainability-based assessment. The *Impact Assessment Act* is meant to cover all of the interactive factors that affect the short and long-term public interest. That includes a project's full range of positive and adverse social, economic, environmental and health effects and its resulting prospects for contributing to lasting wellbeing (sustainability).

• In contrast, the *Canadian Environmental Assessment Act, 2012* (see section 5) focuses on adverse effects on the biophysical environment. It also covers the indirect socio-economic effects that result from biophysical environment effects (e.g., economic effects of project damage to fish relied upon by commercial harvesters). But its provisions do not require attention to direct economic and social effects. New employment, business opportunities, and revenues to governments are not assessed. Nor are adverse effects such as boom and bust stresses and new costs for infrastructure and services.

• Under the *Canadian Environmental Assessment Act, 2012*, economic (and social and environmental) benefits enter only through the back door under sections 52 and 53, which permit approval of projects with significant adverse environmental effects if they are "justified in the circumstances." The current Act does not define or constrain what might qualify as "justified in the circumstances." The matter is left to the discretion of the Governor in Council (Cabinet). Cabinet deliberations on justification of significant adverse environmental effects almost certainly consider some economic and other benefits. But these deliberations are not public. They not bound to respect any set of legislated criteria or published policy guidance. The information base upon which the decisions are made is not open to public scrutiny or evaluation.[2] The decision makers are not required to report or explain their reasoning.[3]

(ii) **The chief risk of the *Impact Assessment Act* is not too little attention to economic benefits, but too much. By giving economic benefits a clear role in assessments, the new law could reinforce the usual emphasis on anticipated economic benefits in project decision making at the expense of social and environmental concerns that, after decades of assessments and regulations, are still too easily compromised.**

---

[2] In most assessments, the assessment authority has asked project proponents to provide information on project benefits "to be considered in assessing the justifiability of any residual significant adverse environmental effects" (or words to that effect). The request is typically included as a line in the guidelines issued in each case for preparation of the Environmental Impact Statement. The information to be provided does not include attention to adverse social and economic effects. Consequently, it does not provide a potentially comprehensive base for comparing the overall positive and adverse effects of a project.

[3] Under sections 54 and 55 of the *Canadian Environmental Assessment Act, 2012,* the project decision and any conditions of approval must be made public, but reasons for decision are not required.

• Canada, like countless other jurisdictions, introduced environmental assessment requirements decades ago to ensure attention to environmental concerns that were otherwise largely neglected in project planning and approvals. That objective remains. As has been evident in the coverage of this Committee's review, ecological and social factors don't get the attention of immediate economic concerns. They are nonetheless the foundations for economic viability and lasting wellbeing.

(iii) **The economic factors crucial to the public interest are not limited to anticipated benefits. Assessment law that includes attention to economic effects will serve the public interest only if the evaluations and resulting decisions on economic aspects**

- **are informed by rigorous assessment of predicted economic costs and risks as well as benefits and opportunities;**
- **include long term and legacy effects as well as more immediate effects;**
- **recognize that environmental and social benefits and costs are also economically significant; and**
- **are subject to open testing**.

• Decision-making authorities have often learned the hard way about the perils of relying on cheery assumptions about project benefits. Take the Lower Churchill/Muskrat Falls hydropower dam case. The project was assessed by a federal-provincial joint review panel. When decision makers approved the project in 2012, they chose to forego careful evaluation of project economics by the provincial Public Utilities Board, and did not follow the review panel's recommendation for a financial review to clarify the potential for net economic benefits. Construction costs for the project have since doubled and the project approval is now the subject of a public inquiry.[4]

• The *Impact Assessment Act* would increase attention to long as well as short term positive and adverse economic effects (plus social, health and environmental effects and their interactions). This is included most directly by requiring decision makers to consider the extent to which the assessed project will contribute to sustainability, the severity of effects on matters within federal jurisdiction, appropriate mitigation measures, effects on Aboriginal/Indigenous rights, and effects on meeting Canadian environmental obligations and climate change commitments (section 63).

• These mandatory considerations are to be addressed in the context of particular cases as informed by the project assessment. General guidance is now being prepared (e.g., development of policy for sustainability assessment and a "strategic assessment" of climate change commitment implications). While the immediate guidance is likely to provide only interim basic direction, it should initiate long overdue public policy discussion, improved understanding and enabling more effective action.

---

[4] See the Newfoundland and Labrador announcement of a public inquiry into the Muskrat Falls Project https://www.releases.gov.nl.ca/releases/2017/exec/1120n05.aspx. The *Report of the Joint Review Panel - Lower Churchill Hydroelectric Generation Project, Nalcor Energy, Newfoundland and Labrador* is available at http://publications.gc.ca/site/eng/9.694768/publication.html. See especially the panel's recommendation 4.1.

In contrast, under the current *Canadian Environmental Assessment Act, 2012,* the legislated purpose of contributing to sustainable development and projects' implications for meeting climate change considerations have been addressed at best erratically. Moreover, the current Act's main opening for flexible interpretation – the provision for justifying "significant" adverse environmental effects "in the circumstances" – has been left fully unconstrained by regulation or policy guidance.

• The *Impact Assessment Act* would ensure a more broadly informed basis for responsible and forward looking examination of economic and other considerations in the public interest. Even under a government more demanding than any we have seen through the history of federal assessment, the Act is highly unlikely to present problems for projects that deliver reasonable prospects for lasting overall improvements and positive legacies. It would merely make it harder to justify fleeting short term gains that leave an economic bust in dependent communities, sacrifice zones of contaminated lands and waters, taxpayer burdens for clean-up, and even less time to make the necessary transitions to avoid devastating climate change.

• The most heated criticisms of Bill C-69 so far have centred on possible implications for the bitumen extraction and pipeline sector. To the limited extent that sector's current troubles can be attributed to assessment law, the culprit has been the current *Canadian Environmental Assessment Act, 2012's* deficiencies of scope and credibility. Contrary to the critics' claims, Bill C-69 would ensure that assessments of future projects would include far more open, consistent and comprehensive analysis of economic impacts than the current Act. It would, however, do so within a sustainability framework. The economic effects would be assessed along with social, health and environmental effects and their long as well as short term consequences.

The mining sector appears to be reasonably confident it can address those matters and demonstrate contributions to sustainability. If the bitumen and pipeline interests feel they cannot, their problems go well beyond what changes to C-69 can fix.

There are always motives to avoid attention to future consequences and to postpone crucial transitions. In reviewing Bill C-69, a key role for the Senate is to act in the long term public interest in Canada. Being at least nominally free to think beyond the electoral cycle, the Senate has the position and responsibility to do so.

Criticism 2. The Impact Assessment Act leaves too much room for political discretion

Response:

(i) **While the *Impact Assessment Act* does assign most serious decision making authority to the political level, chiefly the Governor in Council (Cabinet), so does the current *Canadian Environmental Assessment Act, 2012.* Of the two, the *Impact Assessment Act* incorporates more constraints on the political level decision makers. In contrast to the current Act, the *Impact Assessment Act* specifies the information and factors upon which project decisions must be based and requires publication of reasons for decision. That enhances accountability, though it leaves decision makers**

free to apply their own preferences for priority considerations and interpretation of what is acceptable.

• Discretionary political level decisions are a worry for two main reasons. Ministers and Cabinet members cannot be as well informed on case specifics as those who gathered and integrated the evidence. Also, they are naturally tempted to favour immediate political advantage as a legitimate basis for judgement.

The main advantage of political level decision making is the potential for accountability to the electorate. That accountability is diluted by the numbers of political level decisions involved, but is nonetheless important.

The middle ground solution assigns public assessment and review processes to impartial arm-length authorities and leaves only final authorization to the political level. To facilitate accountability, decision making throughout the process including at the end must be transparent enough for effective public scrutiny. The assessment and review process must ensure that the elected decision makers receive recommendations based on comprehensive, impartial and rigorous assessment. The law must also define expectations and require published reasons for decisions based on the lasting public interest.

• Good assessment law, then, requires open and impartial assessment processes, clear purposes, explicit requirements for information and analysis, specified grounds for decision making, and mandatory publication of reasons for decision. The *Impact Assessment Act* could be stronger on all of these matters.[5] Certainly it falls short of the recommendations made by the Expert Panel, particularly concerning the impartiality of assessments and reviews dominated by information from proponents.[6] The *Impact Assessment Act* is, however, an improvement over the current assessment law.

• Under the *Canadian Environmental Assessment Act, 2012*, assessment reviews lead to recommendations submitted to the relevant minister or Cabinet for decision making. The law provides no substantial guidance for this political level decision making. For controversial cases, the law does not set out grounds for determining what qualifies as a "significant adverse effect", or whether significant adverse effects are "justified in the circumstances" (ss.52-53). It does not require published reasons for decisions.

For cases currently assessed by the National Energy Board, decision making on potentially controversial cases similarly resides at the political level (*National Energy Board Act*, s.52 and 58.16).

• Two core components of the *Impact Assessment Act* provide its means of restraining ministerial/Cabinet decision-making discretion. The first is the set of five considerations for decision making (s.63), backed by an explicit and comprehensive set of factors for

---

[5] See, for example, the forthcoming submission from the Centre québeécois du droit de l'environnement on "Ensuring the political independence of assessments under Bill C-69."

[6] Expert Panel for the Review of Federal Environmental Assessment Processes, *Building Common Ground: A New Vision for Impact Assessment in Canada* (Canada: MECC, April 2017), https://www.canada.ca/en/services/environment/conservation/assessments/environmental-reviews/environmental-assessment-processes/building-common-ground.html

consideration in assessments (s.22). The second is the requirement for published reasons for decisions based on the impact assessment report and the mandatory considerations (ss.63, and 65-67). These provisions need to be supported by policies and regulations clarifying what is expected of decision makers (as well as proponents, the Agency and other assessment participants) in addressing the factors and considerations in sections 22 and 63. The needed elaborations cannot be included in the Act, because they must be detailed, adjusted for particular contexts, and upgraded frequently in light of experience. But the Act (ss.109 and 114) should be amended to require regular reviews of regulations and policies, using an open process.

• The Act should also be amended to require that the assessment reports from the independent Agency (s.28 and 59), any substituted body (s.33(2)) and review panels (s.51(1)(d)) provide the needed analyses, reasoning and recommendations to support decisions that address the section 63 components and their overall implications. For reasons of familiarity with the evidence, impartiality and efficiency, that analytical work should not be left to political level decision makers. Their proper job is to review the arm's length analyses and recommendations, seek clarifications, make well-supported changes as needed to ensure a proper decision under the law.

• Amendments to s.153 of the *Impact Assessment Act* are needed to establish the Agency as an arm's length body, independent of partisan influence.

3. The Impact Assessment Act permits too much risk of delay in reaching approval decisions

Responses:
(i) Key provisions of the *Impact Assessment Act* respond to the timeliness and credibility deficiencies of the current *Canadian Environmental Assessment Act, 2012.* While they could be strengthened, the *Impact Assessment Act's* approach to timeliness and credibility is more promising that that of the current law.

• Project proponents understandably want quick approvals, but they suffer if the quick approvals are not defensible. The public interest and Aboriginal/Indigenous rights and interests suffer if good projects are blocked, or if regrettable projects go ahead. Assessment law must establish processes that give timely and credible approval of projects that will deliver lasting overall gains and reject ones that will not. Such processes need to be timely but also rigorous, open and able to cover the main issues and options.

• Bill C-69 is a response to failures of practice under the *Canadian Environmental Assessment Act, 2012* and the *National Energy Board Act* to deliver viable assessment decisions in key cases. Most dramatic were the Northern Gateway and Trans Mountain pipeline assessments, both of which received formal approvals that stirred strong opposition and failed to withstand court challenges.

These cases are highly visible, but not typical. Moreover, their project approval difficulties were not *in* the assessment process but *because of* assessment process failings.

The *Canadian Environmental Assessment Act, 2012* was designed and passed as a means of streamlining assessments. In the Northern Gateway and Trans Mountain cases the streamlined assessment results were not defensible. The cases point to the crucial process credibility needs – especially to respect and accommodate Aboriginal/Indigenous rights, ensure meaningful public participation and pay attention to all the key issues.

• Process efficiency is useful only if the process delivers good results. The *Canadian Environmental Assessment Act, 2012's* approach – establishing fixed time periods for process steps and restricting public participation to the "directly affected" – did not work. The *Impact Assessment Act's* more nuanced responses could improve process efficiencies while also strengthening the quality of deliberations and decisions. The following points summarize the main concerns with the current Act, how the *Impact Assessment Act* would address them, and what might be done to strengthen the relevant provisions.

• Concern 1: Assessment processes are initiated late (starting with a screening stage that requires a quite detailed project proposal). Clarification of what assessment work proponents need to do (guidelines for the Environmental Impact Statement) consequently also comes after most project design decisions have been made.

Reform effort: The *Impact Assessment Act* (sections 10-15) introduces an early planning stage to encourage earlier initiation of consultations between the proponent and relevant authorities and interests, and earlier clarification of case-specific assessment requirements.

Recommended strengthening: The *Impact Assessment Act* (section 16) treats the early planning stage in part as a screening to determine whether or not an assessment is needed. It also provides an open-ended set of factors to consider in this determination. Some proponents will be tempted to devote attention to arguments for escaping obligations rather than moving briskly into good assessment. The Act should be amended to limit the grounds for exemption to lack of federal jurisdiction in the case (section 16(2) factor (b)).

• Concern 2: The *Canadian Environmental Assessment Act, 2012* imposes minimally flexible timelines for assessment process stages as a main means to promote decision-making efficiency. Fixed timelines are attractively visible tools. In practice, however, suitable timelines depend on the particulars of the case and should be determined case-by-case, subject to general guidance. The current timelines have been problematic – they can fit poorly with the overlapping processes of other assessment jurisdictions (provincial, territorial, Indigenous) and can preclude meaningful participation by authorities and stakeholders with limited capacities.

Reform effort: The *Impact Assessment Act* sets timelines that are a little shorter but also more flexible.

Recommended strengthening: Section 14 of the *Impact Assessment Act* should be expanded to require determination of case-specific timelines in the early planning stage of assessments – with due attention to overall timeliness guidance and suitable provisions for adjustments in response to changing needs and opportunities.

• Concern 3: Assessment deliberations may need to be extended to address big issues (including policy gaps or inconsistencies, major cumulative effects, and broad alternatives) that are

- central to the case,
- broader than can be addressed adequately by project-level assessment, and
- not addressed credibly or at all by existing policies, plans or programs.

Reform effort: The *Impact Assessment Act* (sections 92-103) enables law-based strategic and regional assessments that could address big issues and provide guidance for project assessments.

Recommended strengthening: The *Impact Assessment Act's* provisions for strategic and regional assessment are valuable but only a bare beginning. At minimum sections 92-103 should be amended to

- set out the core requirements of strategic and regional assessment processes and content components of the resulting reports;
- establish application of the section 63 considerations as the basis for strategic and regional assessment recommendations; and
- enable decision makers to turn the recommendations from credible strategic and regional assessments into authoritative guidance for project assessments.

These strengthened provisions should be accompanied by credibly developed policy guidance on how big issues are to be addressed in project assessments when there is no authoritative guidance from strategic and regional assessments.

• Concern 4: Critics want restriction of public involvement to those "directly affected" to avoid undue delays.

Reform effort: Experience under the *Canadian Environmental Assessment Act, 2012* taught that limiting access to those "directly affected" pushed excluded voices to find other ways to be heard, including through protests and the courts. Thus, effective decision making can be undermined by restricting public involvement. Bill C-69 returns to the more open approach used without much difficulty between 1995 and 2012. The *Impact Assessment Act* would limit public submissions only to the specified time period (s.27) and, often, to written submissions versus in-person engagement.

Recommended strengthening: The Act's general provisions for "meaningful" participation will need specific clarification through policy and regulation, for which there is a considerable existing base of agreement.[7]

• Concern 5: Undue time may be taken by political-level decision makers after receiving assessment reports.

Reform effort: The *Impact Assessment Act* (sections 65(3-7)) establishes time limits for political level decision making. However, the time limits are highly flexible, and legitimate grounds for extensions are not specified. More usefully, section 63 the Act requires decision makers to basis their decisions on the Agency or panel assessment report and five core considerations (contribution to sustainability, the seriousness of adverse effects, mitigation measures, Aboriginal/Indigenous rights, and meeting

[7] See Multi-Interest Advisory Committee (MIAC), *Advice to the Expert Panel Reviewing Environmental Assessment Processes,* 9 December 2016, pp.41-48.

environmental and climate commitments). Guidance (policies and regulations) on these considerations is in development and should facilitate some consistency of application.

Recommended strengthening: To reduce the potential for delays at the decision making stage, the law (section 65(5-7)) should be amended to specify grounds for extension of decision making time limits. Also, as recommended above, the Act should be amended to give the arm's length Agency and review panels full responsibility for providing the needed analyses, reasoning and recommendations to support decisions meeting the section 63 expectations.

• Concern 6: Inefficiencies have resulted from inadequate collaboration between and among assessment jurisdictions (provincial, territorial and Indigenous).

Reform effort: The *Impact Assessment Act* (sections 12 and 21) encourages earlier and stronger efforts to establish collaborations among assessment authorities.

Recommended strengthening: Legislation can facilitate but not command inter-jurisdictional willingness and capacity to collaborate. These need to be built though related initiatives to collaborate in strategic and regional level initiatives. An important underlying problem is the great differences between assessment processes. No two Canadian jurisdictions have the same assessment requirements. Collaborative efforts to guide all Canadian assessment regimes to a similar high standard nearly succeeded in the 1990s.[8] It is time to try again.

(ii) The *Impact Assessment Act's* somewhat expanded scope has raised concerns about new obligations and uncertain requirements that could slow deliberations and decisions.

• As noted in the discussion about concerning economic effects, the scope of the *Impact Assessment Act* is broader than that of the current Act. It covers direct social, economic and health as well as biophysical environment considerations and positive as well as adverse effects in a sustainability framework. The broader scope facilitates direct and open assessment of all factors affecting lasting wellbeing in the public interest.

• While the additional breadth will bring some uncertainties, it does not extend much beyond well established law and practice in Canada, and it is only somewhat new, even to federal assessments. The current (and in most cases longstanding) assessment laws of Newfoundland and Labrador, Nova Scotia, Quebec, Ontario, Alberta, British Columbia, the Yukon, the Northwest Territories and Nunavut are broadly scoped – covering social, economic, cultural, biophysical factors. So are the assessment processes established under modern land claim agreements or initiated independently by Indigenous authorities.

The federal government has considerable experience in joint assessments with these jurisdictions. Both broad scope and explicit sustainability-based analysis have been applied in at least five joint panel reviews involving the federal government plus

[8] Canadian Standards Association, Working Group of the EIA Technical Committee, *Preliminary Draft Standard: Environmental Assessment,* Draft #14 (Toronto: CSA, 26 July 1999).

provincial and/or territorial and/or Indigenous authorities.[9] The proceedings of Québéc's Bureau d'audiences publiques sur l'environnement (BAPE) are effectively sustainability-based. Beyond Canada, sustainability-based assessments have a long history.[10]

• Good early policy guidance on sustainability-based assessment will be crucial in clarifying expectations for and approaches to determinations on contribution to sustainability under section 63(a). The guidance can benefit from continuous improvement through learning from experience. However, the basics are not difficult,[11] and can be set out clearly from the outset.

• The same is true of guidance for considering whether a project will hinder or contribute to meeting Canadian environmental obligations and climate change commitments under section s.63(e). Application of that requirement is evidently to be guided by policy in the short term. Given the proximity of the climate change mitigation deadlines identified by the IPCC and the *Paris Agreement,* we will soon need stronger direction based on what is needed for the transition to net zero anthropogenic greenhouse gas emissions.[12] While the substance of the implications will challenge some proponents, climate change mitigation is imperative and transition will be increasingly painful the longer we delay.

At least for assessment purposes, sustainability and climate change mitigation requirements do not involve an economy versus environment trade-off. The tension is between short term economic gains and our economic and other prospects in the increasingly near future. As noted above, the Senate has the position and responsibility to act in the interests of the generations of Canadians to come.

Further recommendations for amendments to strengthen the Impact Assessment Act

• The *Impact Assessment Act* as passed by the House of Commons recognizes the importance of credible processes, with respect for Aboriginal/Indigenous rights, meaningful public participation, and more open consideration of the full range of matters central to the public interest now and into the future. There are no defensible grounds for neglecting any of these.

---

[9] See Robert B. Gibson, "Sustainability assessment in Canada," in Alan Bond, Angus Morrison-Saunders and Richard Howitt, editors, *Sustainability Assessment: pluralism, practice and prog*ress (London: Taylor and Francis, 2012), pp.167-183.

[10] See, for example, D.B. Dalal-Clayton and B. Sadler, *Sustainability Appraisal: A Sourcebook and Reference Guide to International Experience* (London: Earthscan Publications/Routledge, 2014).

[11] Fundamentals and examples are set out in Robert B. Gibson, Susan Holtz, James Tansey, Graham Whitelaw, and Selma Hassan, *Sustainability Assessment: Criteria and Processes* (London: Earthscan, 2005), and Robert B Gibson, ed., *Sustainability Assessment: Applications and Opportunities* (London: Routledge/Earthscan, 2017).

[12] Intergovernmental Panel on Climate Change (IPCC), Global Warming of 1.5 °C: Summary for Policymakers (IPCC, October 2018), p.15, online: https://www.ipcc.ch/sr15/. Robert B. Gibson, Karine Péloffy, Daniel Horen Greenford, Meinhard Doelle, H. Damon Matthews, Christian Holz, Kiri Staples, Bradley Wiseman and Frédérique Grenier, *From Paris to Projects: Clarifying the implications of Canada's climate change mitigation commitments for the planning and assessment of projects and strategic undertakings* (Waterloo: Paris to Projects Research Initiative, January 2019).

The Act's improvements in this regard should be extended to apply not only to project assessments, but also to making regulations and developing policy guidance under the Act, and to establishing credible strategic and regional assessment processes and making authoritative use of their results. The Act should be amended to ensure that the s.63 requirements, and provisions for meaningful participation, apply to regional and strategic assessments (s.92, 93, 95, 99 and 102) and regulation and policy making (s.109, 112 and 114) as well as project assessments.