

April 29, 2020

To: Distribution List

Re: Review Board Perspectives Paper – *Evolving Environmental Impact Assessment in the Mackenzie Valley and Beyond*

As the chairperson of the Mackenzie Valley Environmental Impact Review Board, I am pleased to introduce the Review Board's perspectives paper on *Evolving Impact Assessment in the Mackenzie Valley and Beyond*. This paper provides our perspective on key themes in environmental impact assessment, considering emerging practices in the Mackenzie Valley and across Canada.

The Review Board's unique perspective

The Review Board was born from negotiated land claim agreements and legislation established collaboratively between federal and territorial governments and Indigenous Government Organizations. The resource management regime and co-management structures in the Mackenzie Valley support reconciliation through shared decision-making, collaborative and participatory processes, and the inclusion of Indigenous knowledge and worldviews.

Working within this holistic, co-management framework, our Board's vision is "*Making wise environmental impact assessment decisions that balance the diverse values, interests, and knowledge of all residents of the Mackenzie Valley, while ensuring the protection of the environment for present and future generations.*"

To support our vision and strategic goals, we are publishing this paper to guide the future direction of our Board's processes, encourage dialogue, and foster continuous improvement in Environmental Impact Assessment (EIA).

Environmental impact assessment is evolving

Over the last decade, federal, territorial, and provincial assessment regimes have undergone significant review and renewal. Although each regime differs, some of the drivers of change have been similar across Canada (see Figure 1 in the paper). We see opportunities to collaborate and, where possible, move forward together to develop innovative approaches that support public confidence, efficient processes, and protection of the environment, while contributing to enhanced social, cultural, economic, and overall well-being.



We are committed to continuous improvement and innovation in environmental impact assessment

This paper focuses on four priority themes the Review Board can act on, either on our own—or more commonly—in collaboration with others.

- **Understanding effects to well-being:** Improving understanding of how the health of the environment is connected to the well-being of people, families, and communities, and all the ways that major projects can affect well-being, considering both positive and negative effects.
- **Considering climate change:** Considering the climate change resilience of projects and working to align EIA processes and decisions with carbon policy in Canada.
- **Addressing cumulative effects:** Finding new ways of effectively and efficiently assessing the effects of industrial activity at a regional level and through time.
- **Collaborative project planning and early engagement:** Sharing information and building relationships that reflect the spirit of co-management, in terms of creating a shared vision of development and a plan for achieving that vision together.

We want to work collaboratively and we invite you to join the discussion

In our work to fulfill the vision of the land claim agreements and building on EIA best practices from other jurisdictions, we have accomplished a lot – but we have much more work to do. The Review Board, as part of the integrated resource management system in the Mackenzie Valley, will rely on continued collaboration with and input from all its partners moving forward.

We invite and encourage everyone to join the discussion on how to move forward together.

To engage us in discussion on any of these topics or on the evolution of environmental impact assessment in general, please contact Brett Wheler (867-766-7072 or bwheler@reviewboard.ca) or Mark Cliffe-Phillips (867-766-7055 or mcliffephillips@reviewboard.ca).

I would also like to thank Stratos Inc. for their assistance in the development of this paper.

Sincerely,

Joanne Deneron
Chairperson

Mackenzie Valley
Review Board



EVOLVING ENVIRONMENTAL IMPACT ASSESSMENTS IN THE MACKENZIE VALLEY AND BEYOND

Perspectives Paper



About the Mackenzie Valley Review Board

The Mackenzie Valley Environmental Impact Review Board was established by the Mackenzie Valley Resource Management Act in 1998 as an independent administrative tribunal responsible for the environmental impact assessment process in the Mackenzie Valley, Northwest Territories. As a co-management board, Indigenous land claim organizations nominate half of the board members, and the federal and territorial governments nominate the other half of the board members. The Minister of Crown-Indigenous Relations and Northern Affairs Canada appoints all members to the Review Board including the Chairperson.

The Mackenzie Valley Review Board's vision is:

Making wise environmental impact assessment decisions that balance the diverse values, interests, and knowledge of all residents of the Mackenzie Valley, while ensuring the protection of the environment for present and future generations.



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Introduction and Rationale for this Paper

The purpose of this paper is to provide our perspective on key themes in environmental impact assessment (EIA) that the Mackenzie Valley Review Board and other impact assessment bodies across Canada are working to improve. We discuss key themes in EIA—including well-being, climate change, cumulative effects, early engagement and collaborative project planning—where the Review Board has led and continues to lead, where we can learn from others, and where we see opportunities to move forward together.

To support the Review Board’s vision¹ and strategic goals, we are publishing this paper to encourage dialogue and foster continuous improvement in EIA² practice in the Mackenzie Valley and beyond. This paper is intended to stimulate action on the key themes, including actions the Review Board can take, opportunities for collaboration, and consideration of improvements that can only be addressed through changes to legislation or nation-to-nation discussions.

The Review Board is a co-management body responsible for environmental impact assessment in the Mackenzie Valley of the Northwest Territories (NWT). The Review Board has a strong role in shaping dialogue, collaboration, and practice innovation to support continuous improvement in EIA.

Strategic Goals

- Goal 1:** Conduct timely, effective, and evidence-based Environmental Impact Assessment (EIA) processes
- Goal 2:** Be an efficient, innovative, adaptive and transparent Board
- Goal 3:** Enable and encourage inclusive and effective participation in EIA
- Goal 4:** Strengthen our role in, and contribute to, an effective integrated resource management system

¹ Full text of our vision: Making wise environmental impact assessment decisions that balance the diverse values, interests, and knowledge of all residents of the Mackenzie Valley, while ensuring the protection of the environment for present and future generations.

² We use the term “environmental impact assessment” or EIA (rather than “environmental assessment” or “impact assessment”) for simplicity and consistency to refer to the assessment systems in place in the Mackenzie Valley and in other regions of Canada.



Two factors have contributed to the Review Board's ability to lead and innovate:

- The unique origins of the resource management framework we operate in – arising out of negotiated agreements and legislation established collaboratively between federal and territorial governments and Indigenous Government Organizations – with its vision of shared decision-making in holistic, inclusive, participatory EIA that considers well-being as well as significant environmental impacts.
- The Board's own commitment to continuous improvement and relentless pursuit of that vision in our operations.

EIA is used to carefully consider the impacts of proposed projects, make decisions about whether projects should proceed, and identify necessary mitigation measures. Over the last decade, federal, territorial, and some provincial assessment regimes have undergone significant review and renewal. Although each regime differs, some of the drivers of change have been similar across Canada (see Figure 1).

The audience for this paper is:

- The organizations we work with in the Mackenzie Valley, including: co-management boards, Indigenous Government Organizations, federal and territorial governments, industry, and other participants in the resource management system
- Assessment bodies and other organizations involved in EIA outside of the Mackenzie Valley, to share mutual learnings and best practices





Figure 1: Key Drivers of Change Leading to Environmental Impact Assessment Regime and Practice Evolutions



The Review Board's Unique Context

Origins of the resource management system in the Mackenzie Valley

In contrast to regulatory regimes in southern Canada, regulatory regimes in the North were established as a direct result of modern land claim negotiations and self-government agreements.³ In the Mackenzie Valley, these agreements are part of the implementation and evolution of the treaty relationship established in historic treaties 8 and 11 (see Figure 2). These agreements set out the purpose of the resource management system and the key elements of its design. The *Mackenzie Valley Resource Management Act* (MVRMA) was developed collaboratively between federal and territorial governments and Indigenous Government Organizations to enact the integrated resource management system that was negotiated through the land claim agreements.

Currently, modern land claim agreements are in place in three regions of the Mackenzie Valley:

- Gwich'in Comprehensive Land Claim Agreement (1992),
- Sahtu Dene and Métis Comprehensive Land Claim Agreement (1993), and
- Tłı̨chǫ Land Claims and Self-Government Agreement (2005).

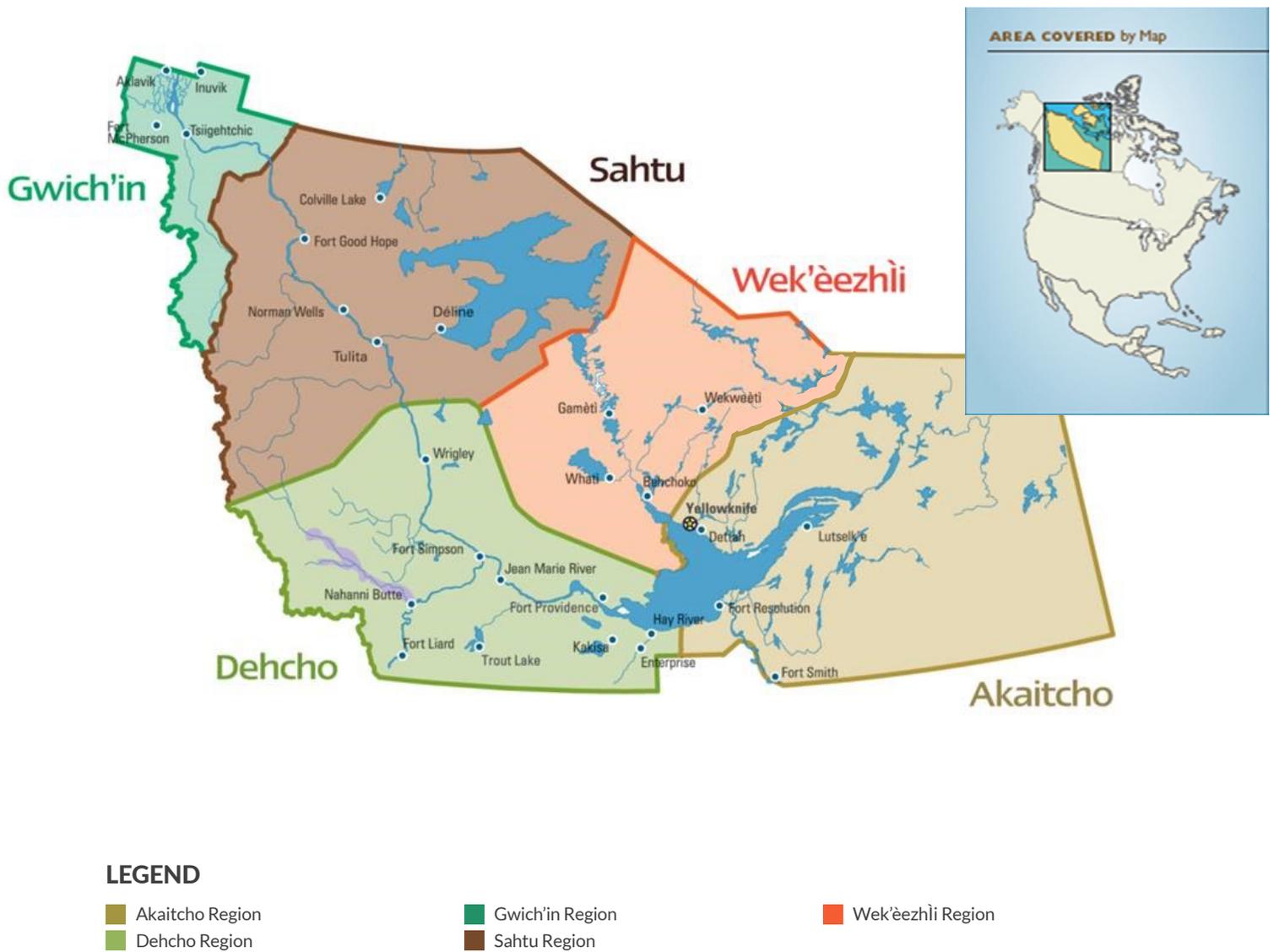
There are interim measures agreements and ongoing negotiations in other areas of the Mackenzie Valley.



³ Modern land claim agreement negotiations in the Mackenzie Valley began under the valley-wide Dene-Metis claim process and resulted in three regional agreements (Gwich'in, Sahtu, Tłı̨chǫ) and ongoing negotiations in the Dehcho and Akaitcho regions.



Figure 2: Mackenzie Valley Resource Management Regions





The **fundamental purpose** of the resource management system in the Mackenzie Valley is to enable people to participate in decisions that affect them. The essential design elements are: co-management, integration, and coordination.

Co-management

Under co-management, authority and responsibility for decision-making is shared between federal and territorial governments and Indigenous Government Organizations. Land claim agreements led to the creation of the Review Board and a network of other boards to implement the co-management system. These independent administrative tribunals must run fair, transparent, and inclusive processes, and are responsible for making many resource management decisions. The jurisdiction of the co-management boards applies to all types of land ownership (Crown, Indigenous, and other private ownership).

Integration and coordination

Land claim agreements and the MVRMA outline an integrated and coordinated resource management system including surface and subsurface land management, land use planning, environmental impact assessment, land and water regulation, and wildlife and renewable resource management (see Figure 3). The different parts of the system are meant to work together to manage land and resources in a holistic way that reflects the interconnectedness of the environment and the different ways people interact with it.

Environmental Impact Assessment in the Mackenzie Valley

Within this system of resource management, the purpose of EIA is to carefully consider the impacts of development before action is taken, and to ensure the concerns of Indigenous people and the general public are taken into account.⁴The guiding principles of EIA in the Mackenzie Valley are:⁵

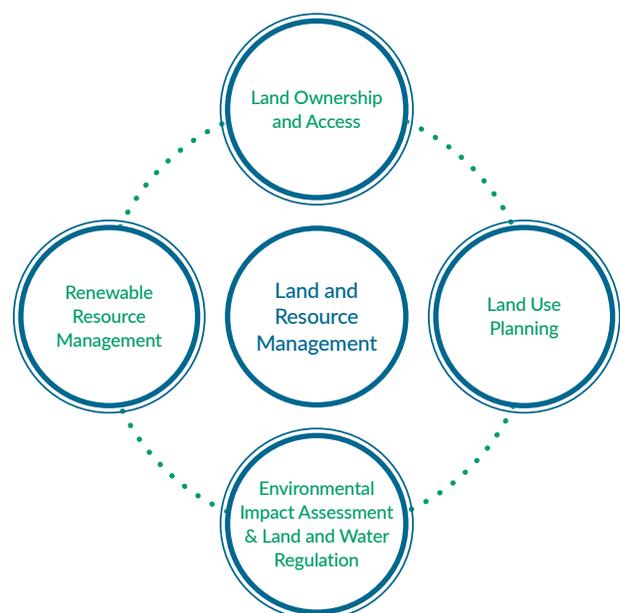
- protection of the environment from significant adverse impacts;
- protection of the social, cultural, and economic well-being of communities and residents; and
- the importance of conservation to the well-being and way of life of Indigenous Peoples.

Impact on the environment means “any effect on land, water, air or any other component of the environment, as well as on wildlife harvesting, and includes any effect on the social and cultural environment or on heritage resources”⁶

In carrying out the EIA processes, the Review Board must also consider any Indigenous Traditional Knowledge and scientific information available to it.⁷

These fundamental principles of EIA in the Mackenzie Valley were established through negotiation and collaboration between federal and territorial governments and Indigenous Government Organizations. In the work of the Review Board, these principles must be embodied and fulfilled.

Figure 3: Land and Resource Management Framework



⁴ MVRMA s.114

⁵ MVRMA s.115

⁶ MVRMA s. 111

⁷ MVRMA s.115.1



The Review Board's values and ways of working

Just as the Review Board's authorities and responsibilities for EIA come directly from the modern land claim agreements and related legislation, our vision, values, and practices are grounded in the requirements and spirit of the agreements and the MVRMA. Within this legal framework, the Board has broad discretion over the EIA processes and practices it uses. As an independent co-management board, our work is guided by the following values.



Committed

We are committed to our obligation and duty to ensure our decisions are balanced and respect the interests and knowledge of all communities in the Mackenzie Valley



Balanced

We consider both traditional knowledge and scientific knowledge



Diverse

We acknowledge and benefit from the diversity, unique backgrounds, knowledge, and perspectives of our Board and staff



Fair

Our processes are transparent to ensure fair, accessible, and accountable decisions and operations



Inclusive

We are inclusive and open, considering holistic perspectives and consulting and collaborating with each other and our parties to ensure the highest benefits for all



Trust and respect

We strive to create an environment based on mutual respect, trust, and honesty that enables effective and efficient teamwork and consensus decision making



Continuous learning

We value continuous learning and improvement, fostering an environment of innovation and adaptation



How the Review Board supports consultation, collaboration, and reconciliation

The Review Board is responsible for EIA throughout the Mackenzie Valley. We conduct fair, effective, timely, and evidence-based environmental impact assessments that:

- apply a ‘whole environment’ approach that recognizes the linkages between human, biophysical, and economic factors as part of an interconnected system;
- consider different contexts, values, and views;
- consider the well-being and way of life of Indigenous peoples as well as the social, cultural, and economic well-being of residents and communities in the Mackenzie Valley;
- consider Indigenous Traditional Knowledge as a primary source of evidence according to our published guidance⁸ on how to incorporate it into EIA processes and decisions, and respecting local protocols for knowledge ownership, sharing, interpretation, peer review, and use;
- engage people through a range of informal, formal, written, and oral processes. These include online public reviews, community scoping meetings, cultural and technical workshops, community public hearings, and technical public hearings;⁹
- recognize and balance diverse values to protect the Mackenzie Valley for present and future generations; and
- look beyond trade-offs to first prevent significant impacts, then identify opportunities to further minimize impacts and maximize benefits.

The Review Board applies consultative and participatory EIA processes across all regions of the Mackenzie Valley. Indigenous communities in some regions have self-government authorities, exclusive ownership and control of surface and subsurface rights, direct appointment or nomination of members of co-management boards, and/or final decision-making for project approvals.

The Review Board recognizes that developments anywhere in the Mackenzie Valley have the potential to affect Indigenous rights, culture, well-being, and way of life and that meaningful engagement and consultation must always be undertaken. The details of the consultation and accommodation—including aspects such as communication protocols, overlapping interests, identification and resolution of issues, and the tools that help advance reconciliation—depend on the specific context of each proposed development and the indigenous communities that may be affected.

In rare cases where a development proposal is fundamentally incompatible with cultural values, we have rejected the project. As land claim agreements are settled and land use plans and protected areas are established, the potential for such incompatibility is diminishing and certainty is increasing.

“...reconciliation is about coming to terms with the past in a manner that overcomes conflict and establishes a respectful and healthy relationship going forward.”¹⁰ Reconciliation is much broader than impact assessment; but, by doing our work well and fulfilling the purpose and principles set out in the land claim agreements, the Review Board can contribute to reconciliation.

In the Mackenzie Valley, especially in areas with modern land claim or self-government agreements, there is a unique view of how reconciliation interfaces with EIA. The resource management regime and co-management structures are meant to support reconciliation through shared decision-making, collaborative and participatory processes, and the inclusion of Indigenous worldviews.

Trust and relationships are at the core of the Review Board’s work. We recognize the need to continue strengthening relationships with Indigenous Government Organizations and all participants in the integrated resource management system.

⁸ [Guidelines for Incorporating Traditional Knowledge in Environmental Impact Assessment](#). Mackenzie Valley Review Board (2005).

⁹ Multiple face-to-face discussions, with translation/interpretation whenever applicable.

¹⁰ Honouring the Truth, Reconciling for the Future—Summary of the Final Report of the Truth and Reconciliation Commission of Canada, The Truth and Reconciliation Commission of Canada, 2015, p. 6.



Implementation gaps that affect EIA in the Mackenzie Valley

The EIA system in the Mackenzie Valley is not an isolated system. There are broader factors and structural elements that influence the overall effectiveness of the resource management system. The structure, legislative implementation, and evolution of the resource management system, as well as external factors such as market forces, are outside of the Review Board's control. However, these factors can affect our ability to carry out effective and efficient EIA processes.

The deliberate design of the integrated natural resource management system in the Mackenzie Valley means that EIA processes are both supported by, and dependent on, other parts of the system. While this integration is a strength,¹¹ to be effective and to fulfill the vision of an integrated and coordinated system, all parts of the system need to be fully-functioning and the relationships between them need to be strong.

The integrated system envisioned by the land claim agreements is unfinished and is still being implemented. There are a number of **implementation gaps** that have been widely acknowledged and documented¹², which affect the overall functioning of the system, including the effectiveness of the EIA processes led by the Review Board. These include:

- unsettled land claims;
- incomplete land use plans;
- lack of consultation on the issuance of mineral rights and coordination between protected area and mineral tenure processes;
- uncertain roles, responsibilities, and expectations with crown consultation; and,
- uncertainty about implementation and effectiveness of EIA measures.¹³

While the Review Board's approach to impact assessment can, in some cases, serve as a backstop for certain implementation gaps, that is not how the system is intended to work. These gaps can create inefficiencies and challenges for the Review Board in carrying out its core work of assessing and mitigating impacts and protecting well-being. One or more of these implementation gaps was present in all cases where the Review Board assessed small projects due to public concern. These gaps cause uncertainty and can result in real or perceived conflict between different values and uses of a proposed development area.

Recent activities in the regime that have, in part, helped to manage these gaps include:

- participant funding being made available for intervenors in environmental assessment;
- notification of Indigenous government organizations when mineral claims are applied for under the new NWT Mineral Resources Act;
- the Review Board's adoption of the MVLWB engagement and consultation policy;¹⁴
- crown consultation letters being sent directly from Canada and GNWT to Indigenous Government Organizations for each project impact assessment; and
- recent project approvals include monitoring, reporting, and adaptive management to help ensure EIA measures are implemented and effective. This is a stopgap measure until development certificates¹⁵ formalize EIA follow-up.

¹¹ For example, see the Council of Canadian Academies Report titled [Greater than the Sum of Its Parts: Towards Integrated Natural Resource Management in Canada](#)

¹² For example, the Mackenzie Valley Land and Water Board noted, in its 2011 paper [Perspectives on Regulatory Improvement in the Mackenzie Valley](#), that "...the regulatory system in the Mackenzie Valley as it pertains to the jurisdiction of the Boards is not broken; rather, it is unfinished and still being implemented. Of utmost importance is that the federal government address the "foundational" gaps that have already been brought forward in many other forums (e.g. the Auditor General of Canada, the Part 6 Audit under the MVRMA, and the McCrank Report). These tasks are crucial if the system is to be completed."

¹³ Conditions of project approval are called "measures" in the MVRMA.

¹⁴ See the Review Board's [Interim Policy Statement on Engagement and Consultation](#).

¹⁵ Development certificates, like decision statements in federal assessments, environmental assessment certificates in British Columbia, and project certificates in Nunavut, will directly incorporate the mitigation measures required as an outcome of EIA into a stand-alone certificate that developers must comply with when carrying out approved projects.



Impact and benefit agreements (IBAs)

The new NWT Mineral Resources Act provides greater certainty about when benefits agreements are needed and allows the potential to separate benefits from impacts. This certainty can help prevent IBA negotiations from interfering with the EIA process, allow impacts to be understood and mitigated before deciding which trade-offs are acceptable, and avoid potential duplication.

Despite these advances, system-level work is still urgently needed to settle land claims, complete land use plans, clarify crown consultation responsibilities, and implement development certificates. Development certificate provisions have been in the MVRMA since 2014 but have not yet come into force. The continued delay in implementing development certificates creates process uncertainty and potentially leaves the conditions set in EIA at risk of being misinterpreted, not fully implemented, unenforceable, or ineffective at fulfilling their intended purpose. The Review Board is willing to:

- continue to work with the federal and territorial governments to implement development certificates, and
- develop our own policies and procedures to be best prepared for their implementation.

Addressing gaps in the integrated resource management system will create an even stronger foundation for our continuous improvement efforts in EIA.





Evolving Environmental Impact Assessment Practices

MVEIRB's evolution

Our impact assessment practice has evolved, both in response to legislative changes (such as those resulting from the *Tłı̄chǫ Agreement* in 2005, and the *NWT Devolution Act* in 2014) and from a desire to continuously improve, innovate, and be leaders in impact assessment. Over time, our innovations have included developing Traditional Knowledge guidelines, undertaking collaborative scoping processes, and conducting community hearings and cultural impact sessions.

At the Review Board, we see a range of opportunities to:

- Continue to lead in areas where we have demonstrated leadership, such as the consideration of Traditional Knowledge and assessment of cultural impacts.
- Learn from other jurisdictions, for example, about practices for factoring in climate change and gender-based analysis in EIA.
- Collaborate and move forward together to develop innovative approaches to addressing well-being, cumulative effects assessment, and reconciliation in EIA.

Key themes for continuous improvement in EIA

This paper provides our perspective on key themes in EIA, considering emerging practices in the Mackenzie Valley and across Canada. The four key themes discussed in this paper are areas the Review Board can act on, either on our own—or more commonly—in collaboration with others. Many of these themes are also gaining importance in other regulatory regimes across Canada. We see an opportunity to evolve our practices further in the following areas:

1. **Understanding effects to well-being:** Improving understanding of the interconnectedness of the bio-physical world to the well-being of people, families, and communities in the context of major projects.
2. **Considering climate change:** Working to align EIA processes and decisions with carbon policy in Canada and considering climate change resilience of projects in EIA.
3. **Addressing cumulative effects:** Finding new ways of effectively and efficiently measuring and assessing the effects of industrial activity at a regional level and through time.
4. **Collaborative project planning and early engagement:** Sharing information and building relationships that reflect the spirit of co-management, in terms of creating a shared vision of development and a plan for achieving that vision together.

We discuss each of these themes in greater detail in the sections below by exploring their application in EIA practice. The themes are discussed according to the following structure:

- a description of the **importance of the theme** to impact assessment,
- an overview of how the practice has been implemented to date in the Mackenzie Valley and other parts of Canada (**what's happening** in the Mackenzie Valley and beyond),
- key **challenges** experienced or anticipated in implementing the practice, and
- a description of the future vision and **path forward** for overcoming challenges and advancing EIA practice in the Mackenzie Valley.



Theme 1:

Well-being

Importance of this theme to Environmental Impact Assessment

What is a well-being centered approach?

The Review Board has the mandate to protect the environment and the social, cultural, and economic well-being of residents and communities in the Mackenzie Valley from any significant adverse impacts of a proposed development. This includes consideration of the importance of conservation to the well-being and way of life of Indigenous peoples.

This holistic mandate recognizes the relationship between the health of the environment we live in and the health of individuals, communities, and our social structures. The concept of well-being includes the relationships between many tangible and intangible aspects of human health and the social, economic, cultural, and biophysical environment (Figure 4). Well-being can be experienced differently by different individuals and communities, based on their own unique set of cultural, historical, and geographic circumstances.

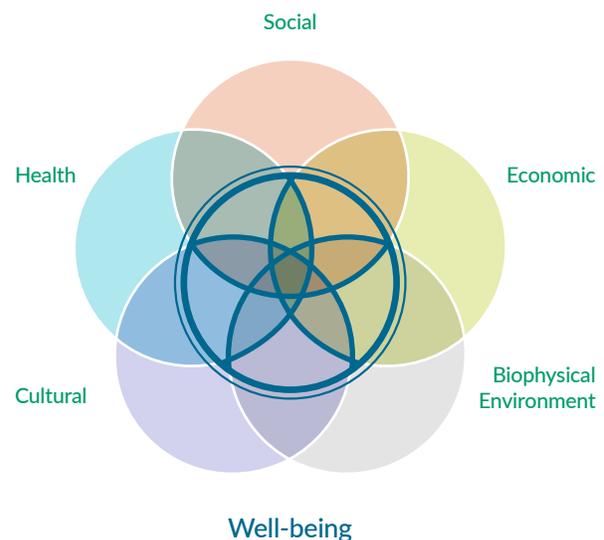
A well-being centered approach to EIA:

- considers these different contexts and how they may influence peoples' experiences of project effects;
- looks at impacts holistically and systemically, considering the connections between them;
- works to understand community-specific definitions of well-being and the factors that affect it; and
- assesses and monitors impacts against community-driven indicators of well-being.

Many impact pathways, if followed to their full and logical endpoints, converge on well-being. Additionally, most impacts on well-being are cumulative in nature (Figure 5).

A holistic approach to the assessment of project-effects considers Traditional Knowledge on par with western science. It allows impacts to be considered through different worldviews, which ensures that the EIA process reflects the different value systems of the people affected. This leads to greater trust in the EIA system, better participation, better evidence and communication of values, and better decisions for sustainable economic development that supports the overall well-being of communities.

Figure 4: Well-being in relation to human and biophysical environments





What's happening in the Mackenzie Valley and beyond

The Review Board is leading the way in considering effects on well-being

The Review Board is already recognized for how we consider project effects on Indigenous culture and well-being. We have established guidelines for the assessment of socio-economic impacts and are updating our draft Cultural Impact Assessment guidelines. We are one of the few impact assessment bodies that have established guidelines for considering Traditional Knowledge in EIA. Our project-specific assessments often focus on community and cultural well-being and result in legally-binding mitigation measures to protect these values.¹⁶

While the Review Board considers effects to well-being in a variety of ways, we recognize the need to take a more systematic approach to assessing impacts on individual and community well-being. This way everyone can understand the EIA process and see their needs and values reflected in decision-making.

Federal and provincial impact assessments are looking at sustainability, which supports a well-being centered approach

Impact assessment practice in Canada, notably in British Columbia and federally, is beginning to look beyond biophysical impacts to also consider the human environment and sustainability. A well-being centered approach to EIA expands on sustainability assessment by looking at the interplay between social, economic, biophysical, cultural, and health factors and how they affect overall well-being. Well-being is the goal, sustainability is the way to get there and the way to make it last.

Case Study: Ekati Diamond Mine - Jay Project.

In this EIA, the Review Board prescribed mitigation measures to address cultural and socio-economic well-being. These included:

- addressing the linkages between diamond mining and the health and well-being of communities;
- incorporating Traditional Knowledge into caribou management plans;
- completing a Traditional Knowledge management framework;
- supporting the development and operation of a culture camp to continue transmission of culture within the impacted area; and
- improving the effectiveness of mitigations designed to minimize cultural impacts.

“Sustainability means the conditions under which ecosystems function, socio-cultural and economic well-being are maintained, and risk to ecological integrity is low, thus providing the ecological foundation for the long-term socio-cultural and economic well-being.”

Tara Marsden, Gitanyow Hereditary Chief, as cited in *Building Common Ground: A New Vision for Impact Assessment in Canada*

¹⁶ For examples, see text box (regarding [Ekati Jay project](#)), as well as other reports on the Review Board's public registry, such as the [Tl'cho All-Season Road Report](#) and the [NICO Mine Report](#).



Challenges to applying a well-being centered approach

A lack of information on socio-economic, cultural, and health factors often limits the assessment of well-being

One of the biggest challenges to considering impacts on individual and community well-being is the lack of adequate baseline information. At the Review Board, we have often faced challenges in obtaining adequate socio-economic, cultural, and health information to inform an assessment of impacts on well-being. This can lead to reliance on more limited indicators.

We can work to address this gap by communicating early in the EIA process about what baseline is needed to enable the assessment of impacts on individual and community well-being. Moving forward, partnerships need to be built to support communities and governments to define well-being, and establish baselines and indicators of individual and community well-being to inform the assessment of project effects.

Project effects are not considered holistically or with an awareness of broader cultural and historical contexts

Standard methods and processes in EIA can be reductionist and take a narrow, project-driven view of effects. This limits the understanding of how different historical and cultural contexts influence well-being and how project effects may be experienced. For example, systematic issues stemming from colonialism and residential schools, as well as the environmental legacies of poorly managed mines in the past, may underpin concerns raised by communities in a project-specific assessment. Good EIA needs to understand the context of the broader effects people or communities are already experiencing, in order to understand how project-specific effects may contribute to impacts on well-being.

Path forward

The Review Board wants to develop a systematic approach to considering well-being in EIA

Ultimately, our goal is to work with communities and Indigenous Government Organizations, before, during, and after an EIA to ensure that there are robust community-driven indicators of well-being to inform impact assessment. This will also allow impacts on well-being to be monitored and adaptively managed after an impact assessment.

A well-being centered approach requires the Review Board to:

- look at interconnections between different parts of the environment;
- consider project-effects holistically and within cultural and historical contexts; and
- recognize community-specific definitions of well-being.

We don't need to change EIA process steps to embrace this approach. We are reframing the lens through which we consider project effects. Through this we seek to capitalize on opportunities to build stronger partnerships and understandings between other governing bodies with mandates to promote and protect culture and well-being—be it Indigenous Government Organizations, IBA practitioners, health researchers, GNWT program directors, or others. Our next steps are to:

- produce a discussion paper on using a well-being approach in EIA;
- engage Indigenous Government Organizations, territorial and federal governments, and other EIA participants to develop a framework to consider impacts on well-being in EIA;
- revisit our existing guidance on socio-economic and draft cultural impact assessment guidelines in light of new work on well-being; and
- communicate the value and encourage the development of community driven well-being indicators to support assessment and monitoring.



Theme 2:

Consideration of Climate Change

Importance of this theme to Environmental Impact Assessment

Climate change is a major environmental challenge that relates to EIA in several ways

The North is warming faster than the rest of Canada and three times faster than the global average.¹⁷ The results are increased wildfires and extreme weather events, unstable ice conditions, impacts on wildlife populations, and melting permafrost. Arguably, climate change is the biggest environmental challenge of our time. There is a growing emphasis—as well as requirement in some regimes—to assess the extent to which the effects of a project contribute to climate change.

In EIA, climate change makes predicting project effects more difficult and can affect the reliability of project design, infrastructure, and mitigation strategies. The lack of consistency in greenhouse gas accounting methods and lack of clear frameworks to evaluate how a project's emissions fit within government climate change commitments are also major challenges that EIA practitioners face. Improving climate change consideration in EIA will require policy frameworks from territorial and federal governments on emission targets and best-practices, as well as buy-in from industry¹⁸ on the level of information needed to inform impact predictions, project design, and mitigation measures.

What's happening in the Mackenzie Valley and beyond

The Review Board's approach to assessing climate change is evolving

Over the past 20 years, the Review Board's assessments have included varying degrees of greenhouse gas accounting, assessing the effects of climate change on the project and the resiliency of project components, considering alternative energies, and considering how climate change may affect predictions of project impacts. The Review Board wants to take a more systematic approach to its consideration of climate change in EIA, in line with emerging best practices from other jurisdictions. We are looking to strengthen our consideration of climate change in project-specific EIA by focusing on:

- **project resilience and adaptability** to ensure projects will operate effectively and protect people and the environment in a changing climate;
- **improving greenhouse gas accounting** to look for opportunities to minimize project emissions; and
- understanding how climate change affects the accuracy of impact predictions, which are the basis for decisions in project-specific EIA.

¹⁷ Canada's Changing Climate Report (2019) <https://changingclimate.ca/CCCR2019/>

¹⁸ For example, The Mining Association of Canada's Towards Sustainable Mining initiative includes climate change considerations, implementation of some renewable energies, increased fuel efficiency, and planning projects with a greater emphasis on resilience and adaptability of project components.



The new Federal Impact Assessment Act requires a thorough consideration of climate change in EIA

Canada signed onto the Paris Agreement in 2015, which endeavors to limit global average warming to 1.5°C and well below 2°C.¹⁹ The new Federal Impact Assessment Act (Bill C-69) includes the requirement to determine the “extent to which the effects of the designated project hinder or contribute to” the federal government’s commitments on climate change.²⁰ Federal EIA practice considers project emissions and how projects may be affected by climate change, which includes potential risks for people or the environment.²¹ British Columbia and other EIA jurisdictions across Canada are also taking steps to account for climate change in their assessment processes.

Challenges in considering climate change

Uncertainty in impact predictions

Climate change has added complexity and uncertainty to predicting future conditions. These predictions are crucial to assessing project impacts and the resiliency and adaptability of project design and mitigations. Lack of data or certainty about future climate scenarios makes understanding the long-term project-effects and interactions with the environment difficult to predict.

Greenhouse gas accounting methods have not been fully developed or standardized

There is a lack of consistent methodologies and frameworks to assess a project’s contribution to climate change. This includes specific methods of predicting direct project emissions and how to consider upstream and downstream emissions, imbedded emissions in project materials, transboundary emissions, and changes to land cover. Clear guidance on appropriate methodologies is needed to assist industry and impact assessment bodies in understanding a project’s total contribution to climate change.

Lack of sectoral or regional frameworks for assessing a project against climate change commitments

The Review Board has struggled with assessing the relative significance of a project’s contribution to climate change. This is due to the complexity of the issue and a lack of clear metrics or frame of reference to contextualize project-specific emissions. To effectively consider and make decisions about project emissions, we need to understand that project’s contribution relative to federal and territorial targets and commitments. This requires sectoral or regional carbon budgets alongside an overall policy framework that reflects the governments commitments and a plan to meet them.

Path forward

Developing a consistent climate change assessment framework

At the Review Board, we recognize that our approach to climate change will evolve as new evidence and approaches are developed in other jurisdictions, and as governments’ develop policy frameworks and carbon budgets to meet climate change emissions targets for the NWT and Canada.

We recognize that climate change is a critical lens for EIA in the north. It needs to be considered in all project assessments by assessing project resilience and adaptability, improving greenhouse gas accounting, and considering uncertainty in impact predictions. We need federal and territorial government departments and other EIA participants to bring their knowledge and expertise to the table, so that our assessments are well informed.

The Review Board is looking to other jurisdictions to ensure that our practices are consistent with emerging best-practices. For assessments in the Mackenzie Valley, we intend to work with the federal and territorial governments and other partners to provide guidance to developers on the information needed to assess projects in the context of climate change.

¹⁹ Government of Canada: Canada’s international action on climate change. The Paris Agreement.

²⁰ paragraph 63(e)

²¹ <https://www.ceaa.gc.ca/default.asp?lang=En&n=A41F45C5-1&offset=3&toc=hide&pedisable=true>



Theme 3:

Addressing Cumulative Effects Through Regional Strategic Environmental Assessment

Importance of this theme to Environmental Impact Assessment

Cumulative effects are one of the biggest challenges for project-specific assessment

At the Review Board, we hear a lot about cumulative effects²² in project-specific EIA. Concerns over cumulative effects can be even greater than concerns explicitly linked to a single project. This is because people tend to focus on the effects that matter most to them. Where the effect comes from is secondary.

Cumulative effects need to be considered in project-specific EIA but there are limits to what can be assessed and mitigated, just as there are limits to what a single developer can do to deal with cumulative issues. It is often difficult to evaluate just how much an individual project will contribute to a broader problem. This poses issues for regulators, developers, and participants in project-specific EIA.

Cumulative effects need cumulative solutions: The role of Regional Strategic Environmental Assessment

Trying to understand and address the 'big picture' of cumulative effects and drivers through a project-specific EIA process can be costly and ineffective. Regional

studies and regional strategic environmental assessment (RSEA) hold promise as tools for understanding cumulative effects at a regional scale.

RSEA can be defined as “a process designed to systematically assess the potential environmental effects, including cumulative effects, of a range of resource management practices, or development scenarios for a particular region.”²³

RSEAs provide an opportunity for environmental management bodies and stakeholders to work together to better understand the human activities and pathways that lead to cumulative effects in a particular region. This helps understand the root causes of environmental impacts and gives context for individual project assessments.

Another advantage of RSEAs is that they can be used to assess a wide range of scenarios to help understand the costs and benefits of different approaches to regional development. RSEA can deal with high levels of uncertainty because it is not looking for “likely” impacts the way project-specific EIA is. It is a highly adaptable tool that can be applied to different contexts and questions to help inform policy development and decision-making, as well as land use planning, resource management, and EIA processes.

²² The impacts of a development in combination with the impacts of all other past, present and reasonably foreseeable future developments and human activities. Natural processes must also be considered, for project effects and cumulative effects, because they set the context within which projects operate and effects are assessed.

²³ https://www.ccme.ca/files/Resources/enviro_assessment/rsea_principles_guidance_e.pdf



What's happening in the Mackenzie Valley and beyond

Regional challenges need regional solutions

The Mackenzie Valley Review Board sees RSEA as an opportunity to address some of the systematic challenges facing EIA in the Mackenzie Valley. Unsettled land-claims, lack of land use plans, limited infrastructure, and competing land-use interests create uncertainty for developers entering project-specific EIA. Combined with cumulative effects, climate change, and extremely low caribou populations, this all makes it harder for decision-makers to assess how a project might interact with the natural environment in combination with other developments and human stressors. The inability to understand what future development scenarios might look like makes values-based planning for sustainable futures extremely difficult.

RSEA, as a type of regional study, is a new tool available under the MVRMA. RSEA provides an opportunity for organizations across the integrated resource management system to work together to support resource management and decision-making processes. In project assessment, and other aspects of resource management, RSEA can address different information gaps and bridge multiple levels of decision-making.

Regional Strategic EAs are used across Canada and internationally

Regional and strategic approaches are an established tool in Canada and internationally. They include a range of approaches such as cumulative effects studies, class or sector-based assessments, and strategic futures assessments. They are a standard practice in Europe, common in Australia, and increasingly recognized as a valuable part of integrated natural resource management in Canada. Specifically:

- The new federal *Impact Assessment Act* (IAA) includes an overall system of regional, strategic, and project assessments.
- Cumulative effects studies have been undertaken in the Beaufort region of the NWT.
- The Nunavut Impact Review Board recently completed a strategic assessment of oil and gas development in the Baffin Bay/Davis Strait region.

RSEAs:

- are focused on future desired outcomes and values for a region
- are focused on understanding cumulative effects and consequences at a regional scale
- are flexible in scope and approach, depending on regional needs and questions
- involve multiple sectors, levels of governance, rights-holders and stakeholder groups

RSEAs can:

- improve project-specific EIA by improving the understanding of the current state of the human and biophysical environment, regional stressors, and trends that already exist
- improve our understanding of the most sensitive or limiting environmental and economic factors related to development
- inform planning and management
- facilitate informed decision making by identifying and understanding trade-offs
- identify the specific information or collaboration needed to support future decision making



Challenges in conducting RSEAs

Funding

Because RSEA includes multiple stakeholders and is new to the Mackenzie Valley, identifying funding sources, timing, and conditions is difficult. As RSEA becomes more familiar and its benefits are recognized, support for RSEA is growing and government funding for priority RSEAs should become more available.

Scope

Effective RSEA must be designed and scoped deliberately to address the priority questions and objectives that are set for it and must stay on task. A focus on collaborative scoping that leverages the Review Board's experience with scoping project EAs can help to get this right before embarking on the RSEA.

Adequate timelines and information needs

Information demands for an RSEA can be great. RSEA should use readily available information and establish a framework to revisit key questions and outcomes as more information becomes available in the future. Other processes such as land claims, self-government agreements, and land use planning have uncertain timelines, but an RSEA can be scoped with firm timelines and deliverables set to match information that is available.

Public trust

Establishing independence and trust can be a challenge if there is the appearance of bias or a specific interest leading the RSEA, or if external agencies drive the RSEA. There is already strong public trust in the Review Board as a result of the Board's independence, co-management structure, and our record of well-reasoned decisions that support the well-being of people in the Mackenzie Valley.

Path forward

The Review Board is ready to work collaboratively on RSEA

We believe that RSEA is consistent with the vision of an integrated resource management system that benefits Indigenous people and all northerners, as set out in the land claim agreements and the MVRMA. An RSEA does not make any binding decisions but informs decision-making at multiple levels. It fully respects the decision-making authority of Indigenous, territorial and federal governments, and co-management boards.

We plan to begin discussions for RSEA in the Mackenzie Valley. The location and the scope of a specific RSEA will need to be determined collaboratively, considering factors such as:

- likely future development;
- current or anticipated cumulative effects;
- the interface of multiple values, strategies, policies, or visions for well-being, development, and conservation; and
- the interdependency of future developments, such as energy, resource extraction, and related infrastructure.

The Review Board is well positioned to lead an RSEA. We have experience conducting meaningful community engagement, hold high public confidence, work effectively in collaboration with diverse EIA participants, and have experience coordinating initiatives across the integrated resource management system in the Mackenzie Valley. We will continue to work closely with impact assessment partners in the territories and rest of Canada to develop and carry out best practices for RSEA.



Theme 4:

Collaborative Project Planning and Early Engagement

Importance of this theme to Environmental Impact Assessment

From consultation to collaboration

Developers' early engagement with communities and Indigenous Government Organizations in the Mackenzie Valley has improved over the past decade as clearer guidance has been provided.²⁴ The Review Board seeks to build on the principles of early engagement already enshrined in our process by promoting collaboration during project planning.

Benefits of collaborative project planning and early engagement

Public engagement at early stages of the project can overcome the possibility of later conflicts between people and developers as well as ensure that the project is sustainable and supports community needs.²⁵ This can reduce delays, monetary losses, social costs, and other problems arising out of a lack of clarity and consensus between developers and the public.²⁶

Developers and communities get the most benefit from collaboration when it is done early on in project planning. This provides opportunities to maximize benefits and minimize impacts by exploring options that would be harder and costlier to revisit later. Benefits can occur for all involved, including developers, communities, and the Review Board. Benefits include:

- opportunities to build social licence prior to the EIA, which means fewer surprises later on and a lower likelihood of litigation or protests that cause delays and costs to projects;
- better informed parties participating in the EIA;
- a clearer and less open-ended EIA scope; and
- more certainty and timeliness in the EIA process.

²⁴ Through the Mackenzie Valley Land and Water Board policy and guidelines, as well as other board, community, and government guidance.

²⁵ Doelle & Sinclair, 2006. Quoted in Building Common Ground, Government of Canada, 2017. <https://www.canada.ca/en/services/environment/conservation/assessments/environmental-reviews/environmental-assessment-processes/building-common-ground.html>

²⁶ Rutherford & Campbell, 2004. Ibid



What's happening in the Mackenzie Valley and beyond

The Review Board wants to support developers and communities in the collaborative planning process

The Review Board EIA process has always had a collaborative scoping phase where we engage potentially affected parties and the developer to define the EIA priorities. We also have pre-submission engagement requirements and have adopted the MVLWB engagement and consultation policy and guidance.²⁷ Each of these provide some opportunity for collaborative project planning and design, but the focus is more on information sharing. It is relatively rare that community concerns are addressed, or substantial project adjustments are made, before the EIA.

The Review Board recently released and held engagement meetings on draft EIA Initiation Guidelines which aim to set clear expectations for developers and help get everyone off to a smooth start in EIA. Our second draft of the guidelines will place greater emphasis on the importance and opportunity of collaborative project planning.

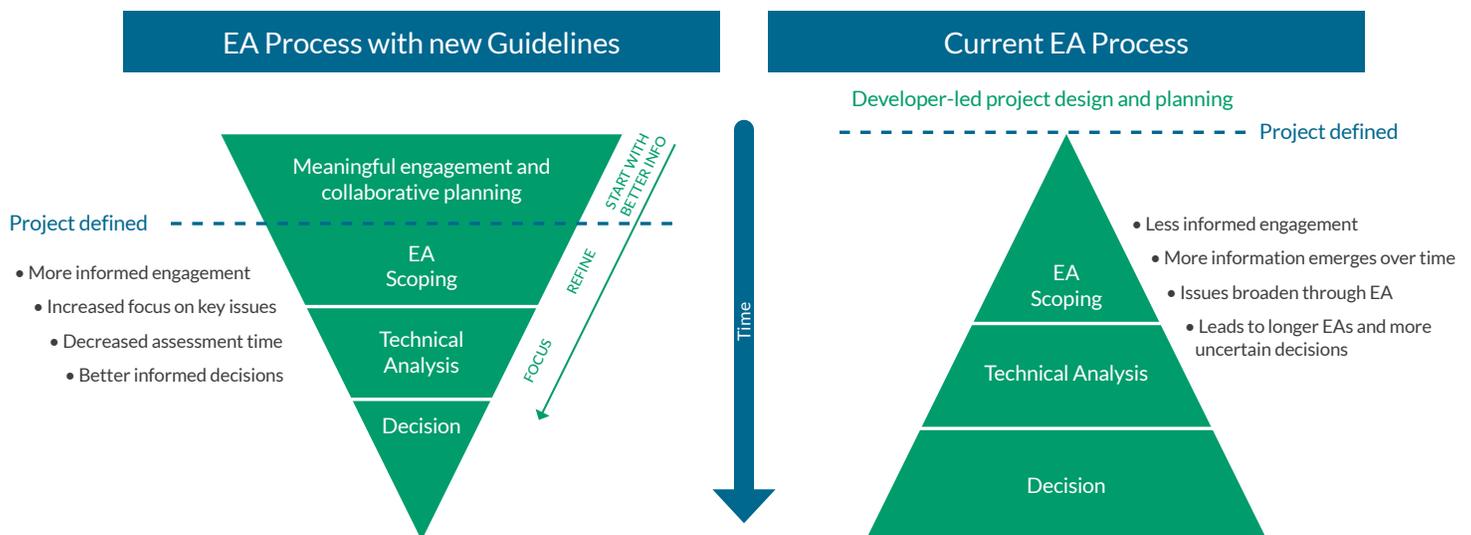
Although early engagement and collaborative planning requires more time and effort up front, we envision it will lead to better scoping, a shorter Developer's Assessment Report,²⁸ and a more efficient EIA process (see Figure 6). Early collaboration will help developers focus their efforts based on feedback from communities so everyone can be better prepared to effectively participate in EIA in a timely manner.

Recent changes to EIA in southern Canada have placed new emphasis on early project planning

The benefits of early planning are being recognized in the south. The new Impact Assessment Act (IAA) has a formalized planning phase enshrined through legislation.

For the Review Board, early engagement and collaborative planning processes are not set out in legislation, but are supported through our purpose and guiding principles. The MVRMA gives us the flexibility to innovate without changing legislation. By building on our pre-submission engagement, draft EIA initiation guidelines, and collaborative scoping phases, we can achieve the benefits of the new legislated processes in the south, while maintaining flexibility over the timelines and details of collaborative project planning.

Figure 6: Collaborative and Earlier Project Planning Leading to more focused Environmental Impact Assessments



²⁷ Statement on Engagement and Consultation, which includes links to the MVLWB policy and guidelines, is available at reviewboard.ca.

²⁸ May also be referred to as an environmental impact statement.



Challenges to collaborative project planning and early engagement

Collaborative planning requires more from developers earlier on

Historically, developers may have carried out limited preliminary engagement prior to EIA and then ramped up their engagement efforts when EIA began. The collaborative planning process will require more time and more substantive engagement effort by the developer earlier on, in preparation for EIA.

Capacity challenges for communities and Indigenous Government Organizations to participate in collaborative planning

It may be difficult for Indigenous Government Organizations and communities to have the resources to participate in collaborative project planning outside the EIA process. However, there may be opportunities to leverage developer or government support or access funding to build internal capacity, so that communities have the resources they need to fully benefit from collaborative planning.

Ensuring that collaborative planning is focused on the right conversations

Some early conversations between developers and communities can be one sided or focus on employment, contracting, or other economic opportunities rather than potential project impacts. This approach risks missing the opportunity to prevent impacts and support overall well-being through collaborative project planning. The Review Board will develop guidance to support a common understanding of the collaborative planning process, its purpose, and objectives. The Review Board may also be able to support collaborative project planning before EIA through processes such as resource development advisory groups.

Path forward

Refocusing our *draft EIA Initiation Guidelines* on early engagement and collaborative project planning

At the Review Board, we envision collaborative project planning becoming a standard part of the EIA process. After carrying out several meetings and workshops, and receiving hundreds of comments, the Review Board is working on a revised draft of the EA Initiation Guidelines and its instructions to developers on early engagement and collaborative project planning. This will be complemented by work on a joint engagement and consultation policy with the Land and Water Boards (LWBs). We will engage and provide opportunities to discuss approaches to collaborative project planning, including capacity support (such as the Northern Participant Funding Program), information needs, potential for Review Board involvement, general engagement best practices, and community-specific engagement guidance.

For many projects, filling the engagement gap will be the critical step toward initiating and successfully completing and achieving project approval. Detailed approaches to engagement must be mutually agreed upon, following community and Indigenous protocols wherever applicable. The Review Board is committed to working with developers to ensure that our expectations for early information to support collaboration are feasible, and to ensure we are aware of the implications for the technical and financial aspects of project development.

We expect that more collaborative engagement will build further buy-in and trust in the EIA process as people will be more involved and better informed earlier on. This will benefit developers by providing more clarity in scoping and lead to a more focused EIA process. It will benefit communities and Indigenous Government Organizations by providing the information they need to make their own decisions about how the project may affect their well-being.



Moving Forward

In pursuit of our vision of wise and balanced decisions that ensure the protection of the environment for present and future generations, the Review Board is continuously improving our EIA practices. We have been advancing the key themes outlined above in our efforts to:

- develop and run timely and effective EIA processes that enable meaningful participation, and
- support the effectiveness of the integrated resource management system in the Mackenzie Valley.

The approach to EIA envisioned in the modern land claim and self-government agreements in the Mackenzie Valley aligns with Indigenous worldviews and is a more meaningful and inclusive way to assess project and cumulative impacts. By continuing to improve our EIA practices, we hope to promote reconciliation, help facilitate consent, protect community well-being and the cultural environment, reconcile diverse and conflicting priorities for development, and prevent impacts while enabling people to benefit from development.

While we have been actively advancing some leading practices, including considering well-being and collaborative project planning, we've been less active on others, such as the consideration of climate change and addressing cumulative effects. We are currently targeting each of these areas for improvement. Continued effort in these areas will enable us to make better decisions regarding developments that are sustainable, reflective of different worldviews, and in the public interest. Adopting these practices also builds and maintains trust in the EIA system and resulting decisions, and demonstrates that those who will be affected have been heard and understood.

In each section of this paper, we have outlined our vision and the initial steps we intend to take to move forward.

Specifically, we aim to:

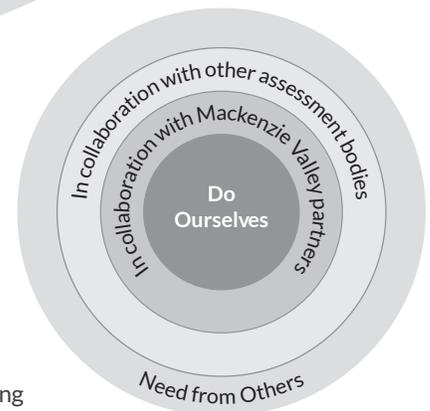
- take a more systematic approach to understand project effects on individual and community well-being by considering the interconnections between all parts of the human and biophysical environment;
- more consistently and systematically assess the climate resiliency and adaptability of project design and mitigations, as well as project greenhouse gas emissions;
- support RSEA in the Mackenzie Valley as a tool for understanding cumulative effects and informing project assessments and other processes in the integrated resource management system; and
- facilitate collaborative engagement between developers and communities to support project planning that incorporates all available knowledge sources to proactively minimize impacts and maximize benefits, leading to more clearly scoped assessments, better informed participants, and more efficient processes.





Moving from Talk to Action

- Need from others
- Well-being
- Climate change
- Addressing cumulative effects through RSEA
- Collaborative Project Planning





The Review Board is committed to innovating in ways that reflect the collaborative origins of the Mackenzie Valley resource management system—by engaging, consulting, and working together. As always, the focus of our collaborative efforts will be in the Mackenzie Valley, with other co-management boards, Indigenous government organizations, federal and territorial governments, industry, and other participants in the resource management system. There are also things outside of our control that we need from others to enable us to innovate and continuously improve – such as addressing the implementation gaps outlined in this paper.

We also participate in a pan-territorial forum with boards in Nunavut and Yukon and we recently established working relationships with the federal

Impact Assessment Agency and the British Columbia Environmental Assessment Office. Recent changes in southern assessment regimes mean there is more in common between the south and the north, with opportunities for mutual learning. We will continue to share and build on emerging best practices with impact assessment bodies and organizations involved in EIA outside of the Mackenzie Valley.

In our work to fulfill the vision of the land claim agreements and building on EIA best practices from other jurisdictions, we have accomplished a lot - but we are not perfect, and we will always have more work to do. The Review Board is just one piece of the resource management system. We invite and encourage everyone to join the discussion on how to move forward together.



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Mackenzie Valley
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