



CHARLES OR CHE?
CHOOSE YOUR CHAMPION!!

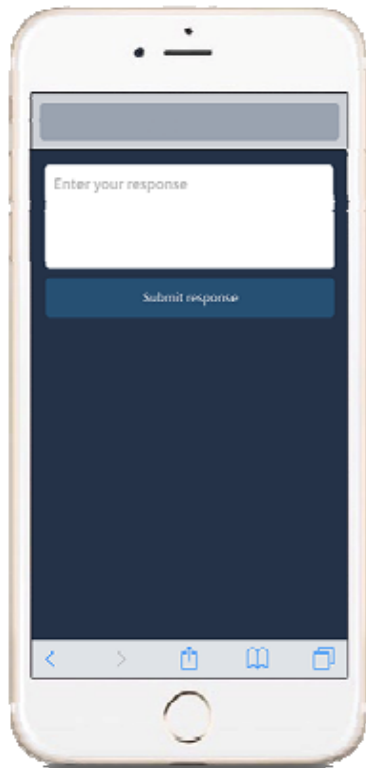
#IAIA19



SESSION CHAIRS - JACK KROHN, TANYA BURDETT, MEGAN JONES
CHARLES - RICHARD MORGAN, LEA DEN BROEDER
CHE - CLAIRE GRONOW, LUIS SANCHEZ

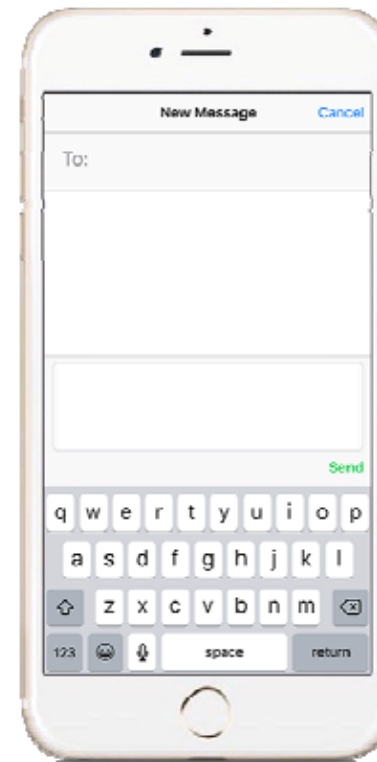
#IAIA19

How to join Polleverywhere – warm up Question – How are you feeling about the day ahead?



If you already
have the app on
your phone, go
to the poll (code
below) and type
in your response
OR
Go to
polleverywhere
webpage and
type in the code
to join....

PollEv.com/tanyaburdett826



Using your
phone, text
your answer
to:

IAIA19 Charles & Che Q1 - How are you feeling this morning about the day ahead?

 **Poll locked.** Responses not accepted.





Key points from Charles...

IA did not spring forth into the world as a new, complete process: what we now call IA was a late addition to NEPA, to make sure Fed agencies did actually consider the environmental policy on s101 of the Act. Subsequent experiences, and the responses of the government (esp through CEQ) shaped the process...it evolved, to reflect learning, to deal with game playing, to reduce information overload and costs, etc. e.g Scoping....so fundamental to IA...formally recognised in 1978. Once firmed up into a defined process, labelled, and sold around the world, academics and researchers got to work...again, learning, theorising, diagnosing, and we saw the ideas of IA evolve into “good practice principles” ...which themselves are re-visited and debated on the basis of experiences (some good, but all too often bad).

IA evolution has its own “tree of life” as the main stem started to separate to recognise variants, forms of IA that have evolved to address more specific challenges...SEA one of these; HIA, SIA, EclA, Cultural IA, etc.....but all should have the same theoretical “sap” coursing through their conceptual “veins” . And perhaps some variants have failed to succeed in their operating environment...that’s evolution!

The call for revolution as represented in the IAPA paper circulated to attendees is not about changing IA itself...the changes called for are actually about problems with practice (people ignoring or ignorant of current thinking, and/or locked into old models petrified in out of date procedures) or with institutional factors. Yes, end the bureaucratic focus, yes make IA central to development decision-making, and yes, develop better capacity building and training so practitioners actually do the job in the way our contemporary IA models say it should be done. But these are not about revolutionary change of IA, they are about making IA nimble again...flexible and responsive to its setting, able to show its full features.

The problems of IA are not issues that need to be addressed by revolution: they need to be addressed by finding ways to implement solutions we already have....that is a challenge, but not one that needs revolution. Evolution can still support significant and rapid change: the key is to ensure we don’t destroy what is still in many cases a valuable process, in order to replace it after much disruption with pretty much the same thing.



I THINK

I AM A REVOLUTIONIST

Key points from Che...

IA in NEPA Act – v. aspirational, aimed to transform way governments thought about enviro & social in decision-making (d-m). Included communication, consultation, concerted effort to find best alternative, focus on d-m/accountability for decisions, science used to inform decisions, rationalism embraced.

But as EIA evolved, didn't support integrated/transparent d-m envisaged by NEPA architects. Rather 2 camps established – NGOs who saw this as an opportunity to stop harmful developments and

Proponents, saw it as threat to business objectives and governments who wanted to continue to support development.

Plus predicting impacts not easy, esp. ecological & social systems (high levels of complexity, uncertainty, significance, acceptability – science is of very little help in resolving value-laden questions)

IA legislation moved to specifying processes to follow. Regulators recast in enforcement role. IA procedure dominated by rational decision-making and positivist science, focussed on the approval/refusal (statutory) decision, not myriad of design decisions made along the way, thus procedure has no discernible effect. Instead, it is efforts/attitudes of proponent team that really make a difference

IA procedure problems remain – based on technical-rational d-m model that is unrealistic due to information it demands and cognitive abilities/biases of those involved – it allows rationalisation not rationalism; Proponents not held accountable – all they need to do is state alternative is not cost effective and then need not consider it any further

IA procedure no relation to proponent d-m, rather, it distracts from their finding lowest impact alternative

IA procedure idealises objective, evidence based decision-making and sets western positivist paradigm as the ideal –

Challenge falls to community/NGOs, but not resourced to challenge, can be viewed as 'NIMBYs', trend to default to court.

No proper place to discuss significance/acceptability of impacts – esp. where may be range of views (uncertainty/values)



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What are your top 3-4

questions for Charles & Che
to respond to...



10 Questions for Charles & Che:

1. Does “revolution” now mean that impact assessment as it has evolved over the past fifty years has been a big mistake?
2. Is there a limit to how fast or profound evolutionary change could be?
3. Is evolution or revolution a distraction – do we need to concentrate just on what we need to change?
4. If the failure of impact assessment to influence decision-making is accepted, how can we progress towards that goal without revolutionary change?
5. What if different stakeholder groups have opposing ideas about the type of change that is needed?
6. Should governments – regulators – lead change or should they make changes to impact assessment systems in response to stakeholder representations?
7. Is it the impact assessment system we need to change, or the way we communicate impact assessment findings to decision-makers?
8. When impact assessment has developed in different ways across hundreds of jurisdictions around the world, can there be any single approach now that will be right for everyone?
9. Do people outside the IA profession even care about how impact assessment works?
10. Where should the balance sit between the uncertainty / flexibility associated with discretion and the certainty/ inflexibility associated with prescription?

IAIA19 Charles & Che Q2 - After your table discussion, for top 3-4 questions for Charles & Che to respond to (via a table, or if you prefer, individually)

Visual settings

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When poll is active, respond at Pollev.com/tanyaburdett825

2. Is there a limit to how fast or profound evolutionary change could be?

3. Is evolution or revolution a distraction – do we need to concentrate just on what we need to change?

6. Should governments – regulators – lead change or should they make changes to impact assessment systems in response to stakeholder representations?

5. What if different stakeholder groups have opposing ideas about the type of change that is needed?

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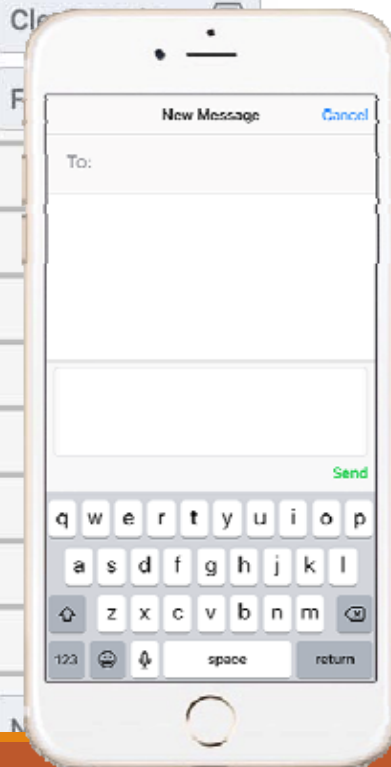
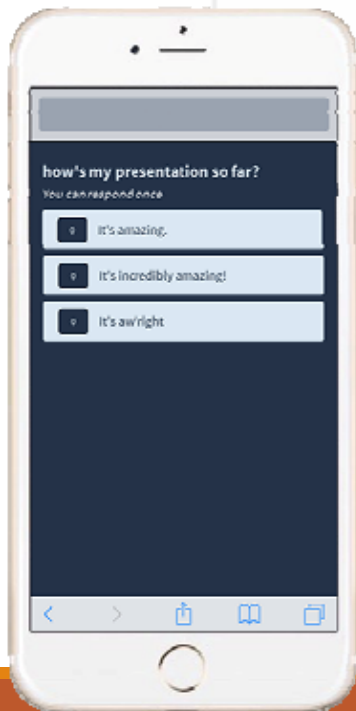
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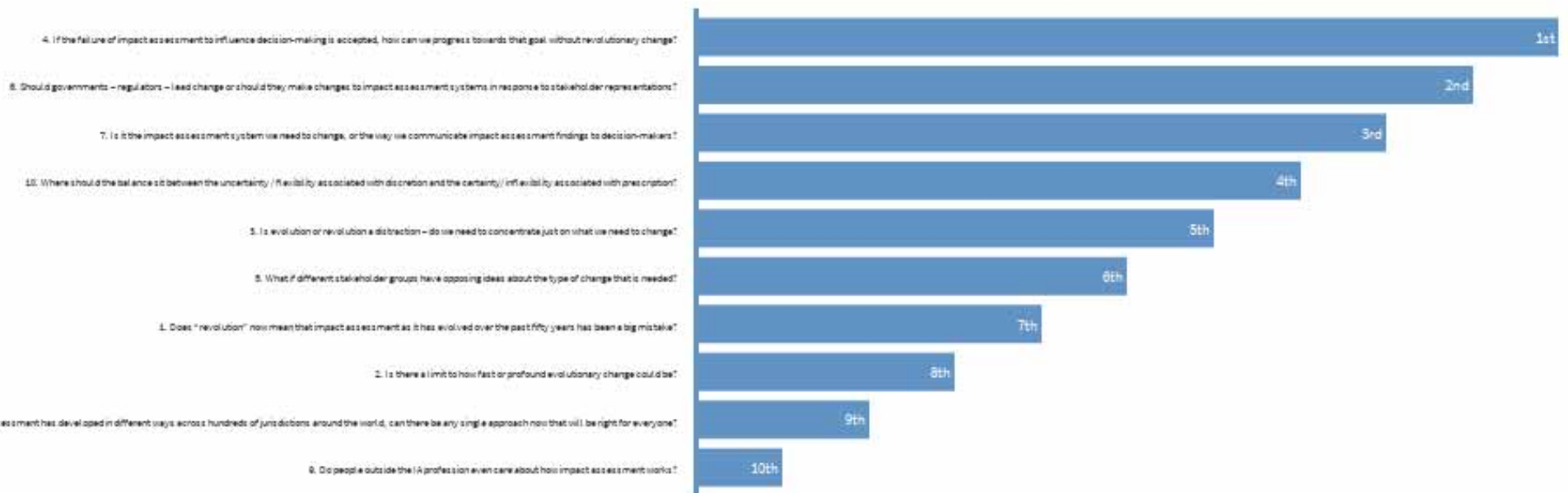
9. Do people outside the IA profession even care about how impact assessment works?

8. When impact assessment has developed in different ways across hundreds of jurisdictions around the world, can there be any single approach now that will be right for everyone?




IAIA19 Charles & Che Q2 - After your table discussion, vote for top 3-4 questions for Charles & Che to respond to (vote as a table)

 **Poll locked.** Responses not accepted.



Ten questions as voted on, in order of preference by participants:

4. If the failure of impact assessment to influence decision-making is accepted, how can we progress towards that goal without revolutionary change?
 6. Should governments – regulators – lead change or should they make changes to impact assessment systems in response to stakeholder representations?
 7. Is it the impact assessment system we need to change, or the way we communicate impact assessment findings to decision-makers?
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- 



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NOW REALLY CHOOSE YOUR CHAMPION!!

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What are your top

propositions and priorities
for action (again, for Charles
& Che to respond to...)






Priority actions – Charles (no.of votes)

1. Start EIA earlier – strategic planning phase (2-3)
2. Improve quality of EIA teams EIA more integrated and strategic focus on issues (5)
3. Integrated results for all issues (1)
4. Follow up to manage uncertainty (4)
5. Fundamental shift to best possible outcomes – not just no significant impact; need to demonstrate early engagement (5)
6. More rigour in decision-making – decisions because of, not in spite of or in isolation from (4)
7. Improve digestibility of technical outcomes for community (4)
8. Better benchmarking – use international experiences (3)
9. Base level information to inform assessment (1)
10. Improve link between IA and implementation / management. Live process → not a report
11. Help stakeholders to engage with process. Demystify! (1)
12. Move collaboration between approvals and compliance teams
13. Strengthen existing processes
14. Proponent pays for compliance reviews by regulator (1)

Priority actions – Charles (no.of votes)

15. Accreditation of people assessing IA
 16. Independence of IA practitioners
 17. IA started early to influence design (when appropriate) – evidence-based design for decision-makers (2)
 18. Communication of results to decision makers and stakeholders
 19. Broader focus in EIA – social issues; sustainability goals, cumulative impacts
 20. Enhance scoping procedure for more meaningful public engagement (3)
 21. Learn from other jurisdictions IA
 22. Move IA to an ongoing expectation as factors change
 23. Enhance the influence of IA on decision-making (1)
 24. Research components in approval conditions
 25. Use impact assessments as an adaptive management tool (2)
 26. Accreditation of people preparing IA
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Priority actions – Charles' response to top points

4. Influencing decision-makers is not addressed by changing IA: it is addressed, at least in the first instance, by looking closely at why those decision-makers are not using IA information. Then develop strategies to address those issues: perhaps better ways to present IA information, perhaps better ways to relate values/significance/trade off issues, perhaps educating decision-makers about the importance of IA and the costs/risks of not using IA information if their decision leads to social/cultural/environmental damage...

6. Change in IA: where the initiative for change comes from will depend on the nature of the issues and who identifies them. In some cases, govt/regulators may see specific problems that can be addressed by changes in regulations, etc. In other cases, environmental practitioners may see shortcomings in practice and get together to develop agreed guidelines.....etc.

7. Communicating findings to decision-makers may be one problem. And especially issues around uncertainty and the need to treat findings with healthy caution (though not fear!). Helping decision-makers manage uncertainty (e.g. adaptive management approaches, etc.) may need to be strengthened in IA recommendations.

10. Prescription should focus on the shape of the process, the standards expected, but not on detailing specific approaches, techniques, etc. That would then allow flexibility for IA processes to adapt to changing demands in the operating environment.




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Priority actions – Che (no.of votes)

1. Outcomes-based (7) and shift the focus to proper implementation of ESMPs – outcomes based management (1)
2. Land and environment court decision-making model (4), decision-making can be challenged on merit (independent panels, tribunals?) (6), independent panel of technical experts (2)
3. Redesign IA as a deliberative and inclusive process (5)
4. IA needs to be re-imagined from the bottom up to first define the local context for what is IA and build a system that respects that local context and not built on IA models from other jurisdictions e.g.USA and UK (4)
5. Separate proponent from consultant (but not funding) (3)
6. More strategic – global (3)
7. Support new environmental law – locally / globally; models / initiatives (2)
8. IAIA engage business association and insurance companies to elicit understanding of how to improve business profitability + risk management – don't assume with govt can settle, go directly to business) (2)
9. All SEIA be aligned with SDGs (we will then learn how to operationalise SDGs) (1)
10. Proponents to offer true alternatives (1)
11. Mandatory SIA (1)

Priority actions – Che (no.of votes)

12. Capture legitimacy
 13. Independence of process!
 14. Adaptive management (1)
 15. Remove TOR (government), replace with outcome-based objective
 16. Value-based consensus for decision-making (1)
 17. EIA need to learn from SEA practice how to operationalise the SDGs (1)
 18. Move away from EIA and do statutory sustainability assessments
 19. Changing mindset of IA practitioners (2)
 20. Ask: what is sustainable? Let this shape development
 21. Unpack the vested interests
- 

Priority actions – Che's response to top points

Revolution needed to:

- return to original purposes of IA –clarify/agree on those –don't leap into process before deciding theoretical basis of what we want
- agree some kind of action-forcing mechanism
- design a new process needs to:
 - reflect way proponents make decisions,
 - hold them accountable,
 - skill up 'opposition' to better review/challenge,
 - shift underlying assumption that all development is good,
 - include mechanism for evaluation of value-based issues, agreeing on significance ratings, and determining acceptability of impacts
- Have more deliberative and contemplative processes, with provision for debate and conciliation, allow all voices be heard, including future generations
- Ensure appeal process based on challenging the substantive rather than the procedural merit of decisions.



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'Che'

SUPPORT
NEW ENVIRONMENTAL
LAW —
LOCALITY / GLOBAL
MODELS & INITIATIVES

ADAPTIVE
MANAGEMENT

PROponents TO
OFFER TRUE
ALTERNATIVES

MORE STRATEGIC
— GLOBAL

INDEPENDENT
TECHNICAL
EXPERTS

INDEPENDENT
TECHNICAL
EXPERTS

LAND AND ENVIRONMENT
COURT DECISIONS
MAKING MODEL



Decision Making
can be CHALLENGED
ON APPEAL
(Independent panel,
tribunals?)

Outcomes-
based

What are your top
propositions and priorities
for action (again, for Charles
& Che to respond to...)

CAPTURE
LEGITIMACY

INDEPENDENCE
of
PROCESS!

IA needs to be re-imagined
from the bottom up to first
define the local context for what
IA is. IA is build a system that
protecs that local context and
not built on IA models from
other jurisdictions or USA.

UNRAVE THE
VEDDED
INTERESTS

ASK WHAT IS
SUSTAINABLE?
LET THIS SHAPE
DEVELOPMENT

SEPARATE PROponent
FROM CONSULTANT
(BUT NOT FUNDING)

ADAPTIVE
MANAGEMENT

Move away from EIA +
do statutory sustainability
assessments

MANDATORY
SIA

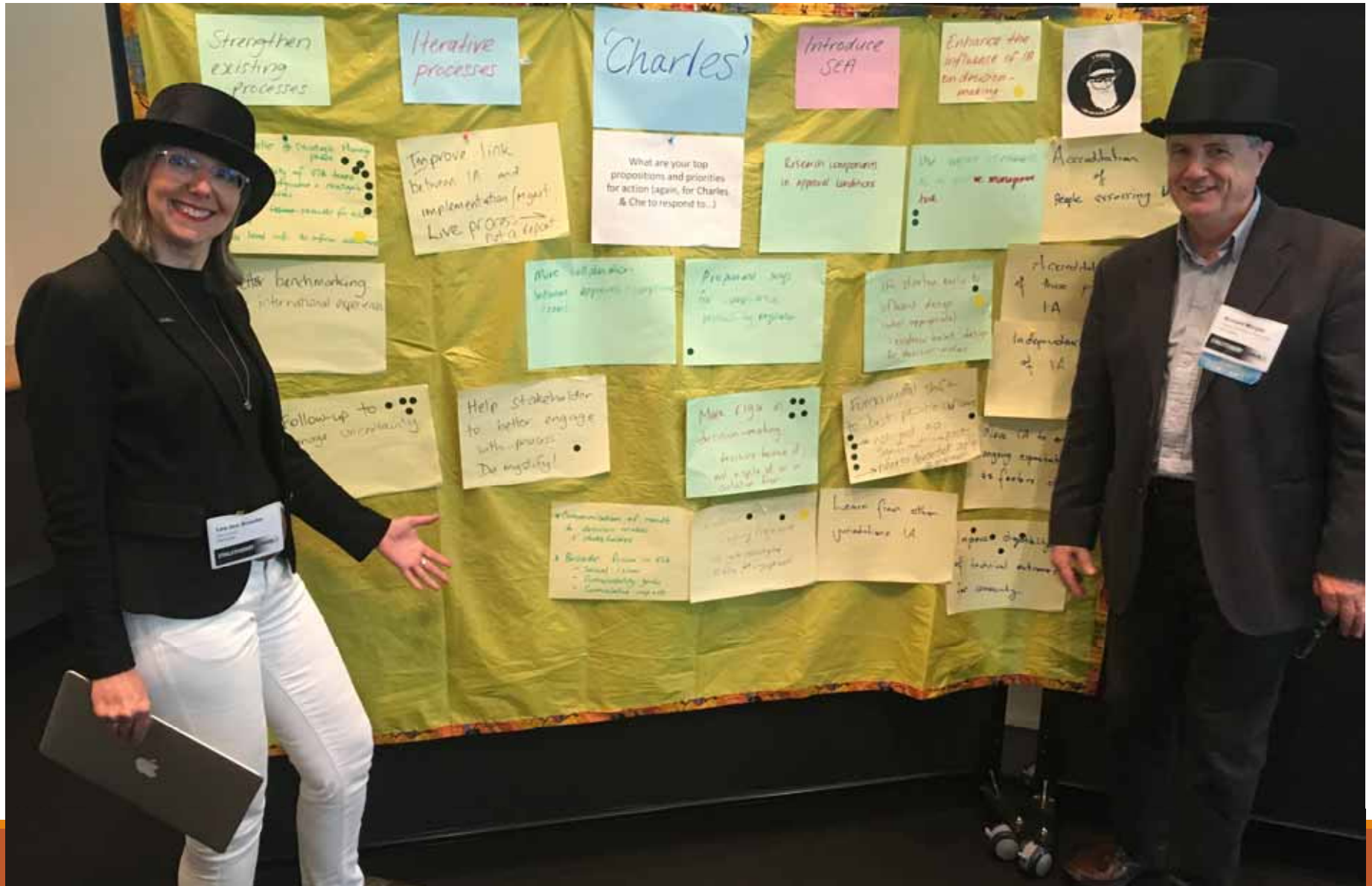
Changing
mindset of
professionals

REMOVE TOR (OUP)
REPLACE WITH
OUTCOME BASED
OBJECTIVE

EIA was a...
...the practice
...the...
...2013

Redesign
IA as a collaborative
& inclusive process







Strengthen existing processes

Iterative processes

'Charles'

Introduce SEA

Enhance the influence of IA on decision-making



- Start earlier to Strategic Planning phase
- Improve quality of EIA teams
- EIA more integrated & strategic focus on issues
- Integrated issues-records for all issues
- Base level info. to inform assessment

Improve link between IA and implementation/mgmt. Live process not a report

What are your top propositions and priorities for action (again, for Charles & Che to respond to...)

Research components in approval conditions

Use impact assessments as a decision management tool.

Accreditation of people assessing

Better benchmarking Use international experiences

More collaboration between approval & compliance teams.

Proposed pay for compliance review by regulator

IA started early to influence design (when appropriate) evidence-based design for decision-makers

Accreditation of those preparing IA

Independence of IA practitioners

Follow-up to manage uncertainty

Help stakeholder to better engage with process. De-mystify!

More rigor in decision-making - decisive because of not a spile of or in isolation from

Fundamental shift to best possible outcome - not just no significant impact - need to demonstrate duty of care

Move IA to an ongoing expectation as factors change

- Communication of results to decision maker & stakeholders
- Broader focus in EIA
 - Social issues
 - Sustainability goals
 - Cumulative impacts

Enhance Scoping process for more meaningful Public Engagement

Learn from other jurisdictions IA

Improve digitality of technical outputs for community

