



WEST COAST
Environmental Law

Safeguarding Biodiversity and Meeting International Obligations through IA

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Overview

Context and background

Project overview

Key challenges

Key findings

Conclusions for how strategic assessment can help deliver the SDGs relevant to biodiversity

Biodiversity context

In Canada, 1974-2014:

- Mammal populations ↓ 43%
- Reptiles & amphibians ↓ 34%
- Fish ↓ 20%
- Grassland birds ↓ 69%
- Aerial insectivores ↓ 51%
- Shorebirds ↓ 43%



Wetland, prairie grassland & old-growth forest habitats continue to decline

International context

CBD, Ramsar, Unesco World Heritage Sites, US-Canada migratory birds treaty, etc.

Kunming-Montreal Global Biodiversity Framework (December 2022)

Sustainable Development Goals



Canadian legal and policy context

Impact Assessment Act (2019) requires consideration of :

- The extent to which the project hinders or contributes to Canada's ability to meet its environmental obligations and its climate commitments
- Sustainability
- Environmental, social, economic and health effects
- Gender-based analysis-plus

Previous federal legislation:

- Biodiversity not factor to consider
- Only assessed eight times since 1995

Provincial EA legislation inconsistent and often weak

The project

Literature review on the global and national treatment of biodiversity in EIA

Reviewed available EA reports from under past federal EA law

Reviewed provincial EA law

Identified relevant international biodiversity-related obligations

Reviewed and amalgamated global good practice in biodiversity in EIA (e.g., multilateral development banks, CBD guidance, Akwé: Kon Voluntary Guidelines)

Gaps and challenges in assessing biodiversity in EIA

Gaps

- Provincial EA regimes inconsistent and often weak
- Fragmented federal law & policy regime
- Infrequent use of review panels
- Lack of standard definition of biodiversity
- Lack of standard methodology & guidance
- Lack of baseline data
- Lack of substantive objectives or criteria

Challenges

- Cumulative effects assessment
- Biodiversity is complex & lacks simple measurement or proxies
- Intersectional nature of BD (e.g., climate, sustainability, GBA+, Indigenous rights)
- Rigid, short legislated timelines
- General reluctance re meaningful alternatives assessment
- Tendency to fast-track to offsets
- Implementing UNDRIP & FPIC

Key recommendations – project IA

- Adopt the CBD definition of biodiversity
- Use working groups throughout (dialogue-based approaches)
- Be objectives-oriented, w/ international, national and regional targets
- Rigorously apply the mitigation hierarchy (early and ongoing, with offsetting as the last resort)
- Net gain as default objective (w/ no net loss only when prescribed)
- Establish ecologically-relevant spatial and temporal boundaries
- Incorporate biodiversity into sustainability, GBA+, Indigenous rights, health & cultural impact assessment

Tiering biodiversity in regional and strategic IA

- Prioritize cumulative effects assessment and management at the regional scale
- Fill in information gaps re biodiversity values, baselines and limits
- Be objectives-oriented (e.g., sustainability, reconciliation, meeting biodiversity-related obligations)
- Develop rights-based approaches to regional governance and biodiversity protection
- Tier with project IA & regulatory decisions





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Thank you!

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