

Environmental Impact Assessment in New Brunswick - The Need for Reform

A Position Paper by the Conservation Council of New Brunswick

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A Brief History

The Conservation Council has been promoting environmental impact assessment as an essential planning tool in New Brunswick since 1975. In a brief to the province's first Minister of Environment we recommended an environment impact assessment policy be instituted that would allow adequate time for study and public discussion to ensure the environment is properly protected. In 1977, an Environmental Impact Assessment Policy was adopted.

By 1985 it was clear that the voluntary approach to environmental assessment was not working, nor was the process that had been adopted. We recommended that the environmental impact assessment process become a regulatory requirement, and that it include the following provisions: transparency, meaningful public participation at the earliest stages, and public hearings conducted by an independent review board.

The Environmental Impact Assessment Regulation to the Clean Environment Act was adopted in 1987, but it did not provide for the transparency, public participation or independent review the Conservation Council had recommended.

In 1990, after three years of experience with the new regulation the Conservation Council called for major changes to provide for a more meaningful role for the public and for an expanded list of activities to which the regulation applied.

In 1990, the Department of Environment began a three-year internal review of environmental impact assessment. By the end of 1993 the Department released its position paper, entitled "Environmental Impact Assessment Reform - Directions for Change."¹ This made 21 proposals which were intended to guide what was then described as "a comprehensive revision of New Brunswick's Environmental Impact Assessment Regulation," to respond to the public demand for earlier and better opportunities to provide input into the environmental impact process. Public consultations were held in 1997 and plans were in the works to amend the regulation.

In 2002, the Department of Environment and Local Government once again undertook an internal review of the Environmental Impact Assessment Process. A consultant was hired to review the work of previous consultants and the Department's own experiences with the process.

¹ Environmental Impact Assessment Reform - Directions for Change - A Position Paper, Environment New Brunswick, December 1993.

What is Environmental Impact Assessment and what is It Not?

Much of the recent scholarly literature on Environmental Impact Assessment recognizes that EIA is not a “science” but ultimately is a political process which uses science.² Environmental Impact Assessment attempts to balance social objectives such as protecting environmental quality with political objectives for such things as local job creation and private objectives for financial gain. It therefore at best becomes a process of negotiation between public interests, political interests and private interests, or at worst, a process of conflict. All too often, it has become a process of conflict.

EIA is not a process to determine the acceptability of a development to the local community. This is best addressed through land use planning and land use plans.

What Needs to Be Fixed?

1. Transparency: There needs to be convenient and timely public notice of project registration and access to the project registration package. When a Minister decides to exempt a project from a full public EIA, the reasons for this decision must be made public.

2. Public Involvement: The public must be encouraged to participate at the earliest possible stage of the EIA process to identify all significant issues for analysis before a project is reviewed. The time period for the Minister to determine whether or not to require a full public EIA should be extended from 30 days to 60 days to provide a public comment period. In the event that the Minister exempts a project from a full public EIA, the public must have an opportunity to appeal the decision.

When projects are not exempted from full public EIAs, they should be reviewed by a independent review board which would receive the environmental impact assessment report as evidence and hear evidence and argument from intervenors before rendering a public recommendation to the Minister of Environment and Local Government. This would function much as the Public Utilities Board does in matters of economic impact assessment. Consideration for participant funding should be made for public intervenors.

The current arrangement of a simple public meeting with the proponent and their consultant sitting as panel members with representatives of the government is unproductive and confrontational.

3. Application: A range of activities and policies are currently exempted from environmental impact assessment. Forest management plans for Crown lands, aerial spray programs, and significant land use changes, for example, should be subjected to EIA. Major new policy initiatives concerning such sectors as transportation, energy, forestry, aquaculture, agriculture, and mining should also be subjected to EIA.

² Johnson, A. Public : in Environmental Impact Assessment: A Review of Case Studies . . . Centre for Impact Assessment Research and Training, University of Otago, Dunedin, New Zealand.