

Issues to be Addressed in the Project Assessment Process (transcript from online form)

- departmental bias and/or corruption (including project assessment by former industry representatives within the DPE)
- mercenary science presented by EIS consultants in order to secure an approval for their client (the proponent)
- the fundamental problem of the proponent funding these consultants directly in the production of the Environmental Impact Statement
- Environmental Impact Statements being presented as 'Environmental Assessments' to give the impression of an environmental bent, where as the principle motive for the publication is in fact industrial and/or pecuniary.
- the DPE ignoring or dismissing public submissions, even when the public voice is well-informed and overwhelming
- the DPE's uncritical acceptance of material presented in the EIS over and above the public voice (including expert submissions). This is evident in recommendations to the PAC, where public concerns are listed in a simplistic and reduced form, then quashed with regurgitation from the proponent's own publications. This is backwards. The role of the DPE is to serve the public interest and scrutinise developers on behalf of the public, not the other way around.
- the PAC's failure to act as a genuinely independent assessment authority (relying heavily or entirely on recommendations by the DPE, with whom the PAC agrees almost invariably at the expense of the public will and stated best interests)

Initiative 1

That the EIS address 'important issues' is essential, however it should not be up to the proponent to set or even interpret the agenda. Even if the scope of the EIS is prescribed by the DPE, the proponent will find a way to sidestep the core of any given matter. For example, to assign an ill-defined 'consequence category' to catastrophic failure scenarios, such as the breaching of waste or chemical containment facilities. The proponent will then claim to have 'addressed' the issue, without ever having given a true or detailed analysis of those consequences in real environmental, human health or economical terms.

The solution is to keep the entire EIS publication at arm's length from the proponent. The proponent should submit their plans, schematics, diagrams, etc. directly to the Environmental Protection Agency. The EPA should then produce the Environmental Impact Statement based on those plans. If the EPA lacks the resources to produce this document, they would contract existing EPI consultants and task them with identifying all known and potential environmental impacts (and their human and economical consequences) in the short and long term. This re-aligns Environmental Consultants with their namesake and frees them from the mercantile bias they invariably give to their client (the proponent) under the present arrangement. All expenditures made by the EPA in the course of producing the EIS, including the fees of consultants, would be passed on to the proponent.

The current system of having the proponent identify their own project's negative impacts in the course of their application for approval is absurd. The Department is simply asking to be misled, for the interpretation of scientific data to be skewed by consultants, and for the focus of the EIS to be dissipated anywhere but toward the issues of consequence.

These issues are:

- environmental impact (to water, soil, flora and fauna), aesthetic impacts (visual, noise, smell)

- human health impacts (including long-term impacts - such as the bio- accumulation of carcinogens in the bloodstream of nearby populations, and psychological stressors such as living downstream of a tailings storage facility)

- economic impacts (the proponent would of course present their 'community benefits and economical gain' claims in their initial submission to the EPA, however it would be up to the EPA or a consultant hired by the EPA to identify known and potential negative economic impacts of any given project - for example, loss of tourism due to aesthetic degradation, lowering of housing and property value due to foreseeable pollution scenarios, losses to agriculture due to the loss or reputation of essential freshwater systems or actual contamination of those systems)

- all of the above should be investigated in both normal functioning and catastrophic scenarios

Initiative 2a

As I have suggested, the proponent should be required to submit their plans to the EPA, who should then determine the potential impacts themselves or with the help of consultants, and produce the EIS.

The original plans as submitted to the EPA should be public information, published online (EPA or DPE websites), to prime the public and initiate engagement early. It may be desirable to have a stage before this, where the proponent floats the idea to the public before plans are complete, and receives feedback on the idea in general terms.

The Environmental Impact Statement, when complete should be exhibited to the public for comment as per usual. The proponent may also submit their comments, and their submission may be categorised under 'special interest groups'. The proponent should be required to disclose their pecuniary interest in providing their input to the assessment process, and with that interest borne in mind, their opinion should be taken into account with all other group submissions. No special weight should be given to the proponent's opinion on the EIS.

When the submission period closes, the EIS is assessed by the DPE. Those individuals responsible for assessment should be thoroughly screened before their appointment - i.e. must not have any discernible conflict of interest or ideology such as having formerly worked or managed in the industry in which the project may be categorised. Anyone can attain academic knowledge of a project without having worked in or managed a similar project; it is not necessary that an assessor be a former representative of that industry.

2b

As mentioned, allowing the proponent to identify key issues is problematic. This should be left to the EPA (I have suggested what those key issues should be in a previous section). However I agree that the public should be able to comment as early as possible - for example, on a general floating of the idea, and then again when the EIS is exhibited.

If the determination is left to the PAC, then as per usual presentations should be given and all previous submissions taken into proper account. The PAC above all must be composed of individuals with a history of service to the public (not simply 'public service') and environmental

awareness, be educated in sustainability and have no discernible partiality to the proponent or the relevant industry.

The proponent should be permitted to make their presentation in the same allotted time as any other 'special interest group', and no private meetings with the PAC or DPE should be allowed during the assessment phase. At no stage must the public be excluded, and at no stage must a disproportionate weight be given to information or comment presented by the proponent. Their position should be 'noted', and the next speaker heard.

3

A consolidated description, or summary, would be a natural place for the EIS to begin. However as I am arguing for EPA to prepare the Impact Statement, the summary would be more concerned with potential impacts themselves. Measures that are proposed or would be enforced to address those impacts can be explained in the body of the Statement, and a judgement on their adequacy should be given by the EPA. They are well practised at this.

4

At a minimum, the Department should specify the required outcome of any environmental control. However it may be necessary to specify the method by which the proponent may or may not achieve that end.

For example, a mining company may be required to achieve less than 50 parts per million (or similar) of suspended particulate matter in a sediment basin - however they may not use an potentially toxic flocculating agent in order to meet this criterion.

5

I would consider a code of conduct, peer reviews, guidelines and training as a bare minimum to support any public confidence whatever in the environmental impact assessment process. If these are not already in place, the situation is urgent indeed.

The above is necessary but not sufficient to achieve public confidence. Written protocols are only as good as the individuals who follow them, or otherwise. State planning is a public service fraught with competing interests, and the integrity and philosophy of individual staff, who wield the power of approval or rejection, is paramount.

The single greatest earner of public confidence is a genuine and demonstrated will to serve the people over any personal agenda. Over the interests of any one proponent or industry, and over the interests of short-term revenue for the state government. To serve the people with conviction, and not to wield the rubber stamp of status quo (which is currently to approve almost any project that promises to pay royalties for a little while, touts the short-term employment for a few, or references an ever-vague notion of 'community benefits' - all with the overriding interest of short-term profit for a few, at any environmental, human health or economical cost down the line).

In order to gain the confidence of any thinking person, the Department must shake its present myopia, acquire a multi-generational perspective and inherit the principle of sustainability from countries more environmentally and socially advanced than our own. Above all, the Department has to embrace a service ethic and carry - via the outspoken conscience of every servant - the pursuit of the higher public good for generations beyond our own.

Projects are and should be assessed on a case-by-case basis. Some will take longer than others. The Department should be under no obligation to the proponent to grant approval ('project delivery') by a certain time. As always, the public's best interest (which includes environmental safeguards) is the sovereign concern - not the proponent's schedule. Assuming that servants within the Department are working diligently - then the assessment will take as long as it takes in order to thoroughly assess the material and arrive at the determination that best serves the public. The timeframe assessment, even if it takes an entire year, may be little next to the longevity of the effects of the project in question.

I also object to the use of the phrase, 'to provide certainty for project delivery', as this wording can be interpreted to mean that the proponent is entitled to assurance not only of assessment timeframes, but of a favourable determination.

A system to report compliance with the conditions of approval does need to be applied consistently to all projects, but that provision in itself cannot be taken to be deserving of public confidence.

Public confidence will arise from that system actually working to deter non-compliance. That means the reporting must be carried out by genuinely independent parties - environmental consultants contracted by the Department and externally funded by the proponent, compliance officers within the DPE or the EPA. No aspect of compliance monitoring or reporting should be left to the proponent. To do so is akin to asking a toddler to play in private with the family's silverware, fine china and crystal ware, then report on their behaviour and the state of their inheritance periodically through the intercom. The proponent should, as part of their approval (if granted) be required to allow full access - without notice - to any monitoring-reporting team appointed by the Department and/or the EPA.

This initiative lacks definition. Improve the modification process from whose perspective, and to communicate these changes to whom?

If the purpose here is to 'streamline' the modification process, then I am indifferent. But if the purpose is to improve the rigour of modification assessment, and raise the departmental standards for modification, then I strongly agree.

The present agenda of some proponents is 'project creep', i.e. to submit a project (say a gold mine near Majors Creek) in a relatively small or innocuous-seeming form, then to expand it incrementally by modification until all of the original limitations, conditions and commitments have been eroded away. The modification assessment process and its personnel need to be conscious of this tactic, and defend against it.

Approvals at the Federal level (Department of Environment) may contain the clause: 'The Minister will not approve a modification to the approved project unless the modification will result in equal or improved environmental outcomes over time,' (paraphrase). Whether the Minister or his delegates actually honour this clause is a matter for debate, however the principle is sound and essential. This should be a touchstone for all modifications considered by the DPE.

Additional Comments

-separate the EIS entirely from the proponent; give the responsibility of EIS production to the Environmental Protection Agency

-post-approval; that all compliance monitoring and reporting be removed from the proponent and their contractors, and given to the EPA and/or the DPE, and consultants appointed by these agencies and externally funded by the proponent

-during the assessment by the DPE, give proper weight to public submissions and presentations, and remove the presently disproportionate weighting (of credibility and influence) from the proponent

-guiding principles for environmental assessment:

SERVICE (to the public at large)

SUSTAINABILITY (environmental and economic, for the long term)

SCRUTINY (critical appraisal of projects submitted for assessment, informed by all the scientific and human faculties, on behalf of the public and basing any determination on the public's stated will and best interests)

- community consultation: the EIS must not merely reference 'community consultation' but disclose its methods, extent and outcome, i.e. has it resulted in any overarching consent or social license for the project to proceed; are the environmental risks and known impacts actually acceptable to the community (as opposed to the risks being labelled 'acceptable' by the proponent, whose motives are pecuniary and whose representatives live elsewhere?)

- the DPE and PAC servants responsible for assessing a project should be thoroughly screened for any conflict of interest, eg past or present industry ties, employment, or personal connections- it is currently the norm for these servants to have held managerial roles in the mining industry, which represents a conflict of interest or at best a bias in thinking

Thank you for considering the above,

Tom Wells