



Regional Assessment of Offshore Wind Development (NS)

Presentation to the Committee
(Meeting with ECEL & EAC)
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Land Acknowledgement

- ▶ I acknowledge that the place where I am today, Unama'ki, is within the traditional and unceded territories of the Mi'kmaq.
- ▶ All of these territories are covered by treaties of peace and friendship that were entered into with the British, beginning in the early eighteenth century.

About Us

- ▶ East Coast Environmental Law envisions a future in which laws and legal systems protect ecological health and promote environmental and climate justice in Atlantic Canada.
- ▶ We take a dynamic approach to environmental advocacy in Atlantic Canada. By engaging with diverse individuals, groups, and communities in our region, we work to ensure that environmental laws and policies throughout Atlantic Canada are founded on responsible, transparent, proactive, and inclusive decision-making.

Content

- ▶ Lessons learned from NL RA
- ▶ Introduction to cumulative effects assessment
- ▶ Jurisdictional Review – Summary
- ▶ Public Participation Plan feedback

Lessons Learned

- ▶ **Regional Assessment of Offshore Exploratory Oil and Gas Drilling East of Newfoundland and Labrador**
 1. Lack of adequate assessment of risks (from oil and gas)
 2. The cumulative effects assessment was incomplete (and the related GIS decision-support tool fell far short of expectations)
 3. Process issues, particularly a lack of meaningful public engagement and few opportunities for learning-based and collaborative dialogue
 4. No exemptions for protected areas
 5. An assessment of impacts on Canada's climate commitments was narrow
 6. No assessment of international obligations

Cumulative Effects Assessment (1)

- ▶ Cumulative effects assessment under the *Impact Assessment Act* is inherently connected to Regional Assessments.
 - ▶ Project-specific assessments have typically failed to do CEA
 - ▶ Our understanding that the forthcoming Policy Framework on Regional Assessments will emphasize cumulative effects assessment as a key reason for regional assessments

Cumulative Effects Assessment (2)

- ▶ **What are cumulative effects?**

The synergetic, compensatory, and additive effects, across spatial and temporal boundaries, of relevant past, present, and reasonably foreseeable future anthropogenic activities and natural processes.

- ▶ **What is the objective of the cumulative effects assessment?**

The Regional Assessment will need to feature cumulative effects assessments and propose frameworks through which the long-term sustainability of offshore wind developments can be assessed.

- ▶ **What should be included in a CEA?**

- ▶ Analysis of the extent and severity of impacts
- ▶ Exploration of alternatives, scenarios (including no-development scenario)
- ▶ Future-focused context, direction, and strategic vision for region (e.g., benchmarks & guidance for project-level IA; tiered assessment)

Cumulative Effects Assessment (3)

- ▶ In its final report, the NFLD RA Committee noted that it faced “key challenges” when attempting to comprehensively evaluate cumulative effects, including the “uncertainty around the nature, intensity and spatial and temporal distribution of future activities and their effects”.

Source: Garth Bangay, Wes Foote, Gerald Anderson, Maureen Rustad & Keith Storey, “Regional Assessment of Offshore Oil and Gas Exploratory Drilling East of Newfoundland and Labrador: Final Report” (February 2020) at page 121.

- ▶ The Committee recommended that “a more proactive and holistic approach through associated policy and planning decisions by the federal and provincial governments” be adopted. It also concluded that a planning approach, rather than predictive modeling, was the best avenue to address cumulative effects, and it deferred to future land tenure processes as the “optimal point” at which cumulative effects would be addressed.

Source: *Ibid* at page 150.

- ▶ The Committee included specific recommendations with respect to ongoing treatment of cumulative effects in its Final Report:

“It is recommended that government assume responsibility for offshore-related cumulative effects assessment and management through a planning process directed by a dedicated agency. The DFO Marine Spatial Planning initiative might be considered as an appropriate vehicle through which to do this.”

Source: *Ibid* (Recommendation 39) at page 194.

Comparative Jurisdictional Research Report (1)

- ▶ ECEL conducted a comparative analysis (of Germany, the UK, and the USA) and produced a report that aims to support public-interest environmental advocacy by exploring how offshore wind developments are assessed and regulated in the comparator jurisdictions and by identifying potential best practices that could be considered for the Canadian context.
- ▶ The report is aimed at contextualizing the development of offshore wind within the legislative developments occurring in Canada, including proposed offshore renewable energy regulations under the *Canadian Energy Regulator Act* and amendments to the “Accord Acts”.
- ▶ Focus of the report was on whether and how the comparator jurisdictions’ regimes were designed to assess the sustainability of proposed developments and incorporate cumulative effects assessment into planning, assessment, and permitting processes.

Comparative Jurisdictional Research Report (2)

- ▶ **Potential best practices for consideration in the Canadian context were identified.**
 1. The establishment of marine policies or strategies, marine spatial plans, and/or sectoral marine plans to identify and reconcile competing human and ecological demands in marine spaces before considering site-specific developments.
 2. The use of tiered assessment processes that enable evaluation of sustainability considerations and cumulative effects at the highest-levels of regulatory planning and decision-making so that project-specific assessments can be informed by and contextualized within a “bigger picture” that is better understood.
 3. The use of centralized site identification by government so that marine spaces opened to development are chosen not only for their economic potential but also for their conformity with marine policies and plans that aim to achieve sustainable development by appropriately balancing human and ecological needs.

Public Participation Plans

- ▶ **Feedback (section of document in parathesis):**
 - ▶ General: The broad, flexible approach to engagement is good to see, and the participation plan scheduling is helpful for planning.
 - ▶ An additional engagement objective (1.1) should be for the committee to show how engagement (i.e., input and knowledge) informs and influences the work and, ultimately, the recommendations.
 - ▶ Future funding opportunities (1.3). Participants may decide to participate later in the process, or current participants may need funding. (For example, during the RA of Exploratory Oil and Gas Drilling in Eastern NFLD, 5 groups got funding in the second round (see: <https://iaac-aeic.gc.ca/050/evaluations/document/138185>)
 - ▶ Provide lots of notice (3.2) for meetings
 - ▶ Advisory groups should meet regularly (3.2.3): Create regular opportunities for learning and collaborative dialogue.
 - ▶ Provide a minimum of 60 days for public comments on draft reports.