



Business Council of
British Columbia

January 31, 2011

Via Email: mitigate@gov.bc.ca

(Original to Follow by Mail)

Ministry of Environment
PO Box 9339 Stn Prov Govt
Victoria BC V8W 9M1

Re: Mitigation and Offsetting Policy Discussion Paper

The Business Council of British Columbia is providing these comments on the Environmental Mitigation and Offsetting Policy discussion paper released by the Ministry of Environment in November.¹

The Business Council has consulted interested members regarding the proposed Environmental Mitigation and Offsetting Policy. In theory, the new policy should allow certain projects to be developed that would not otherwise proceed due to existing environmental legislation and policy. As indicated by Ministry staff, implementation of the policy may also lead to more timely approval of projects than what now happens under the current referral system.

That said, a number of Business Council members have unanswered questions and concerns regarding the consequences of the proposed policy. Some of these are summarized below.

- The implementation of a "no net loss" policy seems somewhat unrealistic, as its application may potentially ignore social and economic factors that typically are considered in any government decision relating to an activity deemed to have an environmental impact.
- The suggestion that the policy will result not only in no net loss but "preferably a net gain" merits further discussion. While this may be a laudable goal, we believe

¹ Ministry of Environment, [Towards an Environmental Mitigation and Offsetting Policy for British Columbia: A Discussion Paper](#), November 2010.



the simple offset of an environmental impact should be the principle driving the implementation of the new policy. Again, the government needs to consider the economic and social benefits of industrial, commercial and infrastructure development as part of its consideration of a new environmental mitigation and offsetting policy.

- Principle 2 suggests that mitigation impacts should be delivered "preferably in perpetuity". While this is hopefully the case, we doubt that project developers realistically can be held to such a requirement, especially where the policy considers financial instruments.
- The oil and gas industry has expressed serious concerns about how the policy will impact (and perhaps undermine) the province's energy policy. The industry rightly observes that the *Oil and Gas Activities Act* and the *Environmental Protection and Management Regulation* provide a sound framework for the environmental management of upstream oil and gas exploration and development. Moreover, the *Act* and *Regulation* have only recently come into effect. With the proposed Environmental Mitigation and Offsetting Policy, the government appears to be signaling that the regulatory regime that it just established for oil and gas exploration and development activity is deficient. No convincing reasons are adduced to explain why this might be so, and any such judgment is premature given that the *Environmental Management and Protection Regulation* only came into effect in October.
- As drafted, the policy suggests that certain projects may be designated as "high risk" and therefore require mitigation as a result of their cumulative impact. The Business Council is concerned that this amounts to a *de-facto* backdoor implementation of a Cumulative Effects system. This is problematic, particularly in the absence of a carefully considered Cumulative Effects Policy that takes account of eco-system capacity as well as the necessary balance between environmental, social and economic considerations.
- It is unclear how the policy will be received by First Nations on lands where First Nations have established land claims.
- The paper indicates that a future Mitigation and Offsetting Policy will not apply to private lands, federal lands, or existing First Nations reserves. It is our understanding that the policy will eventually be expanded to include these lands. A better approach may be to include such lands unless there is a specific reason for exclusion.



- Many wildlife species that might be affected by the proposed policy are also affected by Federal statutes and regulations. It is unclear how the Province intends to resolve this jurisdictional issue in applying the new policy.
- While it is evident that application of the policy might benefit large public infrastructure projects such as highways and transmission lines, it is less clear how the policy would benefit industrial developments that may not trigger an Environmental Assessment. Typically the development of such projects is guided by existing regulations. There is concern among our members that this new policy might be layered on top of existing regulation and policy, adding to development delays and expenditures.
- The new policy appears to be best suited for offsetting environmental impacts on fish and wildlife species. Perhaps the same thinking could be applied to impacts on water and air resources.

In conclusion, some Business Council members are worried the new policy will simply add costs and delays to projects. Hopefully this will not be the case, and more projects will proceed to development in an expedited fashion. The Business Council would be interested in meeting with Ministry officials to discuss these issues in greater detail.

The Business Council appreciates the opportunity to comment on the proposed Environmental Mitigation and Offsetting Policy Framework.

Yours sincerely,

*Original signed by
Jock Finlayson*

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Executive Vice President – Policy

/vjc

cc: Cairine MacDonald, Deputy Minister, Ministry of Environment
Doug Konkin, Deputy Minister of National Resource Operations
BCBC Environmental Policy Advisory Group