

## Summary of flaws in B.C.'s Environmental Assessment process and recommendations for implementing a Climate Test

*Blind Spot: The Failure to Consider Climate in British Columbia's Environmental Assessments* identifies numerous flaws B.C.'s current Environmental Assessment (EA) regime. The report then makes recommendations to address those flaws in the form of a "Climate Test."

### Flaws:

- Currently, projects under EA reviews are not assessed for the greenhouse gases their products will release when used outside of B.C.
- Although the Province has legislated caps on future B.C. greenhouse gas (GHG) emissions, EAs need not consider these emissions caps, rendering the *Greenhouse Gas Reductions Targets Act* little more than empty rhetoric.
- Under the *Reviewable Projects Regulation*, the current EA process is automatically triggered when a project meets specific size or other defined criteria. However this regulation does not treat potential GHG emissions as an automatic EA trigger.
- When applying for an EA certificate, proponents need not describe either alternatives to a project or a scenario in which the project is not built at all. This limits decision-makers from determining if a project is truly the best option, or if a less GHG intensive project could be substituted.
- EA approval is based on a finding of "no significant adverse environmental effects," however, "significance" is not defined from a climate perspective, resulting in arbitrary and inconsistent findings across BC EAs.

### Recommendations for fundamental reform:

- In addition to the current "thresholds" mandating an environmental assessment (such as a project's size, type, or production capacity), the government should implement a specific GHG emissions threshold.<sup>1</sup>
- Once a project falls above the threshold requiring an environmental assessment, a proposed project must demonstrate it will not impede the province from meeting its GHG emissions reduction targets.

*As an example of this problem, note that the Province recently approved an agreement with Petronas for a Prince Rupert liquefied natural gas facility that could emit 10.7 million tonnes (Mt) of GHG annually by 2030<sup>2</sup> – almost a quarter of BC's 2020 target (43 Mt), and almost the entirety of its 2050 target (just under 13 Mt).<sup>3</sup> However, under current law, the EA is not required*

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<sup>1</sup> This is recommended as a practical interim reform. Eventually government should move to a more comprehensive approach, requiring an automatic trigger for any project found not to be a transformational project contributing to a transition to a zero emissions future. This would mean that projects that are not carbon neutral would have to undergo an environmental assessment.

<sup>2</sup> Matt Horne, *Pacific Northwest LNG Implications: Analysis of environmental impacts and the project development agreement* (10 July 2015) at 2, online: Pembina <<http://www.pembina.org/reports/pacific-northwest-lng-implications.pdf>>.

<sup>3</sup> Target: *Greenhouse Gas Reduction Targets Act*, SBC 2007, c 42, s 2(1)(b) "by 2050 and for each subsequent calendar year, BC greenhouse gas emissions will be at least 80% less than the level of those emissions in 2007." BC 2007 emissions: "British Columbia Greenhouse Gas Inventory" (no date), at "Trends in Emissions" heading, online: <<http://www2.gov.bc.ca/gov/content/environment/climate-change/reports-data/provincial-ghg-inventory-report-bc-s-pir>>: "64.3 Mt in 2007." Calculation for 2030: 64.3 megatonnes multiplied by 0.33 = 21.22 Mt reduction required, so 43.08 Mt is the 2030 target. Calculation for 2050: 64.3 Mt multiplied by 0.80 = 51.44 Mt reduction required, so 12.86 Mt is the 2050 target.

*to meaningfully consider the impact of this proposed project on the province's GHG targets – even if the project single-handedly makes it impossible to meet those targets.*

- Environmental assessments should consider a project's full life cycle GHG emissions including upstream and downstream emissions.

*Currently, most B.C. EAs consider only the GHG emissions expected during project construction, operation and decommissioning while excluding the project's much more significant upstream or downstream emissions. In the case of proposed oil pipeline projects, for example, BC EAs may not include the increased extraction upstream in the Alberta tar sands or the combustion downstream in cars in Asia – both part of the project's life cycle and contribution to global GHG emissions.*

- Environmental Assessments should be required to consider alternatives to a proposed project and a “zero option” (the scenario without the project at all).

*Considering alternatives provides the decision-maker with a frame of reference: what would happen if this project were not built? Would we be better off? Is this the best project amongst a selection of alternatives?*

- Legislation should clearly define what level of GHG emissions release is “significant” from a climate perspective. In setting targets and policies, government must keep in mind that the ultimate goal is to transition to a carbon neutral future.

*Academics and case law have identified problems when EA regimes fail to clearly define what is “significant.” Courts and assessment boards often have no statement from government as to how significance should be determined from a climate perspective.<sup>4</sup>*

- Regardless of thresholds and other requirements, all projects that proceed should be required to mitigate GHGs to the maximum extent practicable.

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<sup>4</sup> Albert Koehl “EA and Climate Change Mitigation” (2010) 21 Journal of Environmental Law and Practice 181 at 181 [*Koehl EA paper*].