


Environmental Assessment Certificate Policy

DRAFTING CONVENTIONS FOR ENVIRONMENTAL ASSESSMENT
CERTIFICATES, CERTIFICATE AMENDMENTS AND EXEMPTION
ORDERS

VERSION 2.0

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This document provides guidance to help environmental assessment participants and the public better understand British Columbia's environmental assessment process. It is not advice and does not replace requirements of the *Environmental Assessment Act*, 2018 or its regulations, or bind any decision-maker.

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Acronyms and Abbreviations

Act	<i>Environmental Assessment Act (2018)</i>
AIR	Application Information Requirements
C&E	Compliance and Enforcement
CEMP	Construction Environmental Management Plan
CPD	Certified Project Description
EA	Environmental Assessment
EAC	Environmental Assessment Certificate
EAO	Environmental Assessment Office
EPD	Exempted Project Description
IEM	Independent Environmental Monitor
LNG	Liquefied Natural Gas
MOU	Memorandum of Understanding
OEMP	Operational Environmental Management Plan
OGC	Oil and Gas Commission
TOC	Table of Conditions
UTM	Universal Transverse Mercator

Definitions

Indigenous interests: Interests related to an Indigenous nation and their rights recognized and affirmed by Section 35 of the *Constitution Act*, 1982 that may be impacted by a proposed project.

Amendment: A change in the EAC when a Certificate Holder proposes to change ownership or an aspect of the EAC, (e.g. design, location, construction, operation or decommissioning of the project). Note that some older EACs allow for non-material changes to be made to EACs, through a process defined in the EAC.

Holder: A person to whom an EAC or Exemption Order has been issued, or, if the EAC or Exemption Order has been transferred in accordance with section 33 of the *Environmental Assessment Act*, 2018 (Act), the person to whom this EAC or Exemption Order has been transferred.

Certified Project Description (CPD): A legally binding description of the project, including all the project components and activities and their locations with any required constraints. The document describes what is being certified by an EAC (i.e., the components and activities of the project). The Holder must design, build, operate and decommission (if applicable) the project in accordance with both the CPD and any conditions.

Conditions: EAC conditions describe “how” the project will be implemented. Conditions are legally binding requirements that are set out in an EAC, and to which the Holder must adhere throughout the life of the project. Some of the conditions are procedural requirements common to all certified projects; others are project-specific and intended to prevent or reduce adverse impacts. Conditions were formerly called commitments; some older EACs use this term.

Environmental Assessment Certificate (EAC): An EAC issued to a proponent when the Minister of Environment and one other Minister approve a reviewable project. The EAC allows the project to proceed to permitting and other authorizations. The EAC sets out legally binding requirements to which the Holder must adhere throughout the life of the project.

Exemption Order: A legal order under the *Environmental Assessment Act* that allows a reviewable project to proceed without an EAC provided the project is constructed, operated and decommissioned in accordance with the Exemption Order.

Exempted Project Description (EPD): A legally binding description of the project, including all the project components and activities and their locations with any required constraints. The document describes what is exempted from requiring certification by an Exemption Order (i.e., the components and activities of the exempted project). The Holder must design, build, operate and decommission (if applicable) the project in accordance with both the EPD and any applicable conditions.

Independent Environmental Monitor (IEM): An independent environmental monitor is an environmental specialist, typically a Qualified Professional, who is retained by a Holder as required by an EAC. An IEM verifies compliance with the EAC and reports findings directly to government.

Management plan: A document that groups mitigation measures that address a common objective or valued component. The two main types of management plans are: construction/operational environmental management plans which address adverse effects common to all projects; and project-specific management plans which address adverse effects to a valued component or topic.

Proponent: A person or an organization that proposes a reviewable project, including a corporate entity, the government of Canada, the government of British Columbia, a municipality or regional district, another province, another jurisdiction, or an Indigenous nation.

Qualified Professional: A person who has the training, experience and expertise in a discipline relevant to the subject matter or activities set out in the applicable EAC condition, and who is registered with the appropriate professional organization in British Columbia, is acting under that organization's code of ethics and is subject to disciplinary action by that organization.

Table of Conditions: A list of legally binding requirements called 'conditions' that are set out in an EAC or Exemption Order, and to which the Holder must adhere throughout the life of a project. The three main types of conditions are: standard conditions normally applicable to any EAC, individual conditions used when the mitigation is known and well-defined, and management plan conditions used to group mitigation measures to address a common objective or topic.

1.0 PURPOSE

The purpose of this policy is to support the development of Environmental Assessment Certificates (EAC), Certificate Amendments (Amendments) and Exemption Orders under the *Environmental Assessment Act*, 2018 (Act) that are:

- Consistent in approach and structure yet tailored to the specifics of each project;
- Designed to provide appropriate flexibility while avoiding and mitigating adverse effects;
- Informed by any subsequent permitting regime; and,
- Clear and measurable so requirements are commonly understood by Holders of EACs or Exemption Orders (Holders), regulators, compliance and enforcement officers, Indigenous nations and interested parties.

This policy provides guidance on structure and drafting including:

- The standard components of an EAC and Exemption Order;
- How to compose conditions so that they are measurable and enforceable;
- How to describe permissible activities and project components to ensure clarity and avoid unnecessary amendments;
- The standard conditions normally included in all EACs; and,
- Drafting principles, examples, checklists and templates.

This policy will be subject to ongoing refinements with the latest version available on the EAO's website. For further information or to provide comments on this policy, please email: EAO.info@gov.bc.ca.

2.0 INTRODUCTION

The EAC/Exemption Order is one of several mechanisms for regulating major project development in British Columbia (BC). It describes the permissible infrastructure and activities of a project as well as mitigation measures required to prevent or reduce potential adverse environmental, economic, social, health and cultural effects to an acceptable level.

The Holder must design, build, operate and, if applicable, decommission the project in accordance with the EAC or Exemption Order, which includes the Certified/Exempted Project Description (CPD/EPD or Schedule A) and the Table of Conditions (TOC or Schedule B). The mitigation measures incorporated into the EAC or Exemption Order are required to avoid or mitigate potential adverse effects.

For each EAC and Exemption Order¹, the Environmental Assessment Office (EAO) determines the appropriate content to recommend to Ministers for inclusion in the EAC or Exemption Order, based on the information provided by the Holder and informed by input from the technical advisers or Technical Advisory Committee, Community Advisory Committee (if one is formed for the project), permitting authorities, Indigenous nations and the public throughout the EA or exemption review.

¹ For more information on Exemption Orders see the Certificate Exemption Policy on the [EAO's Guidance documents webpage](#).

The EAO requires the Proponent to contribute to the drafting of the EAC or Exemption Order conditions and CPD/EPD maps to ensure project components are depicted accurately. As part of an Environmental Assessment (EA) application, the Proponent is recommended to provide a draft of the preliminary mitigation measures, which informs the development of the TOC, and a draft proposed CPD². For Exemption Order requests, the Proponent is recommended to submit a draft proposed EPD with the Initial and Detailed Project Descriptions. The EAO may require the Proponent to further assist with the development of the EAC, for example by providing figures or draft text for the CPD or drafting mitigation measures for incorporation into draft conditions.

This policy explains how the EAO determines what mitigation measures will be included in an EAC and how such mitigation measures will be incorporated. This policy is intended for use by EAO staff and proponents or Holders, in the case of EAC or Exemption Order amendment requests.

The provisions of this policy will apply to amendments to EACs or Exemption Orders. The nature and scope of the amendment will determine the applicable provisions of the policy and template. For example, if a Holder wishes to amend an EAC or Exemption Order for a non-material change that is administrative in scope, it may be possible that none or only some of the standard EAC conditions will apply. In contrast, if a Holder applies for an amendment that is material in scope and varies the boundaries or operational aspects of the project, it is possible that most of the standard EAC conditions will apply to the project and form part of the amended EAC or Exemption Order, should the application for an amendment be granted.

2.1 Why a Clear Environmental Assessment Certificate or Exemption Order is Important

The main functions of an EAC/Exemption Order are to:

- Allow a reviewable project to proceed and apply for further authorizations;
- Specify the physical elements and activities that are authorized;
- Set legally binding conditions on how and when a project must be constructed, operated and, if applicable, decommissioned, and mitigation measures that must be implemented; and,
- Ensure clarity and enforceability of requirements for the life of a project.

A clear and unambiguous EAC/Exemption Order is essential for effective permitting, project development, and operations and compliance oversight because:

- Conditions that are challenging to interpret cause confusion about project requirements for Holders and regulatory authorities;
- Measurable and enforceable conditions ensure clarity of requirements for everyone and ensure effects are mitigated in the way intended by Ministers in issuing the authorization; and,
- The EAO must be able to enforce the mitigation measures developed during or after the EA or EAC Exemption Review.

² For more information see the Application Information Requirements Guidelines, on the [EAO's Guidance documents webpage](#).

If an activity or project component within the scope of the project is not described in the EAC or Exemption Order, the Holder must consult the EAO to determine whether an amendment is required³. Changes to the scope of an exempted project could result in the project requiring an EAC in some cases.

2.2 Developing an Environmental Assessment Certificate

Developing an EAC/Exemption Order is fundamentally about determining two things:

- The allowable project activities and components; and,
- The required mitigation measures.

This policy will help guide EAO staff to determine whether a mitigation measure is required in the EAC/Exemption Order. The main considerations include determining whether a mitigation measure:

- Is required to mitigate a potential adverse effects on environmental, economic, social, cultural or health valued components or Indigenous interests;
- Will be addressed in full or in part by permitting or other approval processes;
- Should be incorporated into the CPD/EPD or the TOC; and,
- Is best included as an individual condition or as part of a management plan condition.

3.0 OVERVIEW OF EAC AND EXEMPTION ORDER STRUCTURE

3.1 Environmental Assessment Certificates

Every EAC includes at least three components:

- EAC body, which includes standard project information and, in the case of an EAC, duration of the EAC;
- CPD, which describes what the project is and where it is to be undertaken (Schedule A);
- TOC, which describes how the project is to be undertaken and includes all legally binding conditions (Schedule B); and,
- Other documents are not usually included, although they can be attached as schedules if additional documents are necessary.

3.1.1. Environmental Assessment Certificate Body

Standard Project Information

The main body of the EAC includes standard project information. The EAC template specifies the project information that must be provided.

³ For more information on amendments please see the Environmental Assessment Certificate and Exemption Order Amendment Policy available on the [EAO's Guidance documents webpage](#).

Duration of EAC

The EAC must specify a deadline (up to ten years), by which time the Holder must demonstrate that their project is substantially started, as set out in [Section 31](#) of the Act.

Holders may apply for a one-time extension of up to five years. If a project is not substantially started by the deadline in the EAC, the EAC expires⁴.

3.1.2. Certified Project Description (Schedule A)

The CPD specifies the physical elements and activities that the Ministers are authorizing. The CPD:

- Defines the physical components of the project and their attributes which may include extent, size, number, location and other specific restrictions; and,
- Captures the mitigation by design achieved through the EA application and EA process.

3.1.3. Table of Conditions (Schedule B)

The TOC specifies the legally binding conditions that are necessary to address potential adverse effects. Key considerations when drafting include that conditions:

- Must be carefully written to ensure enforceability of mitigation measures to address adverse effects; and,
- Are based on mitigation measures identified in the EA application and during the EA to prevent or reduce potential adverse environmental, economic, social, cultural or health effects and adverse effects to Indigenous interests.

The EAC template assists with drafting the TOC components outlined below. All components of the EAC template will be included, unless deviation is required for the specifics of a particular project.

3.1.4. Other Components

In addition to the conditions in the TOC, the following sections are typically included in the TOC:

Interpretation

This section of the TOC clarifies statements made within the document that might otherwise be ambiguous and subject to misinterpretation.

Definitions

This section includes words or phrases that require definitions to ensure consistent interpretation, enforceability and conciseness. Examples of words or phrases that may require definition are: best management practices (or best practices), pre-construction, construction, contractor, Indigenous nations, independent environmental monitor (IEM), operation, qualified professional, and sensitive ecosystems and habitat. Standardized definitions are available in the EAC template and can be modified based on the specifics of each project. Additional terms may be required in each TOC and should be included as needed.

⁴ For further information on Certificate extensions and expiry, see the Certificate Extension Policy and the Substantial Start Policy on the [EAO's Guidance documents webpage](#).

Acronyms

A list of all acronyms used must be included in the TOC. This allows for brevity and avoids confusion.

3.2 Exemption Orders

Exemption Orders follow the same structure as EACs with an EPD in place of a CPD (Schedule A). For Schedule B, not all Exemption Orders will contain project-specific conditions; however, all Exemption Orders should include the standard conditions for Compliance Notification, Compliance Verification and Project Status Notification.

4.0 INCORPORATING MITIGATION MEASURES INTO THE ENVIRONMENTAL ASSESSMENT CERTIFICATE

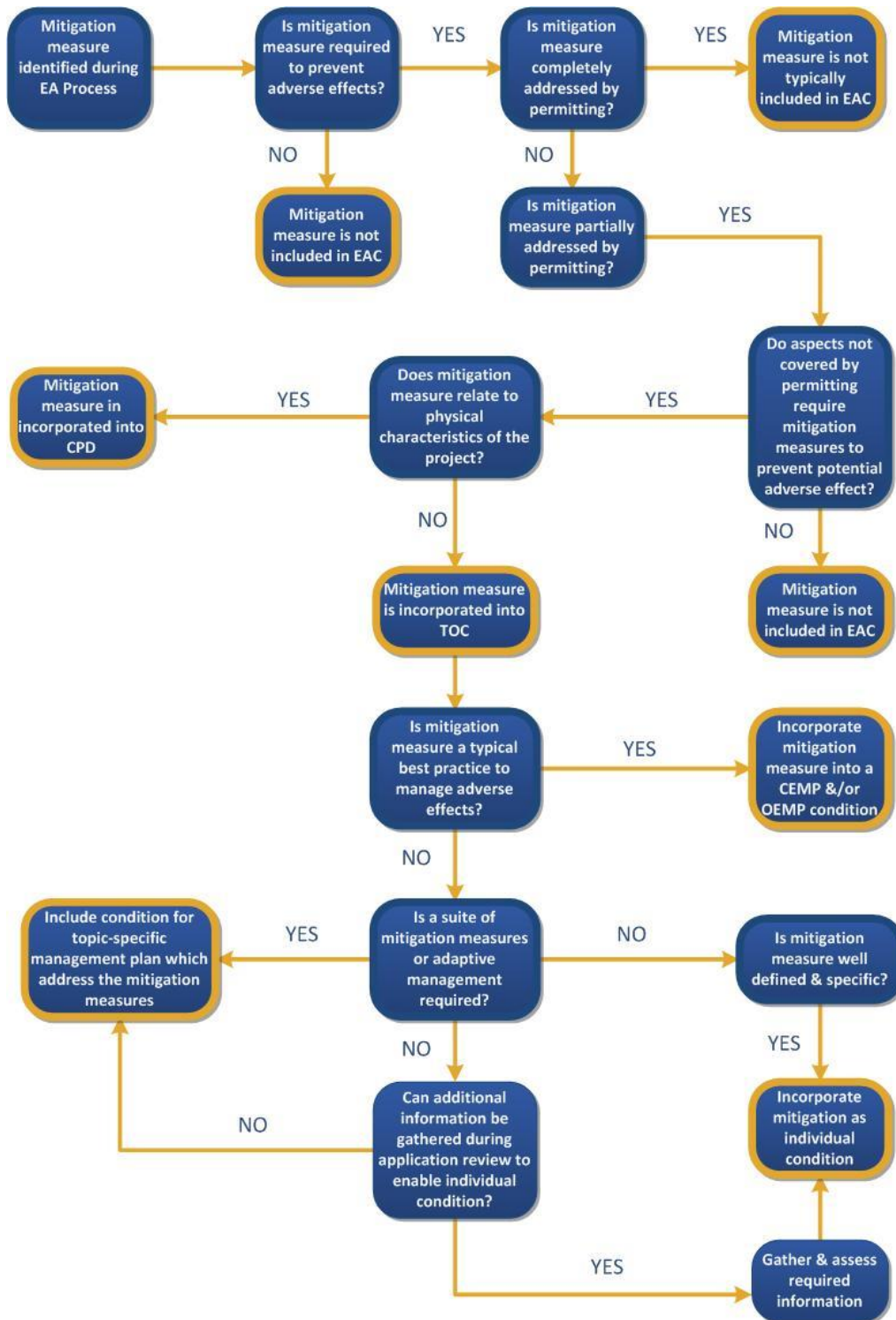
The process of determining those mitigation measures and other requirements that will be incorporated into the EAC/Exemption Order involves several considerations as presented in Figure 1 and further explained below.

4.1 Evaluating if a Mitigation Measure is Required

The EAC/Exemption Order development process begins by evaluating whether a mitigation measure identified during the application process is required to mitigate potential adverse effects. Conditions may be directed at:

- Addressing the risk of adverse effects on valued components that are key to supporting the EAO's conclusions and advice to Ministers (based on advice from technical advisers or Technical Advisory Committee and Community Advisory Committee, if one is formed);
- Addressing matters not sufficiently addressed in permitting and the regulatory framework (further details on this below);
- In response to government policy; and,
- Minimizing impacts to and accommodating Indigenous interests.

Figure 1. Decision process for incorporation of mitigation measures.



Mitigation measures vary in importance. No clear threshold for inclusion or exclusion in the EAC/Exemption Order can be defined. In situations where there is uncertainty, the decision is based on factors such as:

- Type and scale of predicted adverse effects and associated uncertainty;
- Sensitivity of the valued component affected;
- Interaction with other project considerations;
- Relevance to Indigenous nations;
- Permitting requirements; and,
- Scope of the assessment.

4.2 Assessing the Interaction with Agencies Issuing Subsequent Permits⁵

Once it is determined that a mitigation measure is required, the next step is to assess the extent to which the mitigation measure will be addressed by permitting or other regulatory requirements. Mitigation measures assessed during the EA process can be addressed:

- By the EAC/Exemption Order only;
- Partially by permitting and partially by the EAC or Exemption Order; or
- Fully addressed by permitting and therefore not generally included in the EAC/Exemption Order.

4.2.1. Understanding What is Addressed in Permitting

To avoid gaps and reduce unnecessary duplication with permitting, the EAO (informed by the Technical Advisory Committee) considers the processes and regulatory framework that will ultimately affect a project, if approved. Key steps include:

- Working with permitting authorities to ensure the EAO understands the intent and extent of permitting in relation to all components of the project as defined in the Process Order⁶;
- Identifying the temporal and spatial scope and consultation requirements of permitting requirements that can be relied upon to mitigate the potential adverse effects of a project;
- Understanding any limitations of permitting requirements to mitigate adverse effects;
- Using the Regulatory Coordination Plan developed during Process Planning and updated during Application Development and Review and Effects Assessment as the basis for the analysis;
- Identifying any potential gaps to include in the EAC/Exemption Order to avoid or mitigate adverse effects; and,

⁵ The information on permitting in this policy applies to permits issued for a project after a Certificate/Exemption Order is obtained. For information on investigative use licenses, issued before a Certificate/Exemption Order is obtained, see the Investigative Use Policy on the EAO's [C&E webpage](#).

⁶ For more information on the Process Order see the Process Planning Policy available on the [EAO's Guidance documents webpage](#).

- Understanding the totality of the mitigation measures required.

4.2.2. Situations Addressed by both the EAO and Permitting

The EAO must evaluate whether other regulatory processes address relevant spatial and temporal aspects and consultation requirements of the mitigation required, in light of the predicted effects involved. A mitigation measure should be included in the EAC/Exemption Order when:

- The potential adverse effect is so significant that multiple regulatory assurances are required given the scale of effect and the project and if implementation of specific mitigations measures was key to the EAO's conclusions and advice to Ministers on significant adverse effects;
- Permitting or other regulatory frameworks do not fully address the effects and required spatial and temporal scope of the mitigation measures (e.g., in some cases permitting may not address ancillary structures or access roads as part of the overall project); and,
- Application requirements for an authorization issued under the permitting regime do not require consultation (e.g., when the municipal wastewater effluent system is designed to achieve mitigation, but no consultation is required under the applicable regulation if subsequent changes to the design are made).

When a mitigation measure may be considered in a permit process and the decision is made to include the mitigation measure in the EAC/Exemption Order, the relevant permitting agency is solicited in the development of the condition and is given an opportunity to review and provide comments on the proposed condition. In situations where a mitigation measure is required through both the EAC/Exemption Order and permitting, C&E officers in the various agencies work to ensure a coordinated and efficient approach to compliance oversight.

4.2.3. What if Permit and Environmental Assessment Certificate Requirements are Different?

Inter-agency communication during EAC/Exemption Order development is critical. By ensuring a full understanding of the relationship between permitting and a draft EAC/Exemption Order, strong inter-agency coordination will avoid potential issues from any differences between an EAC/Exemption Order and a permitting requirement.

The EAC/Exemption Order establishes the bounds within which the Holder may seek permits. The Holder must adhere to all regulatory requirements applicable to the project. If more than one authorization addresses the same issue, but with different requirements, the Holder can ensure compliance with both authorizations by adhering to the more restrictive requirement.

While the potential is reduced through strong inter-agency coordination, in rare cases, it is possible that a situation may arise where the permits and the EAC/Exemption Order are inconsistent, such that if the Holder complies with one authorization it would cause a breach in the other authorization. If this occurs, the Holder should seek advice from both the EAO and the permitting agency before proceeding.

4.3 Where to Incorporate Mitigation Measures: CPD/EPD or TOC?

Once it is determined that a mitigation measure is required in the EAC/Exemption Order, the next step is to determine whether it should be incorporated into the CPD/EPD or TOC. As described in Section 3.1 above:

- The CPD/EPD describes *what* and *where* the project is; and,
- The TOC details how the project must be constructed, operated and, if applicable, decommissioned.

When deciding where to place the mitigation measure, consider the following:

- If it describes the physical characteristics of the project or mitigation by design, it is included in the CPD/EPD (e.g., size, type and location of key infrastructure);
- If it describes an activity necessary for the project to proceed, it is included in the CPD/EPD; and,
- If it details a procedural or timing requirement, management plan, or value specific requirement, it is appropriate for the TOC.

Some minor duplication between the CPD/EPD and TOC is acceptable. As long as both documents are well-drafted (i.e., clear, measurable, expressed in mandatory terms and including all required elements), and are consistent with respect to each other, then both documents will be legally enforceable.

4.4 Offsets and Compensation Plans

Offsets⁷ and compensations plans are sometimes identified as mitigation measures to address adverse effects arising from the project.

Offsets and compensation plans will be included in the EAC/Exemption Order if:

- The need for the offset or compensation plan is required as a mitigation measure to address adverse effects identified during the review process;
- Where possible, the specific location of offsets or compensation plan should be specified (in this case the location should be identified on the project maps in the CPD); or,
- The offsets or compensation plan must follow a procedure or method (in this case, the procedure or method for the offset or compensation plan is included in the TOC as a condition).

Consideration should be given to whether habitat offsets and compensation plans imposed by subsequent permits or authorizations, and therefore may not be needed in the EAC/Exemption Order.

5.0 CERTIFIED PROJECT DESCRIPTIONS AND EXEMPTED PROJECT DESCRIPTIONS

The CPD/EPD binds a project with a description or list of project features and spatial boundaries at a level of detail that ensures adequate mitigation. While CPDs/EPDs vary to reflect project complexity and potential for adverse effects, key elements included in every CPD/EPD are:

- A physical description of the project's components and activities;
- Mitigation by project design; and,
- Project maps and figures.

Proponents are responsible for providing a first draft of the CPD/EPD, including project maps, which will be revised based on comments from the EAO, the TAC and Indigenous nations. The EAO is responsible for providing the final recommendations on the content of the CPD/EPD; however, the Minister will make the final decision on authorized

⁷ For more information, see the Environmental Mitigation Policy for B.C. including [Interim Mitigation Offset Guidance for Proponents and Staff](#).

components and activities informed by the EAO's recommendations and the information gathered during the EA or Exemption Review. All documents submitted by the Proponent must be submitted in a word document. Maps must be submitted in a pdf file that is unsecured for the purposes of copy/paste, markup and print functions. Details of various aspects of the CPD/EPD are described below.

5.1 Components of the CPD/EPD

The key components of drafting the CPD/EPD are:

- For an EAC, a comprehensive overview of all physical components authorized for the Project;
- For an Exemption Order, a comprehensive overview of all the physical components authorized for the Project;
- The overall spatial extent of a project;
- The legal name of any communities, that the project passes through or near;
- The mitigation by design achieved through the application and EA process; and,
- Flexibility for further project design during the permitting process to the extent assessed in the EA process for an EAC.

When describing the physical attributes of a project, it is important to consider the appropriate amount of detail to achieve the appropriate amount of design flexibility and adequate limits. Insufficient detail may lead to unintended effects while too much detail may lead to unnecessary amendments. Recommendations regarding these considerations are provided below.

5.1.1. Project Components and Activities

CPDs and EPDs should detail all project components and activities authorized for the Project. The Process Order (for an EAC) or Detailed Project Description (for an Exemption Order) are useful sources for identifying potential components and activities to include. Defining authorized components and activities is an important step as only those components included in the CPD may be constructed and operated. Minor components, which require no, or minimal, physical limitations, can be grouped together (e.g., service buildings and associated infrastructure or laydown and staging areas).

Proponents should determine which project components may cause or result in adverse effects as assessed during the EA and describe the physical attributes of these components that require limits to avoid or minimize those adverse effects. The CPD/EPD should be explicit on what design components or elements cannot be altered after the EAC/Exemption Order is issued.

- Example 1: Borrow pits are located within the Certified Access Road Corridors, as illustrated on Maps 1-10.
- Example 2: The footprint of the construction camp is located within a 4 km radius of the powerhouse. The clearing for the camp must not exceed 20 hectares.

If the Holder *must* include certain infrastructure, it should be clearly noted in the condition or CPD/EPD.

- Example: The water treatment plant must include at a minimum the following components: list components

5.1.2. Acceptable Dimension or Range of Measurements of Project Components

The CPD/EPD defines the acceptable dimension or range for project components as assessed during the EA. The degree of precision and specificity provided in the CPD/EPD is based on the potential for adverse effects, with additional detail provided when the assessment determines that mitigation by design is required.

As a starting point, proponents should consider the dimension or range presented in the EA Application for each project component. During the EA, the dimension or range presented in the EA Application is expanded or reduced in scope to address adverse effects. The dimension or range specified in the CPD/EPD should consider the dimension threshold(s) beyond which the conclusions of the EA may change and therefore should be evaluated through an amendment.

- Example 1: During operations, the Project must include a minimum of one to a maximum of four gas processing trains.
- Example 2: The wind turbine hub height must not exceed 117 meters.
- Example 3: New roads will not exceed a combined length of 25 kilometers.

If using the word temporary in a CPD/EPD, the CPD/EPD must specify the types of activities allowed and their duration. For example:

- Temporary storage of potentially acid generating (PAG) material is allowed in Zone A. PAG material may be placed in the Temporary PAG storage area for up to six months in any one continuous period.
- Temporary workspace is identified on Map 2. The temporary workspace may be used for a period of not more than six months during construction of the Project and must be restored immediately following that six-month period.

5.1.3. Mitigation by Project Design

Mitigation by design is a critical component of the EA process and will be incorporated into the CPD/EPD as the assessment of effects relies on the Holder adhering to certain design measures. Project design mitigation measures typically relate to:

- Size;
- Location;
- Layout and configuration of project components; and,
- May also consider infrastructure type and capacity.

The description of the project design mitigation measures in a CPD/EPD must be carefully considered for each project. Design requirements and other boundaries may be organized in relation to important features of the natural or human environment (see Example 1). In some cases, the project area must be subdivided on CPD/EPD maps to enable area-specific requirements (see Example 2). Ensure that there is no ambiguity or potential for misinterpretation.

- Example 1: Construction laydown areas are not located within 30 meters of high suitability habitat for marmot as defined by a Qualified Professional.
- Example 2: The total disturbance or footprint of all project components in the “Clear Water Creek” portion of the project area (as shown on map X) does not exceed 120 hectares during the construction phase and 85 hectares during operations.

5.1.4. Project Maps

Project maps are an essential tool used by C&E officers to ensure that the physical elements of a project are consistent with the Project as assessed under the Act and approved by Ministers or included in the Exemption Order. Project maps are a required component of the CPD/EPD that identify the spatial elements of an approved project. In contrast to some maps in the EA application where the intent is to represent a feasible vision of a comprehensive final project, the maps in the CPD/EPD identify the boundaries and allowable spatial flexibility for the physical components of a project consistent with the EA conducted for the Project.

CPD/EPD maps will clearly identify the physical location and boundaries of project infrastructure in a manner that is consistent with the effects assessment conducted for the Project. Maps should identify those spatial elements of the project where locational specificity is required and identify those spatial elements of the project where some degree of flexibility is consistent with the EA or application for the order. For example:

- Physical features of a project may often be identified on CPD/EPD maps by a corridor or polygon within which all elements of the effects assessment have been conducted. For example, a CPD may indicate a 300-meter-wide transmission line corridor within which a transmission line may be constructed, and it is not necessary to specify exactly where the transmission line would be located within that corridor to determine potential adverse effects.

In contrast, mitigating an effect or effects may require constraining a physical feature to a very specific location or extent. This may be applicable if flexibility was not assessed during the EA or if allowing flexibility from a defined spatial orientation will potentially incur adverse effects. For example, air quality monitoring stations may be required at specific locations identified by coordinates and on the CPD/EPD maps.

In general, there are two types of project maps to define the spatial boundaries of a project: overview and detailed. Although both are typically recommended to be included in a CPD/EPD, the choice of granularity is a matter of discretion for the ministers. The information obtained through, and analysis conducted during, the EA will determine the degree of specificity that should be used in describing the project, including through the use of maps.

Note that CPD/EPD maps are regulatory documents and therefore should not have proponent or consultant logos or phrases such as “Not for Legal Purposes,” “Draft” or other similar disclaimers.

Overview Map

The primary purpose of the overview map is to show the entire project on one map. The project overview map provides geographic context and outlines the general regional and/or local area in which the project will be undertaken.

When developing the project overview map, proponents are to meet the following specifications:

- Select a scale that shows all of a project: typically, 1:100,000 to 1:150,000 for centralized projects (e.g., mine site, LNG plant or airport), and is between 1:1,500,000 and 1:1,250,000 scale for linear projects (e.g., pipeline or transmission line);
- Delineate the maximum spatial extent of project components, polygons and corridors; and,
- Show UTM grid systems.

Detailed Maps

One or more detailed maps should be included to show finer scale details of authorized project components. For a project that is geographically extensive, a series of detailed maps may be required, and referenced to the overview map. When developing detailed maps, proponents are to meet the following specifications:

- Delineate the areas, including polygons or corridors within which project components can or cannot be constructed. The maps must explicitly outline the authorized areas for all project components;
- Use a scale of 1:20,000 or finer;
- Use coloured base maps;
- Use a topographic base map (in some cases orthographic or hydrographic maps may be also appropriate);
- Display geographic features (e.g., lakes, rivers, streams, wetlands) and existing infrastructure (e.g., roads, railways, transmission lines, pipelines);
- Delineate the spatial extent of project components and polygons/corridors for project components;

Detailed Mapping Information Checklist

- Background data consistent with topography and physical features shown on 1:20,000 Terrain Resource Inventory Mapping [(TRIM) maps]
- If relevant for the CPD, Crown and private land from Tantalus Cadastre (1:20,000)
- Socio-political boundaries: International, Provincial and Territory boundaries, Indian Reserve and parks (if not present in TRIM)
- Legally protected wildlife habitat (e.g., Ungulate Winter Range)
- Waterbodies
- BC Geological Survey map sheet numbers (detailed maps only)
- Cite data sources

- Clearly define and label all project components such as certified corridors (e.g., pipeline, transmission line, roads) and/or certified areas (e.g., camp, powerhouse, mill, temporary workspace);
- Clearly display specific areas where some or all project development is not permitted (e.g., area of environmental sensitivity such as a stream, wetland, or a buffered area to protect a cultural feature such as a petroglyph or sacred/ceremonial place);
- Display new permanent or temporary roads and other linear features that may be constructed (either as specific locations or as certified corridors where the linear features may be built); and,
- Show UTM grid lines.

5.1.5. Project Figures

In some cases, figures may be used to illustrate spatial features or elements of a project component. Figures should only be included if physical attributes of project components were determined in the EA process to be important to mitigate potential adverse effects and are most effectively illustrated in graphic form (e.g., spatial extent of infrastructure, height above ground, geometry of final earthworks).

- Example 1: If the length and shape of wind turbine blades were important factors in determining potential adverse effects in relation to bat or bird mortality risk, then blades of a particular shape may be best illustrated in a figure in the CPD/EPD. In contrast, the material from which turbine blades are constructed may be irrelevant to the potential effects of the blades or the mitigation of those effects and would not be specified to retain design flexibility.
- Example 2: If the above-ground profile of a project component (e.g., the exhaust stack) is an important factor in prevention of noise disturbance, then a figure that illustrates the required profile may be appropriate to include in the CPD/EPD.

5.2 Flexibility

Most projects described in the EA application are at the feasibility design stage and will undergo further detailed design during permitting. This is important to note as modifications to the project design that deviate from the CPD will require the Holder to request an amendment in the case of an EAC and, in the case of an Exemption Order, may result in the project requiring an EAC or amendment to the EPD. To reduce the need for amendments, the CPD/EPD will detail the required limits to mitigate adverse effects, while allowing for design flexibility to the extent assessed during the EA or EAC Exemption Review.

Consideration should be given to:

- The availability of specific design details of project components;

Map Legend Checklist

- All items listed in the legend are clear and do not require reference to supplementary text to be understood (i.e., the map can “stand alone”).
- Scale bar
- Universal Transverse Mercator (UTM) coordinates
- BCGS map sheet numbers (detailed maps only)
- North arrow
- Inset (BC locator map) or Index map to clarify location
- Date of map production
- List of data sources
- Legend which clearly describes the data layers
- UTM grid
- Name of Entity producing the map but not the company logo (i.e., Produced by)

- The importance of these specifics to determining the potential for adverse effects; and,
- Evaluating the need for and, scope of, mitigation.

For example, the CPD/EPD may provide more design flexibility if a component is not expected to result in an adverse effect, whereas less design flexibility may be provided for a component and associated activity that has the potential to result in a significant adverse effect.

Language in the CPD/EPD must be clear, measurable and enforceable. Flexibility may be provided through the use of buffers, maximum values and ranges. General statements that negate the legally binding intent of the CPD/EPD, such as “preliminary” or “approximate” should not be included in the CPD.

6.0 TABLE OF CONDITIONS

The TOC contains the legally binding conditions necessary to address the potential adverse environmental, economic, social, cultural and health effects of a project, including potential adverse effects to Indigenous interests. A clear and unambiguous suite of conditions provides clarity for the Holder, permitting authorities, compliance agencies, Indigenous nations and other parties.

The EAO holds the primary responsibility for drafting the TOC and providing the final recommendation to Minister on its content; however, proponents, Indigenous nations and the TAC may propose conditions or mitigation measures to be included within the TOC. A draft of the TOC will be reviewed and revised with input from the proponent, TAC and Indigenous nations. The Minister will make the final decision on the content of the TOC in the Certificate/Exemption Order, which will be informed by the EAO’s recommendations and the information gathered during the EA or Exemption Review.

Key considerations when drafting the TOC include:

- Determining whether each condition is best incorporated as a standard condition, project specific individual condition or project specific management plan condition;
- Ensuring conditions are SMART (specific, measurable, achievable, relevant and time bound);
- Determining the appropriate level of constraint in the conditions; and,
- If applicable, incorporating the mitigation measures that the effects assessment relied upon because only those included in the TOC will be enforceable.

6.1 Condition Types and Core Components

Once a mitigation measure has been identified, the next step is to determine if it is already addressed by a standard condition or if it is best incorporated as an individual or management plan condition. EACs typically include a mix of individual and management plan conditions.

There are three main types of conditions:

- Standard conditions are applicable to all EACs as per the EAC template and include:
 - General requirements for management plans including consultation requirements;
 - Administrative requirements (e.g., notifications, compliance reports); and,

- Standard mitigation measures such as independent environmental monitors (IEM)⁸ and construction environmental management plans (CEMP).
- Project-specific individual conditions contain mitigation measures specific to the project and are used when the mitigation is known, well-defined and not closely linked with a suite of mitigation measures to address a common valued component.
- Project-specific management plan conditions are used to group mitigation measures to address a common objective or valued component and include two main types:
 - CEMP conditions, which are included in all EACs to provide the environmental mitigation measures to address effects common to projects during construction (at times, Operational Environmental Management Plans (OEMP) are also required to address effects during operations); and
 - Topic-specific management plan conditions which provide a suite of mitigation measures to manage the impacts to a particular valued component or adverse effect.

Sections 6.3.1 and 6.3.2 describes the elements that should be considered when drafting individual conditions and management plan conditions.

When it is possible to clearly define the mitigation measures during the EA process, creating certainty in the EAC on these mitigations is advantageous to the EAO, the Holder, Indigenous nations and other participants. This may be achieved through a management plan that is developed and submitted during the EA. For situations like this, the EAC would not require the plan to be submitted for review or approval in the post-certificate phase but would instead require the Holder to implement the plan submitted during the EA through an EAC condition.

When deciding which type of condition to use, EAO staff will consider the following:

- If a mitigation measure is well-defined, specific and not closely linked with a suite of mitigation measures for a valued component, it may be most appropriate as an individual condition;
- If a mitigation measure is a typical best practice to manage adverse effects, it may be most appropriate to incorporate it as a component of the construction or operational environmental management plan; or,
- If the mitigation is not well-defined or if there is a suite of mitigation measures that must be coordinated with one another incorporate it as a topic-specific management plan condition (e.g., Grizzly Bear Habitat Management Plan).

6.2 Composing SMART Conditions

Clarity and enforceability of conditions requires careful content and wording. To achieve this, conditions will adhere to the five essential attributes as outlined below.

⁸ For more information on Environmental Monitors and Independent Environmental Monitors (IEMs) see the Information Bulletin available on the EAO's [C&E webpage](#).

Conditions must be SMART**Specific**

- Worded in explicit, precise, unambiguous, and mandatory terms;
- Does not use ambiguous terms such as if practical, where feasible, approximate, or reasonable efforts; and
- If flexibility is necessary, clearly express alternatives and the situations in which they would be implemented.

Measurable

- Expressed in quantitative not qualitative terms;
- Reportable; and
- Allows unequivocal compliance evaluation.

Achievable

- Realistic and achievable; and
- May include contingencies for special cases.

Relevant

- Directly addresses management of adverse effects to an acceptable level.

Time-bound

- Clearly specifies required timeframe;
- Timeframe may be activity or location specific; and
- Includes information on duration, such as project phase or if in effect for the lifetime of the project.

These SMART attributes are expanded upon and illustrated with examples below. Note that the examples are intended to *highlight only those phrases necessary to illustrate the required attribute and do not include all required elements of a complete condition.*

6.2.6. Specific

Conditions will be drafted to be explicit, precise, unambiguous and mandatory in terms of the action required. In the first example below, the reporting and timing requirements and the interpretation of “regularly” is ambiguous.

- Example of unspecific condition wording: The Holder must maintain and regularly update a public water monitoring website.
- Example of specific condition wording: The Holder must maintain and update a public website throughout construction and operations to report on all water monitoring required by the EAC in accordance with the public communications plan required in condition X. The website must be updated on a weekly basis at a minimum.

Avoid ambiguous expressions that make it difficult to determine whether the condition has been met. Examples of ambiguous expressions are: if possible, as practicable, and if appropriate. Define when the condition must be met, when the conditions would or would not apply, and include specific measurable provisions for both instances.

As shown in the second example below, in some cases it may be appropriate to provide flexibility by indicating that changes may be authorized by a specific individual (e.g., a regulatory authority or a Qualified Professional). Further, condition wording should be expressed in mandatory terms using the term, “must.”

- Example of ambiguous condition wording with non-mandatory terms: Project-related motorized vehicle traffic should not use the John Doe Forest Service Road between August 15 and October 1, unless necessary, in order to avoid disturbance to foraging Grizzly Bears.
- Example of unambiguous condition wording with mandatory terms: Project-related motorized vehicle traffic must not use the John Doe Forest Service Road between August 15 and October 1 of any year in order to avoid disturbance to foraging Grizzly Bears.

Various terms have historically been used to acknowledge that the actions identified in the condition may not be fully within the Holder’s control, including conditions relating to consultation with other parties or mitigation that may require flexibility based on environmental considerations. Examples of these terms include: reasonable efforts or best efforts (e.g., the Holder will make reasonable efforts to consult with affected parties). It is important not to use these terms. Conditions will be clear about the procedural steps required. See the EAC template for the template condition on consultation.

If it is necessary to accommodate the need for flexibility to mitigate unlikely or unforeseen circumstances, an “if-then” or “unless” approach can be used through which a contingency plan is identified in the case that the preferred outcome cannot be achieved. Example of incorporation of flexibility:

- The transmission line towers must not be located within the perimeter of the Snowy Creek wetland unless:
 - A Qualified Professional determines that a transmission line tower must be located within the perimeter of the Snowy Creek wetland for the purposes of transmission line integrity; and,

Words and Phrases to Avoid in EACs and Exemption Orders

where practicable	typically
where possible	generally
approximately	estimated
in the vicinity	if required
subject to change	preliminary
reasonable efforts	best efforts
if appropriate	

- The Holder Constructs the access road and tower footing between August 1-September 1.

6.2.7. Measurable

The condition must be measurable so that Holders, IEMs, and C&E officers can determine with certainty whether the condition has been met. If a condition refers to “minimizing” or “reducing” a specific impact (such as in the first example below), a measurable threshold should be stipulated (e.g., maximum of 6 hectares). In some cases, it may be appropriate to specify that something must be minimized to the satisfaction of a Qualified Professional. In situations of dispute, the EAO, as the regulatory agency responsible for administering the Act and issuing EACs and Exemption Orders, will determine if an action is possible or practicable.

- Example of non-measurable condition wording: Clearing in zone A must be minimized when possible.
- Example of measurable condition wording: Clearing in zone A on Map 6 must not exceed 6 ha.

In certain circumstances, a quantitative approach is clearly not feasible, and a qualitative condition may be required. In such cases the means of evaluation must be provided (i.e., who will determine whether the condition has been met and how this will be done).

- Examples of qualitative, measurable condition wording: Clearing footprints in zone A, as illustrated on Map 6, must not exceed 6 ha unless otherwise authorized by the EAO.

6.2.8. Achievable

The EAO must have confidence that requirements in the condition are achievable and realistic. Proponents are encouraged to provide feedback to the EAO during the drafting of the conditions if any requirements are not achievable due to safety, technical or environmental considerations. The example below illustrates how a condition can take into account exceptions that would otherwise make the condition unachievable.

- Example of unachievable condition wording: During all project phases, the Holder must turn vehicles and equipment off when not in use to minimize vehicle and machinery emissions within 500 meters of residential areas to mitigate the potential adverse health effects of construction equipment emissions on local residents.
- Example of achievable condition wording: During all project phases, the Holder must turn off vehicles and equipment that are within 500 meters of residential areas when not in use to mitigate potential adverse health effects of vehicle and equipment emissions on local residents. Idling is permitted when the ambient temperature is below zero degrees Celsius.

Qualified Professional and Qualified Persons

Qualified Professionals and Qualified Persons are used throughout conditions to provide assurances to regulators. Qualified Professionals and Qualified Persons are used in conditions that:

- Provide flexibility by indicating that changes to a condition may be authorized by a specific individual, rather than an agency; and
- Require monitoring or reporting on the implementation of mitigation measures.

In these instances, the condition must:

- Require a Qualified Professional, if such a category of Qualified Professional exists in BC for the activity required by the condition. For example, a Registered Professional Biologist specializing in ungulates will make on-site decisions to prevent disturbance to ungulate winter range habitat; or
- Where there is no category of Qualified Professional and a Qualified Person is used, specify the education, professional qualifications and experience necessary for the Qualified Person.

6.2.9. Relevant

The condition must be relevant to the adverse effect(s) it is intended to mitigate to an acceptable level. Each condition should be connected to:

- A required mitigation for an adverse effect on a valued component; or,
- An adverse effect to an Indigenous interest.

6.2.10. Time-bound

Conditions will have a timeframe that is explicit and precise. Information on timing may need to be highly detailed in some circumstances and may be activity or location specific. Timing information includes specific timeframes (see first example below) and project phase(s) applicable to the condition. If a condition requires a certain action before construction will commence, consider if it is required before any construction or before construction of a particular component of the project. Timing information should also indicate whether the condition will be in effect for the lifetime of the project.

The condition in the first example does not provide a timeframe within which this must be accomplished.

- Example of condition wording that is not time-bound: The Holder must provide information about the timing, duration and location of all road closures on a publicly available website and in local newspapers.
- Example of time-bound condition wording: The Holder must provide information on a publicly available website and in local newspapers in [SPECIFIC LOCATIONS] about the timing, duration and location of all planned road closures a minimum of seven days prior to each planned road closure throughout Construction and Operations.

6.3 Key Elements when Drafting Conditions

There are key elements that should be considered when EAO staff draft each condition.

6.3.1. Individual Condition Composition

When composing individual conditions, consider the following:

- Level of prescription in the conditions
 - Consider the likelihood and potential significance of predicted adverse effects, the effectiveness of proposed mitigation measures and the confidence in these factors.
 - For example, if the mitigation is untested it may be appropriate to be more prescriptive in terms of monitoring requirements than if the mitigation is commonly applied in similar circumstances.
- Scope of the conditions
 - Take a holistic view of the entire EA process and mitigation measures proposed in the application and developed in application review;
 - Determine which measures were relied on when assessing effects to help determine which measures should be captured in the conditions; and
 - Consider including a requirement for any specific best practices which were relied on when assessing effects as a component of the CEMP/OEMP, other management plan or condition:

- For example, fuel spill prevention is commonly relied on during EAs to avoid adverse effects to fish habitat and therefore a fuel spill prevention and management plan is frequently required as a component of the CEMP.
- Wording of the conditions
 - If there is not standardized language for the specific topic, check to see how other projects have incorporated similar mitigation:
 - Use prior examples of conditions as a starting point, not an end point, as each project is unique and best practices in condition development continue to evolve.

Although all EACs include an overarching compliance self-reporting condition in the TOC⁹, additional reporting and/or monitoring requirements may need to be included for individual conditions. For example, conditions should be explicit about the extent, nature and timing of data collection, baseline studies, other field work, monitoring or reporting required. Given that the details of these studies and reports may be too lengthy to include in the TOC directly, it may be appropriate to refer to sections of the EA application or other documents to ensure clarity and provide conciseness (e.g., the monitoring program must include the protocols and procedures detailed in section 4.9 of the EA application).

⁹ For more information on compliance self-reports see the Certificate Holder's Guide to Compliance Self Reports available on the EAO's [C&E webpage](#).

6.3.2. Management Plan Condition Composition

Well-written management plans are an effective tool to address two types of mitigation measures: standard mitigation measures (contained within construction/operational environmental management plans) and topic specific mitigation measures.

Management plans are frequently identified by proponents in their EA applications as key measures to avoid and mitigate adverse effects. A well-designed set of management plans, outlined in the application and required through the TOC, can:

- Enable the EAO to focus the EA on issues that require more in-depth assessments while still facilitating a comprehensive mitigation and management framework; and,
- Ensure standard mitigation measures are legally enforceable.

During the EA, the EAO determines if the plans identified by the proponent appropriately address the potential for adverse effects as outlined in the application. After determining that a management plan is required, the EAO determines what parameters to set regarding the mitigation measures required within the management plan. When drafting the condition for the plan, consider the minimum requirements of the plan. The condition outlines the key actions and/or types of mitigation measures that must be detailed in the plan to ensure the plan will be written as expected during the EA.

The enforceability of management plans depends on the use of careful wording and content, not just in the condition that prescribes the requirement for the management plan, but also in the drafting of the management plan itself. To assist with this, all TOCs include a template condition relating to the minimum requirements for all plans.

Referencing Mitigation from the Application and Other Documents

If a condition references mitigation measures that are included in the EA application or other documents, the reference should be specific (e.g., the mitigation measures in Table 6.2-3, rather than all mitigation identified in the Application regarding vegetation) and the mitigation referenced should be written in a clear and enforceable manner.

If the mitigation is not written in a clear and enforceable manner that is satisfactory to the EAO, the condition could require the proponent to develop a plan that “sets out how the mitigation measures contained in section X.X of the Application will be implemented”. This allows for reference to mitigation measures the proponent has identified but requires that they be further detailed so that when the plan is submitted, the EAO can ensure they are written in an enforceable manner.

6.3.3. Construction Environmental Management Plans and Operational Environmental Management Plans

EA applications include a suite of standard or best practices to ensure effective environmental management of typical issues relating to the construction and operation of a major project. In many applications, these standard mitigation measures are incorporated into the CEMP and OEMP. While EACs usually include a condition for a CEMP and sometimes an OEMP, the topics addressed by the CEMP/OEMP are tailored for the potential effects of each project.

CEMPs and OEMPs include a suite of standard mitigation measures that are typically organized by topics such as an Invasive Plant Species Management Plan and an Erosion and Sediment Control Plan. In addition to the standard mitigation applicable to any major project, there are also sector-specific topics that may apply (e.g., a Drilling Mud Release Contingency Plan included in the CEMP for pipeline projects).

The EAC template includes the template condition for a CEMP/OEMP, a list of CEMP/OEMP topics typically required in EACs, and a list of optional topics that the EAO may select based on the specifics of the project or sector.

6.3.4. Project-Specific Management Plans

Management plans are also an effective tool to address higher level objectives for mitigating effects to a particular topic or value, for example, a Grizzly Bear Management Plan, Water Quality Management Plan or Indigenous Consultation Plan. These types of topic-specific management plans may be required where:

- Further details about mitigation measures need to be developed post-certification, for example, where specific mitigation measures are not yet identified but the objective for those mitigation measures are known;
- There are numerous mitigation measures that must be coordinated together to avoid or mitigate effects;
- Monitoring is required to confirm predicted effects; or,
- Adaptive management strategies may be required.

To assist with drafting, the EAC template includes a template condition for a project-specific management plan. The template will be used as the foundation for drafting conditions requiring items such as programs and studies. Every EAC will include the standard condition for plan development found in the EAC template that specifies the minimum information requirements of every management plan (i.e. purpose, roles and responsibilities, schedule, monitoring, etc.).

Project-Specific Management Plan Checklist

- Specify the topic of the plan, rather than requiring a plan with a specific title;
- Specify the requirements for the plan. Consider any specific mitigation measures to be included;
- Specify the required qualifications for the individual developing the plan;
- Specify which agencies, Indigenous nations, local governments or stakeholders need to be consulted on the development of the plan and provided with the draft plan;
- Consider the timeline that should be provided to agencies/groups to review; and
- Consider whether the plan will require the EAO's approval.

6.3.5. How to Determine if the Condition will Require EAO Review or Approval

In certain cases, the plan, program, study etc. may require the EAO's explicit review and approval prior to a particular activity or milestone, such as start of construction or operations. Approval should be reserved for those situations that require a higher level of oversight by the EAO. For example, approval by the EAO may be required when the topic of the management plan is a particularly sensitive value or the full nature of the potential effects and associated mitigation is unknown during the EA. Approval may also be considered appropriate where there is no, or little further regulation of activities affecting a value past the EA stage (e.g., impacts to vegetation from oil and gas facilities on private land). This will require a specific decision point by the EAO to approve or not approve the plan and means that the Holder must not proceed with the specified stage of the project, unless otherwise authorized by the EAO. In some cases, EAO post-certificate review of one or more management plans may not be required (for example if the management plans were submitted during the EA process and the EAO determined they address the required mitigation in a clear and measurable manner). The EAC template provides template language relating to review and approval of management plans.

Agency Determining Approval

When conditions require post-certificate approval of a plan or other document, typically the EAO should be the only body responsible for approval. However, frequently the subject matter expertise for approval/satisfaction may be found in other agencies. Therefore, the conditions can be written to require that the plan or other document is developed 'in consultation with' other agencies, local governments, Indigenous nations, etc. and the EAO can seek input from any party when considering approval/satisfaction of a plan or other document. The EAC template includes a standard condition for procedural steps required when consultation is included in an EAC.