

UPDATE ON B.C.'S *INFRASTRUCTURE PROJECTS ACT*: FROM PUBLIC ENGAGEMENT TO REGULATION DRAFTING

Introduction

Recall from our previous article entitled "*B.C.'s Infrastructure Projects Act: Impact on Local Government Approvals*" that the *Infrastructure Projects Act* (the "**Act**") was introduced to expedite the approval processes necessary for delivering infrastructure projects in British Columbia. The legislation aims to streamline regulatory and approval requirements to accelerate the development of critical infrastructure projects across the province.

At the time of our last update, the *Act* had not yet come into force, as it still required a regulation by the Lieutenant Governor in Council. While this remains the case, the Ministry of Infrastructure (the "**Ministry**") has since launched a comprehensive, three-phased public engagement process. This consultation process is designed to solicit feedback from First Nations, the public, and different stakeholders including local governments, business organizations, environmental groups, and members of the construction industry, to support the development of the *Act's* regulations and its role in shaping the application of the *Act*.¹

This article provides an overview of the three-phased public engagement process and discusses the anticipated role of stakeholders, such as developers and contractors, in shaping the regulation which will ultimately influence the application of the *Act*.

Phase 1 of Public Engagement Process: Provincially Significant Projects

As previously discussed, the *Act* categorizes

infrastructure projects into two types of "designated projects":

- **Category 1 Projects:** those projects delivered directly by the Ministry, including schools, hospitals, and student housing, as well as certain projects led by other ministries; and
- **Category 2 Projects:** those projects delivered by private entities, Crown agencies, First Nations and local governments that are designated by Order-in-Council, on a project-by-project and tool-by-tool basis, as "provincially significant".²

As you may recall, Category 1 Projects are delivered directly by the Ministry and, thus, do not require the same level of clarity regarding classification as Category 2 Projects.

During Phase 1 of the public engagement process, the Government of British Columbia (the "**Government**") released a questionnaire seeking public feedback on the proposed criteria for designating Category 2 projects as "provincially significant." Although the consultation closed on September 30, 2025, the Ministry sought feedback on the following four eligibility requirements, which all must be met for a Category 2 Project to be deemed "provincially significant":

- Project Type;
- First Nations Decision-Makers' Support;
- Core-Requirements;
- and Additional Benefits.³

(Continued on page 2)

1. **Project Type:** To qualify as “provincially significant”, a project must address one or more priority types as shown in the following table published by the Government:⁴

Project Type	Meaning
Critical minerals and mining	Critical minerals mining that is essential to national security and economic health and supports the transition to a low-carbon economy. Responsible mining that supports economic objectives.
Food or water supply	Protects the food or water supply essential for B.C.’s public health and sustainable communities.
Human health and safety	Supports the protection of the health, safety and well-being of all people in B.C.
Energy security	Securing affordable and sustainable energy is key to the health, safety, and economic prosperity of people in B.C. Projects of this type will ensure a stable, resilient, made-in-B.C. energy supply for the province.
Public infrastructure	Essential publicly owned infrastructure that supports the public good, including but not limited to the development of healthy and vibrant communities, economic growth, and/or online connectivity. This type excludes Provincial Capital projects, such as schools, hospitals, post-secondary institutions, etc.
Supply chain capacity	Strengthens B.C.’s supply chain resiliency and capacity to ensure the safe and timely movement of goods, in line with the Province’s Goods Movement Action Plan.
Post-disaster recovery	Supports efforts to rebuild communities after a disaster, while reducing future climate and disaster risk and supporting B.C.’s resilience to those risks.
Environmental restoration	Large-scale (large area/regional) environmental restoration outside of post-disaster recovery.
B.C.’s Climate goals	Contributes to the B.C.’s goals of reducing the impacts of climate change and building a clean economy.
Housing	Advances efforts to increase affordable housing supply for people in B.C. to create healthy and vibrant communities.

2. **First Nations Decision-Makers’ Support:**

Projects must demonstrate support from “significantly and directly impacted First Nations decision-makers”.⁵ The Government has clarified that this requirement is distinct from the Crown’s duty to consult obligations.⁶ However, the Government has not yet defined who qualifies as a “decision-maker” in this context. Stakeholders will likely need further guidance on how these two processes interact, such as in cases where a First Nation may support a project in principle but still requires formal consultation under constitutional law.

Without a clear understanding of whose support is required, project proponents may face delays or risk non-compliance, especially in areas with overlapping or disputed traditional territories. In addition, varying interpretations of who qualifies as a “First Nations decision-maker” could lead to uneven application of the Act across different projects, potentially undermining fairness and transparency.

3. **Core-Requirements:** To be considered “provincially significant,” a project must meet all of the following three core requirements:

- Project readiness: the project must (1) include a viable plan to have funding and (2) a plan and deliverables that include a feasibility study, a business case and project partners.⁷
- Problem can be addressed by the Act: the project proponent must identify why a project is not moving forward and which tools in the Act could help address the issue.⁸

(Continued on page 3)

- Project is material and significant: the project must either (1) meet or exceed a \$100 million capital cost threshold or (2) be a public infrastructure project that provides significant public benefits, such as publicly owned community amenities.⁹

The Government has not yet provided any further clarity as to what qualifies as a “significant public benefit”. As such, stakeholders will likely need further guidance to understand whether these benefits are limited to publicly owned community amenities or whether alternatives could qualify as a “significant public benefit”.

4. **Additional Benefits:** Eligible “provincially significant” projects must also deliver at least one additional benefit as shown in the following table published by the Government:¹⁰

Additional Benefit	Meaning
Trade diversification	Advances the goal of B.C. having a greater number and diversity of businesses exporting goods and services, internationally and inter-provincially. Aligns with B.C.’s Trade Diversification Strategy and the Economic Stabilization (Tariff Response) Act.
Access to new markets	Advances the goal of businesses in B.C. having more trade and investment opportunities in new markets, internationally and inter-provincially. Aligns with B.C.’s Trade Diversification Strategy and the Economic Stabilization (Tariff Response) Act.
Supply chain security	Strengthens the security of B.C.’s supply chain, including but not limited to road, rail, marine and air. Aligns with B.C.’s Goods Movement Action Plan and the Economic Stabilization (Tariff Response) Act.

Replacing U.S. imports	Supports the replacement of U.S. imports with B.C. and Canadian-made products, creating good paying jobs and wealth across the province while reducing our reliance on U.S.-made products. Aligns with the objectives of the Economic Stabilization (Tariff Response) Act.
Improves community livability	Advances one or more key elements of complete communities: <ul style="list-style-type: none"> • diversity of housing types • proximity of housing and employment to daily needs • transportation options • efficient use of infrastructure
Achieving labour goals (for example, apprenticeships, training)	Creates good, stable, family-supporting jobs that grow the economy across the province. Develops the skills and knowledge of workers to equip them to succeed and build a good life in B.C. Attracts and retains skilled-labour and in-demand workers to the province. Develops and expands skilled trades in B.C.

Phase 2 of Public Engagement Process: Proposed Qualified Professional (QP) Reliance Model

Under the *Act*, a “designated project” may access up to six tools to help streamline approvals and decision-making, one of which is the Qualified Professional (QP) Reliance Model.¹¹ Under the QP Reliance Model, a qualified professional can “provide a certification instead of waiting for a provincial decision”.¹² This mechanism would allow certain qualified professionals to certify that a project meets regulatory standards, reducing the need for direct provincial permit approval and ultimately, streamlining project timelines.¹³ The proposed QP Reliance Model closely resembles the Certified Professional (CP) Program used under the BC Building Code, as both serve as alternatives to the traditional, and often lengthy, permit approval process. Under the CP Program, a certified professional provides “professional assurance” to

(continued on page 4)

the approving authority, confirming that construction and design will comply with the BC Building Code.¹⁴ Similarly, the QP Reliance Model aims to streamline provincial approvals by allowing a qualified professional to certify that a project meets the necessary requirements for permit issuance.

By shifting a greater degree of accountability to qualified professionals, the QP Reliance Model has the potential to reduce administrative delays and promote greater efficiency in the project delivery process. However, it remains to be seen whether the QP Reliance Model will function as effectively in practice as the CP Program. The Government is currently seeking public input on the proposed model, with submissions open until November 28, 2025 at 4:00 p.m. The components to establish the QP Reliance Model include:

1. Identifying a provincial permit that can be replaced with QP certification.¹⁵ Only provincial permits that meet two criteria may be replaced with QP certification: (1) the permit must have clear, objective standards and (2) the permit must not require significant interpretation or judgement and/or discretion.¹⁶ These criteria were introduced to ensure that eligible qualified professionals will have objective standards to determine whether a certification can be issued.
2. If an eligible provincial permit may be replaced with QP certification, the qualified professional must:
 - belong to a regulatory body under the *Professional Governance Act* (i.e. the Architectural Institute of BC, Forest Professionals BC, Applied Science Technologies and Technicians of BC, BC Institute of Agrologists, College of

Applied Biologists, Association of Professional Engineers and Geoscientists); or

- possess comparable qualifications and/or professional oversight as required under the *Professional Governance Act* (e.g. specialized education, experience, and credentials in a relevant field); or
- possess qualifications that are considered traditional knowledge (e.g. First Nations traditional knowledge holders).¹⁷

To be deemed a qualified professional, additional proposed criteria include proper qualification, professional conduct requirements, conflict of interest declarations, minimum experience thresholds and competency requirements.¹⁸

The Government has not yet provided clarity on what specific qualifications or areas of expertise will be recognized as constituting “traditional knowledge.” This lack of definition creates uncertainty for industry participants seeking to understand how the new framework may apply in practice. The ongoing public questionnaire represents a valuable opportunity for developers, contractors, engineers and other stakeholders to share their perspectives on how the Government should define, assess and verify the qualities that demonstrate relevant traditional knowledge. Meaningful participation in the public engagement process will be essential to ensuring that the final approach is both practical and effective.

Phase 3 of Public Engagement Process: Expedited Environmental Assessment Process

Expected to launch in Fall 2025, Phase 3 will be led by the Environmental Assessment Office (EAO), with support from the Ministry.¹⁹ Public engagement for

(continued on page 5)

this phase is expected to remain open until March 31, 2026.

This phase will focus on developing an expedited Environmental Assessment process for projects governed by the *Act*.²⁰ Currently, the Environmental Assessment process is designed to evaluate major projects for potential environmental, social and economic impacts and consists of the following seven phases:

1. Early Engagement – submission of initial project description and stakeholder engagement;
2. Readiness Decision – submission of a detailed project description;
3. Process Planning – initiation of the environmental assessment process;
4. Application Development & Review – application review by stakeholders;
5. Effects Assessment & Recommendation – preparation of assessment report and recommendations;
6. Decision – issuance of a final decision and environment assessment certificate; and
7. Post-Certificate – ongoing monitoring through mitigation effectiveness reports, audits, certificate amendments, extensions and transfers.²¹

While the expedited Environmental Assessment process is expected to diverge from the existing framework described above, the Government has not yet provided details on the scope or nature of the proposed changes. Further information is anticipated once the EAO initiates public consultation and releases a third questionnaire seeking feedback on how an expedited process will function in practice.

Conclusion: The Role of Developers and Contractors in Shaping the Regulation(s)

The Government's three-phased public engagement process has directly sought, and is still directly seeking, feedback from stakeholders including developers and contractors. As such, developers and contractors can and likely will play a critical role in shaping the regulation to accompany the *Act*. This influence presents a unique opportunity for developers and contractors to contribute their technical expertise, market insights and real-world perspectives on the feasibility of the proposed requirements and tools being recommended by the Ministry. Input may be particularly valuable in shaping frameworks such as the QP Reliance Model, where professional standards and accountability mechanisms must reflect industry realities. Once the *Act* comes into force, developers and contractors will be at the forefront of putting its provisions and regulations into practice. Their perspective on how the *Act* operates will be essential to ensuring the *Act* works not just in theory, but also in application.

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- 1 *Infrastructure Projects Act*, Engage BC (Government of British Columbia), online: <https://engage.gov.bc.ca/infrastructure>
- 2 Ministry of Infrastructure (BC), *Infrastructure Projects Act Technical Briefing* (5 October 2025) <https://news.gov.bc.ca/files/InfrastructureLegislationDeck.pdf>
- 3 *Infrastructure Projects Act – Eligibility*, Engage BC (Government of British Columbia), online: <https://engage.gov.bc.ca/infrastructure/eligibility/#eligibility>
- 4 *Ibid.*
- 5 *Ibid.*
- 6 *Ibid.*
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- 10 *Ibid.*
- 11 *Proposed Qualified Professional Reliance Model*, Engage BC (Government of British Columbia), online: <https://engage.gov.bc.ca/infrastructure/proposed-qualified-professional-reliance-model/>
- 12 *Ibid.*
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- 14 *Certified Professional (CP) Program*, Architectural Institute of British Columbia, online: <https://aibc.ca/programs-services/certified-professional-program/>
- 15 *Supra* note 11.
- 16 *Ibid.*
- 17 *Ibid.*
- 18 *Ibid.*
- 19 *Supra* note 1.
- 20 *Ibid.*
- 21 *Environmental Assessment Process*, Environmental Assessment Office, Province of British Columbia, online: <https://www2.gov.bc.ca/gov/content/environment/natural-resource-stewardship/environmental-assessments/environmental-assessment-process>



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Kyle is an associate lawyer of the firm and maintains a general municipal law practice with a focus on real estate development. Prior to joining Civic Legal LLP, Kyle worked at a regional law firm specializing in real estate development where he represented a number of developers. In his practice, Kyle assists clients throughout all stages of the development process from rezoning and development permit issuance to air space parcel subdivision and occupancy permit issuance. He regularly drafts section 219 covenants, statutory rights of ways and other legal agreements for development projects.

Our lawyers combine legal experience in local government, commercial real estate development, and construction law to provide legal services to local governments, owners, builders and developers on a range of projects, from concept to completion, and beyond.

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