

From Cumulative Effects to One-off Authorizations: BC Shifts its Approach to Project Approvals

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On May 29, 2025, two British Columbia acts intended to fast-track project approvals received royal assent. The *Infrastructure Projects Act*, passed under Bill 15, creates a streamlined regulatory approval process for provincially designated infrastructure projects. The *Renewable Energy Projects (Streamlined Permitting) Act*, passed under Bill 14, expedites certain categories of renewable energy projects. These Acts may lead to more efficient regulatory approvals for certain infrastructure and renewable energy projects. However, their ultimate efficacy is unknown because the project designation process, and associated Indigenous consultation required, will be prescribed in yet-to-be developed regulations.

These Acts are part of a trend where federal and provincial governments are seeking to expedite approvals by exempting specific projects from full regulatory assessment. [Bill C-5](#) has been tabled by the federal government of Canada with the stated intention of accelerating the approval of projects in the ‘national interest.’ Also, [Bill 5](#), was passed in Ontario and provides for the creation of ‘Special Economic Zones’ with reduced regulatory approval requirements.

Infrastructure Projects Act

The *Infrastructure Projects Act* (the *Infrastructure Act*) provides for expedited review processes for both public and private sector infrastructure projects. British Columbia (the Province) can designate two categories of projects. Category 1 includes designated government projects in which the Minister of Infrastructure is given broad powers to manage project development.¹ Category 2 includes private projects that have been deemed “provincially significant.”²

Specific eligibility requirements for each category and thresholds for ‘provincially significant’ projects are under development, and regulations are expected to be released in the coming weeks. Hon. Bowinn Ma, Minister of Infrastructure, provided guidance on the potential scope of ‘provincially significant’ projects during a Legislative Assembly debate:

*A project of provincial significance must have First Nations support and provide significant social, economic, environmental benefits to British Columbians and significantly contribute to the priorities of British Columbians [...] We had also publicly stated, however, that it would be our intention to explicitly exclude pipelines, LNG facilities, low-barrier housing and overdose prevention sites.*³

The *Infrastructure Act* includes six tools that are intended to streamline project approval and development, including:

- **Qualified professional approvals:** Certifications from a qualified professional can replace certain provincial authorizations.⁴ Regulations will provide a framework for the use of qualified professional certifications with designated projects.⁵
- **Provincial permit prioritization:** The Minister of Infrastructure is given powers to require regulators to prioritize designated project review, including imposing timelines or making recommendations for prescribed actions.⁶
- **Approved project streamlining:** If a designated project has been issued a certificate under the *Environmental Assessment Act*, the Minister of Infrastructure may order other statutory approvals within specified times and conditions.⁷
- **Expedited environmental assessment:** The *Environmental Assessment Act* is amended to enable an expedited assessment process for designated projects. The expedited assessment must be completed within a prescribed period, which is expected to vary depending on the project's complexity.⁸ Designated projects are also exempt from much of the environmental assessment process, including requirements for early Indigenous engagement and public engagement.
- **Varying municipal requirements:** The Province can exempt or modify municipal planning statute requirements to expedite designated projects at the request of municipalities and regional districts.⁹
- **Removal of constraints:** Designated project proponents must raise identified constraints with the relevant approval authority.¹⁰ A 'constraint' is a measure that impedes or interferes with the completion of the designated project.¹¹ Constraints can be remedied by an implementation agreement that specifies replacement measures, as well as authorizations and orders to replace constraints.¹² Importantly, however, constraint authorizations cannot be made respecting Indigenous engagement.¹³

The *Infrastructure Act* provides protections to ensure private-sector designated projects stay within their contemplated scope. Designated projects must be completed and used for purposes within their initial project description and are subject to monitoring requirements.¹⁴ This means that proponents cannot seek to have a project designated under the *Infrastructure Act* and change its scope such that it is no longer provincially significant.

Bill 15 also repeals, and effectively replaces, the *Significant Projects Streamlining Act* (SPSA), which provided a streamlined process for 'provincially significant' projects that was never utilized.¹⁵ The *Infrastructure Act* and the SPSA both include similar provisions relating to designating 'provincially significant' projects and constraint-removal mechanisms. However, the *Infrastructure Act* provides additional streamlining tools, like qualified professional approvals and expedited environmental assessment.¹⁶ Unlike the SPSA, the Province has indicated that they intend to utilize the *Infrastructure Act* shortly after developing supporting regulations.¹⁷

Renewable Energy Projects (Streamlined Permitting) Act

The *Renewable Energy Projects (Streamlined Permitting) Act* (the *Renewable Energy Act*) applies to prescribed renewable energy projects, select wind energy projects and the North Coast Transmission Line project by modifying review processes under the *Energy Resource Activities Act* (ERAA).¹⁸

Three levels of streamlining are contemplated, including:

- **Level 1:** Enables the delegation of activities to the BC Energy Regulator (BCER) that were previously assigned to other government bodies.¹⁹ This is expected to function as a transitional stage that enables the BCER to work on early authorizations prior to a level 2 or 3 designation.²⁰
- **Level 2:** Exempts permitting and other requirements under the ERAA.²¹ These requirements include, for example, emergency response and contingency planning, public requests for investigation, expanded responsibilities for permit holders, and environmental protection and management requirements.²² This level applies to the North Coast Transmission Line project and other prescribed streamlined projects.²³
- **Level 3:** Maintains permitting obligations but exempts certain requirements under the ERAA, such as expanded responsibilities for permit holders and public requests for investigation.²⁴ This level applies to existing wind energy projects and other prescribed streamlined projects.²⁵ The existing wind energy projects will have their environmental assessment certificates cancelled and replaced with a permit provided under the ERAA.²⁶

Upcoming regulations will prescribe streamlined projects under levels 2 and 3.²⁷

Streamlined projects will have a modified regulatory regime compared to the typical processes. The Province can alter the ERAA's applicability to streamlined projects through regulation, while project-specific fees are determined by the BCER board.²⁸ Importantly, regulations cannot modify provisions respecting Indigenous engagement.²⁹

Potential Impacts to Indigenous Peoples

British Columbia must uphold its obligations to Indigenous peoples, regardless of the Acts' content. Aboriginal rights are protected under section 35 of the *Constitution Act, 1982* (Section 35).³⁰ These constitutionally protected rights impose obligations on the Province, such as the duty to consult, that cannot be altered by legislation unless justified.³¹ Legislation that contravenes these rights is likely illegal and can be expected to have no force or effect if challenged.³²

The exact extent of the Acts' impact on Aboriginal rights will be unclear until supporting regulations are

developed. Both Acts prohibit modifications to existing regulatory approval processes with respect to engagement with Indigenous peoples.³³ However, the designation process for expedited projects under the Acts will be determined in yet-to-be-released regulations. In particular, the three areas described below may be impacted by the Acts' expedited approval processes.

Duty to Consult

The Crown, including the Province and Canada, has a duty to consult, and where appropriate, accommodate Indigenous peoples flowing from Section 35. It is triggered when a Crown action or decision has the potential to adversely affect existing or asserted Aboriginal rights.³⁴ The Province's actions to date are consistent with Supreme Court of Canada guidance, which provides that the development and passage of legislation does not trigger the duty to consult.³⁵ However, unilateral action to expedite a project without adequate consultation may not be consistent with Crown obligations.

The Province has committed to consulting with Indigenous peoples prior to designating projects. Regarding the *Infrastructure Act*, Hon. Bowinn Ma, Minister of Infrastructure, stated that "no category 2 project would be designated as provincially significant and therefore be able to access the streamlined permitting tools in the *Infrastructure Act* without the consent of First Nations."³⁶ Similarly, Hon. Adrian Dix, Minister of Energy and Climate Solutions, stated that Indigenous peoples would be consulted when developing regulations that support the *Renewable Energy Act*.³⁷

UNDRIP

The Acts raise concerns regarding potential impacts to the Province's ability to uphold the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), which is recognized under legislation enacted by Canada and British Columbia.³⁸ In *Gitxaala v British Columbia (Chief Gold Commissioner)*, the BC Supreme Court highlighted that BC's UNDRIP statute serves as an interpretive aid in determining the proper reading of statutes.³⁹ More recently, in *Kebaowek First Nation v Canadian Nuclear Laboratories*, the Federal Court required UNDRIP consideration to satisfy the duty to consult.⁴⁰ While the Province has maintained that the recently passed legislation is consistent with its obligations to Indigenous peoples, whether this is the case in practice is unknown at this point.

Cumulative Effects

The Province currently considers the cumulative effects of development in certain aspects of its regulatory regime. Specifically, the Province overhauled its *Environmental Assessment Act* in 2018, where adverse cumulative effects became a mandatory consideration.⁴¹ Also, a set of Cumulative Effects Framework policies were developed for natural resource decision-making.⁴² In 2021, the BC Supreme Court held that the failure to consider the cumulative impacts of development to a Treaty 8 First Nation's rights was a breach of the Province's obligations.⁴³ This eventually led to an implementation agreement that considers

cumulative impacts to the affected First Nation.⁴⁴

The return to single project decision-making suggests that the Province is willing to forgo more holistic approaches in select circumstances. However, it is unclear how the Province will be able to expedite individual projects while also meeting cumulative impact considerations owed to Indigenous peoples, Treaty 8 beneficiaries in particular.

Impacts to Project Proponents

While expedited approvals are expected to benefit project proponents, the newly passed legislation creates some uncertainty. First, projects can only be expedited if they are designated by the Province. This means that projects lacking provincial support may not be able to benefit from these streamlined pathways. Second, the scope and purpose of a project cannot change if designated. This potentially limits options for proponents if project needs change, particularly if the project is designated in early planning stages. Third, if adequate support by Indigenous groups is not obtained, delays can be expected even with an expedited approval due to potential court challenges by those groups.

Takeaway

The *Infrastructure Act* and *Renewable Energy Act* respond to calls for expedited regulatory approval processes at a time of increasing geopolitical and economic uncertainty. Combined, Bills 14 and 15 seek to fast-track three different categories of projects: (i) public infrastructure projects; (ii) ‘provincially significant’ private sector projects; and (iii) certain prescribed renewable energy projects. Particularly, given British Columbia’s recent track record on an eroding investment-friendly climate in that province, it remains to be seen whether this newly introduced legislation can reduce project approval timelines while also upholding Crown commitments and constitutionally mandated obligations to Indigenous peoples.

¹ Bill 15, Parts 2-3, cls 3, 4(1)(a).

² Bill 15, Part 3, cl 4(1)(b).

³ “Bill 15, Infrastructure Projects Act,” British Columbia, House Committee Section A (27 May 2025) at 14:20 (Bowinn Ma), online: <<https://www.leg.bc.ca/hansard-content/Debates/43rd1st/20250527pm-CommitteeA-Blues.htm>>.

⁴ Bill 15, Part 4, cl 6.

⁵ Bill 15, Part 6, cl 28.

⁶ Bill 15, Part 4, cl 7.

⁷ Bill 15, Part 4, cl 8.

⁸ Bill 15, Part 7.1, cl 71.2; “Bill 15, Infrastructure Projects Act,” British Columbia, House Committee Section A (27 May 2025) at 20:15 (Bowinn Ma), online: <<https://www.leg.bc.ca/hansard-content/Debates/43rd1st/20250527pm-CommitteeA-Blues.htm>>.

⁹ Bill 15, Part 4, cl 9.

¹⁰ Bill 15, Part 4, cl 12(1).

¹¹ Bill 15, Part 1, cl 1.

¹² Bill 15, Part 4, cls 12, 18-19.

¹³ Bill 15, Part 4, cl 20.

¹⁴ Bill 15, Part 4, cls 13, 15.

¹⁵ Bill 15, Part 7, cl 31; *Significant Projects Streamlining Act*, [SBC 2003, c 100](#); *Conseil scolaire francophone de la Colombie-Britannique v British Columbia*, [2025 BCSC 962](#) at para 478.

¹⁶ See “Bill 15, Infrastructure Projects Act,” British Columbia, House Committee Section A (28 May 2025) at 15:10 (Bowinn Ma), online: <<https://www.leg.bc.ca/hansard-content/Debates/43rd1st/20250528pm-CommitteeA-Blues.htm>>.

¹⁷ British Columbia, News Release, “New legislation will deliver key infrastructure faster, strengthen economy” (1 May 2025), online: <<https://news.gov.bc.ca/releases/2025PREM0018-000403>>.

¹⁸ [SBC 2008, c 36](#) (Note: The North Coast Transmission Line project will twin the existing electric transmission corridor between Prince George and Terrace in northwest BC).

¹⁹ Bill 14, Part 2, cls 3-4.

²⁰ See “Bill 14 — Renewable Energy Projects (Streamlined Permitting) Act,” British Columbia, House Committee Section C (26 May 2025) at 19:50 (Adrian Dix), online: <<https://www.leg.bc.ca/hansard-content/Debates/43rd1st/20250526pm-CommitteeC-Blues.htm>>.

²¹ Bill 14, Part 2, cl 7.

²² Bill 14, Part 2, cl 7(2).

²³ Bill 14, Part 2, cl 5.

²⁴ Bill 14, Part 2, cl 10.

²⁵ Bill 14, Parts 2, 4, cls 8, 23.

²⁶ Bill 14, Part 4, cls 23(2).

²⁷ Bill 14, Part 4, cl 20(3)(e).

²⁸ Bill 14, Part 2, cls 11, 13(1).

²⁹ Bill 14, Part 2, cl 13(2).

³⁰ [Schedule B to the Canada Act 1982 \(UK\), 1982, c 11](#), s 35(1) [*Constitution Act, 1982*].

³¹ See *R v Sparrow*, [1990 CanLII 104](#) (SCC); *Tsilhqot’in Nation v British Columbia*, [2014 SCC 44](#) at paras 77-78.

³² *Constitution Act, 1982*, s 52(1).

³³ Bill 14, Part 2, cl 13(2); Bill 15, Part 4, cl 20.

³⁴ *Haida Nation v British Columbia (Minister of Forests)*, [2004 SCC 73](#).

³⁵ *Mikisew Cree First Nation v Canada (Governor General in Council)*, [2018 SCC 40](#) at para 32.

³⁶ [\[36\]](#) “Bill 15, Infrastructure Projects Act,” British Columbia, Legislative Assembly (26 May 2025) at 18:11 (Bowinn Ma), online: <<https://www.leg.bc.ca/hansard-content/Debates/43rd1st/20250526pm-CommitteeA->

Blues.htm>.

³⁷ “Bill 14, Renewable Energy Projects (Streamlined Permitting) Act,” British Columbia, House Committee Section C (27 May 2025) at 16:45 (Adrian Dix), online: <<https://www.leg.bc.ca/hansard-content/Debates/43rd1st/20250527pm-CommitteeC-Blues.htm>>.

³⁸ *United Nations Declaration on the Rights of Indigenous Peoples Act*, [SC 2021, c 14](#); *Declaration on the Rights of Indigenous Peoples Act*, [SBC 2019, c 44](#).

³⁹ [2023 BCSC 1680](#) at para 559.

⁴⁰ [2025 FC 319](#) at para 57.

⁴¹ *Environmental Assessment Act*, [SBC 2018, c 51](#), s 25(1).

⁴² British Columbia, “Cumulative Effects Framework” (last modified 10 December 2024), online: <<https://www2.gov.bc.ca/gov/content/environment/natural-resource-stewardship/cumulative-effects-framework>>.

⁴³ *Yahey v British Columbia*, [2021 BCSC 1287](#) at para 1787.

⁴⁴ *Blueberry River First Nations Implementation Agreement*, 18 January 2023, online: <https://www2.gov.bc.ca/assets/gov/environment/natural-resource-stewardship/consulting-with-first-nations/agreements/blueberry_river_implementation_agreement.pdf>.

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