

## Sweeping Reforms to Environmental Assessments Become Law

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On June 21, 2019, Bill C-69, legislation which proposed sweeping reforms to federal regulatory regimes concerning the environment assessment of major projects in Canada, received Royal Assent and became law.<sup>1</sup>

As discussed in a previous article, Bill C-69, among other things, has replaced the *Canadian Environmental Assessment Act, 2012*<sup>2</sup> with an *Impact Assessment Act*, replaced the *National Energy Board Act*<sup>3</sup> with a *Canadian Energy Regulator Act*, and made changes to the *Navigation Protection Act*<sup>4</sup>. In passing Bill C-69, the Federal Government accepted 62 amendments proposed by the Senate and further amended or rejected the balance of the Senate's proposed amendments.

Senate amendments that were accepted by the Federal Government include:

- Establishing that one of the goals of project assessments is to ensure economic development (*Impact Assessment Act*, Section 6);
- Shifting control from the Minister of the Environment to the new Impact Assessment Agency over key decisions (e.g., setting and extending deadlines, deciding when prescribed activities have been completed, identifying when additional information is required, etc.) (*Impact Assessment Act*, Section 28); and
- Granting certain powers to the Impact Assessment Agency in determining what constitutes “meaningful” public participation in the circumstances (*Impact Assessment Act*, Section 27).

### Impacts for Resource Development in Canada

Bill C-69 represents a major shift in how federal decisions are made about major resource development projects in Canada. While Bill C-69 increases environmental and stakeholder engagement requirements, there are concerns from industry that Bill C-69 could also increase regulatory uncertainty, despite amendments. This cannot be fully assessed unless and until major projects go through the new *Impact Assessment Act* process. In the meantime, the Impact Assessment Agency will be charged with developing processes to efficiently satisfy Bill C-69.

### Potential Challenge

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The Government of Alberta has indicated that it will challenge Bill C-69 in court on the basis of the constitutional jurisdiction of provinces to control the development of their natural resources.<sup>5</sup> Bill C-69 will likely also be an issue during the upcoming federal election in October 2019. Therefore, there may be further developments regarding Canada's environmental assessment regime in the months ahead.

Please contact Jeremy Barretto, Melissa Winch or any other member of the Cassels Municipal, Planning & Environmental Group or Regulatory Group for further information.

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<sup>1</sup> *An Act to enact the Impact Assessment Act and the Canadian Energy Regulator Act, to amend the Navigation Protection Act and to make consequential amendments to other Acts*, SC 2019, c 28.

<sup>2</sup> *Canadian Environmental Assessment Act*, 2012, SC 2012, c 19, s 52.

<sup>3</sup> *National Energy Board Act*, RSC 1985, c N-7.

<sup>4</sup> *Navigation Protection Act*, RSC 1985, c N-22.

<sup>5</sup> <https://www.alberta.ca/release.cfm?xID=64091D3FB5CCD-04E7-4253-20AA82F7F9FA47A2>

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