

UBCM: Bill 15 provides province with regulatory override powers for major capital projects

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The Province of BC has introduced legislation that would give greater powers to the Cabinet to expedite the approval of projects it deems a matter of provincial significance. If passed into law, **Bill 15 (Infrastructure Projects Act)** will allow the minister responsible for a project – such as the building of a school – to make decisions to facilitate the completion and operation of a project as expeditiously as possible. For local governments, the Bill will also allow the Minister of Infrastructure to intervene in local regulatory processes to develop measures to address project delays when necessary.

The legislation was drafted by the Ministry of Infrastructure, which has been tasked with providing centralized planning for major capital projects such as schools and healthcare facilities.

The proposed legislation identifies two (2) classes of categories of Provincially Significant Projects to be considered for streamlining:

- Provincial Projects – All Ministry of Infrastructure Projects (vertical infrastructure providing provincial services) including schools, post-secondary housing, hospitals and health facilities, and
- Private Projects – On a project-by-project and tool-by-tool basis for projects designated by Order in Council as ‘provincially significant’ and projects delivered by other partners, such as crown agencies, local governments, First Nations and private proponents.

Provincial permitting processes are considered a significant barrier to the efficient delivery of significant projects. In part, the proposed legislation will support more effective and efficient provincial permitting implementation through prioritized provincial permitting and the development of a qualified professional reliance framework to expedite some provincial decisions where appropriate.

Environmental Assessment

The legislation provides two options to expedite the environmental assessment process. Both options are allowable on a case-by-case basis as approved by an Order in Council.

The first option will allow for automatic authorization of low-risk provincial permits following the issuance of an Environmental Assessment Certificate. For example, the issuance of a tree cutting permit on a mine site that has been issued an Environmental Assessment Certificate.

Secondly, the legislation provides an alternative and expedited Environmental Assessment process for designated projects to reduce the time involved with overlapping permit processes.

Consultation with First Nations

All designated projects under the legislation will be required to uphold the government’s commitment to the Declaration of the Rights of Indigenous Peoples Act.

Local Government Impacts

Under the proposed legislation, local governments are empowered to request the delay of provincial requirements to update official community plans for designated projects. This power cannot be extended to requirements related to health and safety, such as building permits, occupancy permits and sewer/stormwater management.

Where a local government process creates a lengthy or unnecessary delay on a project as determined by the Cabinet, the Province will initiate a process to work with local government to resolve the issue. This includes:

1. Consultation with the local government
2. Seek written agreement with the local government, which could include creating a mutually agreed upon alternate authorization.
3. If no resolution is reached, the Minister of Infrastructure can intervene to develop measures to address delays for the designated project.

UBCM commentary on the legislation

UBCM met with staff from the Ministry of Infrastructure and with Minister Bowinn Ma to receive a briefing on provincial intentions through the legislation.

As B.C.'s population grows, communities require infrastructure such as schools, hospitals and care centres to support residents. Local governments have been calling on the province to accelerate the building of such facilities to ensure B.C. residents are living in complete communities. The focus on accelerating approval processes on the provincial side are needed and welcomed by UBCM.

UBCM notes that the process leading to the drafting of the legislation has been rushed, and did not include meaningful consultation with UBCM or member local governments. As has been proven in the past, a fast-tracked approach that skips over consultation is more likely to lead to unintended consequences.

Bill 15 provides the Cabinet with extraordinary powers to override regulations, including local government OCP, zoning bylaw amendment and subdivision approval processes. While the legislation is not designed to change the quality or rigour of the provincial permitting process, it remains unclear if the legislation equally protects the quality and rigour of the local government permitting process.

Local governments may have questions in instances when a decision by the Minister to overrule a local government process results in a direct financial impact on the local government. Specifically, will the local government be made whole by the Province?

UBCM also notes that local government processes often respond to provincial regulations or requirements. When a local government skips procedural steps to fast-track a project and a mistake is made, there is an increased liability for the local government. If the Province is to intervene with respect to local government regulatory decision-making, the legislation is not clear whether the Province will take on the liability of their intervention, and subsequent decisions. Local

governments will want clarity from the Province on how liability risk will be managed if the legislation is passed into law.

The questions noted above were shared with Minister Ma during UBCM's briefing meeting.

UBCM asks its members to review Bill 15 and consider how this legislation may impact local regulatory processes with respect to the planning, construction and operations of projects captured under the legislation. Comments may be submitted to **Gary MacIsaac**, Executive Director, UBCM and/or **Glen Brown**, General Manager, Victoria Operations, UBCM.

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