Submissions on the Infrastructure Projects Act

Phase 1: Provincially Significant Projects

October 3, 2025

Thank you for the opportunity to provide these written submissions in response to the BC Government's engagement on the eligibility requirements for provincially significant projects under the *Infrastructure Projects Act* ("IPA"). We have also taken this opportunity to comment on other aspects of the IPA, particularly those matters that are not currently scheduled for separate engagement processes.

The submissions begin with comments on the government's legislative development process and high-level conceptual concerns with the IPA and the proposed framework. We then proceed to specific comments on each of the four parts of the Province's proposed eligibility requirements.

A. Need for Legislative Amendments

During debate on the IPA in the Legislature, the Minister acknowledged that this engagement process may bring to light issues with the IPA that require legislative amendment. In our view, amendment is the only way to ensure that the IPA is implemented in a manner that is transparent, coherent, and consistent with the government's commitments.

As passed, the IPA provides a very broad framework. While the Province has offered various assurances about how the Act will and will not be used and the factors that will be considered in making decisions, these assurances are largely not reflected in the legislation. Accordingly, unless the Act itself is amended, a future government could easily dismantle any safeguards this government may put in place by regulation and subvert the IPA to fundamentally different ends.

The matters that we believe require legislative amendment, some of which are addressed in more detail throughout these submissions, are the following:

a. Add measures for accountability and transparency, including public participation processes, public reporting, and a built-in mechanism for review or appeal of designation decisions;

b. Codify in the IPA a list of the project types the government has committed to excluding from the IPA framework, such as pipelines and LNG facilities;
c. Prohibit use of the IPA's tools to alter, compromise, or bypass existing environmental standards, laws, or plans;
d. Narrow the definition of approval authority to align with Hansard statements to the effect that IPA sections 11-12, 14-15 and 18-19 (*removal of constraints*) are only meant to apply to local governments and do not apply to provincial government approval authorities, such as those having statutory authority over projects under environmental and natural resource laws;
e. Specify that nothing in the IPA authorizes the approval or permitting of a designated project without the free, prior and informed consent of inherent title and rights holders;
f. Expand the safeguard provision in section 20 of the IPA to apply to all IPA tools, and to specify that IPA tools may only be used in a manner consistent with the UN Declaration on the Rights of Indigenous Peoples;
g. Repeal sections 5(2)(a) and 34, which provide comprehensive exemptions from almost all substantive elements of the provincial environmental assessment process;
h. Provide for co-development of regulations with inherent title and rights holders through a process that provides sufficient time and resources for them to meaningfully engage in the process.

B. Conceptual Issues

1. Competing priorities

British Columbia has a well-developed framework of hard-fought procedural protections that help to ensure that major developments are only approved with a full understanding of their economic, social, and environmental consequences. We fundamentally oppose any "fast-tracking" regime that erodes these protections, particularly for resource development projects.

We are concerned that the government is prioritizing and fast-tracking industrial development projects with significant potential for social and environmental harm, while failing to prioritize environmental protection and

conservation measures that could help to mitigate that harm and preserve BC's natural heritage for future generations.

In particular, September 11, 2025 marked the five-year anniversary of the release of the Old Growth Strategic Review Report. In response to that report's second recommendation, the Province committed to enacting new legislation that establishes biodiversity and ecosystem health (BEH) as a priority for the whole of government across British Columbia. Despite releasing a draft Biodiversity and Ecosystem Health Framework in 2023, the Province has taken no further concrete steps towards fulfilling its commitment to implement this crucial priority in law. We are concerned that the types of development that will be facilitated by the IPA – large industrial projects, subjected to abridged approval processes that risk weakening environmental safeguards – are exactly those that pose the greatest risk to BEH. Without a law in place to prioritize BEH, for example through proactive ecosystem-based planning, BC risks undermining its BEH commitments and sacrificing its most precious natural resource for short-term economic gain.

Similarly, we are concerned that accelerated development under the IPA has the potential to undermine ongoing long-term conservation measures, such as the Coastal Marine Strategy and projects like the Southern Strait of Georgia National Marine Conservation Area Reserve, as well as BC's efforts to meet its climate goals. While complex conservation initiatives necessarily take time to implement, fast-tracking industrial development while those processes are still ongoing risks eroding the very values those measures are meant to protect.

2. Focus on short-term economic benefits

The proposed eligibility requirements for designating provincially significant projects prioritize projects with specific types of economic benefits and a large initial capital cost. They leave little room for nature-focused projects and other projects with primarily social or environmental benefits, or for projects that provide sustainable economic benefits over a longer timescale. The criteria do not adequately account for the significant economic benefits that come from protecting and restoring ecosystem services, facilitating innovation and sustainability, and building resilient new industries for our changing world.

The criteria for provincially significant projects should prioritize those projects with the greatest, mutually reinforcing, cumulative and lasting positive contribution to economic and environmental sustainability, accounting for both multi-generational benefits and multi-generational harms.

Seen in its most positive light, the IPA presents an opportunity to transform BC's economy by incentivizing the transition away from fossil fuels and extractive industry and towards value-added products, sustainable development, and climate resiliency. Without adequate consideration of multi-generational benefits and harms, however, it risks facilitating environmentally catastrophic projects with a high initial price tag but few lasting jobs and little lasting impact for average British Columbians.

3. Top-down decision-making

Decisions on the use of land and natural resources should be made by or with the direct participation of those who are closest to the land, water, or community that will be most affected. The IPA erodes the jurisdiction and governance rights of First Nations, as well as the decision-making and participatory rights of local communities, in favour of summary decisions by the provincial government.

The Province has framed the "constraint" provisions of the IPA as providing flexibility to local government decision-makers. Crucially, however, this offer of flexibility is backed by a threat of force. The IPA allows the government to override the wishes of local governments to impose "replacement measures" if the local government fails to come to an agreement with the project proponent. This is a troubling encroachment into local government jurisdiction that disenfranchises the local residents likely to be most directly affected by many projects.

4. Environmental standards

The Minister has said that the IPA will be used to speed up approval processes, but will not lower BC's environmental standards. Given that many of the tools in the IPA could be used to do exactly that, the commitment to maintain BC's existing environmental standards must be explicitly reflected in

the regulations, along with mechanisms to ensure that those standards are not in fact undermined.

The IPA should be amended, or in the alternative regulations should be adopted, to stipulate that none of the IPA's tools may be used to alter, compromise, or bypass existing environmental standards, laws, or plans, including by providing that:

a. the IPA's constraint removal provisions will apply only to local government measures and not to provincial legislation, as committed by the Minister in the Legislature;
b. no environmental standards, including those of local governments, will be changed or bypassed using the IPA's constraint removal provisions;
c. the automatic permitting tools will not be used for any permit for which the permitting process would normally require an analysis of site-specific environmental factors, preparation of environmental studies, or other application of environmental standards to the project; and
d. the qualified professional reliance process, if retained, will be designed and implemented in a manner that will maintain appropriate government oversight and will not compromise existing environmental standards.

In addition, the 'blank cheque' approach in the newly-added Part 7.1 of the *Environmental Assessment Act*, which involves legislatively exempting designated projects from most of that Act with no constraints or safeguards on the replacement process that may be prescribed, is unacceptably risky, and should be repealed.

For example, it is hard to see how any credible environmental assessment process would not assess the matters set out in section 25 of the *Environmental Assessment Act*. It is important that assessment of designated projects does not bypass, compromise, or substantially abridge any step of the environmental assessment process involved in the substantive evaluation of impacts on those matters.

5. Transparency and accountability

The IPA places an enormous amount of authority in the hands of the Minister and Cabinet, with little opportunity for public engagement, transparency, accountability, and oversight. As this power could easily be exploited by future governments in ways inconsistent with this government's policy priorities, these gaps should be filled by amending the IPA to build accountability measures into the Act at a fundamental level. In the alternative, these measures should be implemented by way of regulation before any project is designated under the IPA.

In order to provide the necessary transparency and accountability, the following mechanisms should be added:

a. Prior to designating any project, the Minister should be required to publicly post all application information received by the project proponent along with the Minister's preliminary eligibility assessment, and provide an opportunity for public comment on the proposed designation.
b. Given that designation decisions are made by regulation, these decisions will be practically immune from judicial review for any reason other than the government exceeding its statutory jurisdiction. In order to ensure that the government is accountable for making reasonable designation decisions on the merits, it is essential that a dedicated appeal process be established to allow project proponents, First Nations, public interest organizations, and members of the public to challenge these decisions.
c. An evaluation, monitoring, and reporting process should be established that assesses and publicly reports on whether designation actually results in a reduction in approval and construction timelines, whether designated projects deliver on their promised benefits, how IPA tools are actually used for each project, and what environmental impacts designated projects cause.
d. Any public benefits claimed by a project proponent in the application process, including the "additional benefits" required by the Province's eligibility framework as well as benefits relating to reconciliation, environmental benefits, or job guarantees, should be tracked and enforced as a condition of project approval, such as through

conditions on an environmental assessment certificate issued for the project.

C. Process Issues

1. Piecemeal approach to legislative development

The IPA and its regulations are being rolled out piecemeal, without clear holistic planning and communication. A comprehensive engagement process should have occurred before the legislation was passed, and important criteria, definitions, and safeguards currently planned for regulations should have been incorporated directly into the legislation to provide better accountability for this and future governments. As noted above, we believe that amendments to the IPA are essential to address these shortcomings of the legislation.

Additionally, the government's approach to engagement on the IPA has required us and other participants to grapple with proposed eligibility criteria without a full understanding of what these projects will be eligible for. For example, depending on the outcome of phase 3 of the engagement process and how regulations are drafted, the "accelerated" environmental assessment process could be limited to process-based streamlining measures, or it could fundamentally undermine the purpose of environmental assessment by replacing virtually every aspect of the *Environmental Assessment Act* with different weaker measures, including the list of mandatory matters to be assessed under s. 25. It is particularly concerning that section 71.2(2) of the EAA exempts designated projects from all Indigenous consent requirements in the EAA.

2. *Declaration on the Rights of Indigenous Peoples Act*

The legislative process for the IPA did not accord with Article 19 of the *United Nations Declaration on the Rights of Indigenous Peoples* [UN Declaration] or *B*C's *Interim Approach to Implement the Requirements of Section 3 of the Declaration on the Rights of Indigenous Peoples Act*. The IPA was not co-developed with First Nations and is not aligned with the UN Declaration. The IPA is directly relevant to the inherent title and rights of Indigenous peoples, and it is not in keeping with the Province's obligations under the

Declaration on the Rights of Indigenous Peoples Act (DRIPA) to begin consultation and cooperation with First Nations only after the law has already been passed.

We also note with concern that the deadline for survey responses was set on the National Day for Truth and Reconciliation.

3. Limitations of the survey and engagement process

The survey being used to solicit public feedback for Phase 1 of the engagement process provides a too-limited opportunity for the public to engage with the issues and provide meaningful input.

The problems with the survey are manifold. First, the Province's engagement on the IPA is too limited in scope. With public engagement being conducted only after the Act has already passed the legislature, there is and has been no opportunity for discussion of *whether* major development projects should be fast-tracked through approval processes – only about *how*. The survey takes for granted that some projects are "provincially significant", and that provincially significant projects ought to be able to bypass not only permitting queues but also longstanding procedural safeguards that protect communities and the environment. This bias in favour of development and fast-tracking also extends to the design of the survey: for example, in order to provide written comments regarding the Province's proposed eligible project types, the respondent must answer that there are project types missing from the list. This gives the impression that either it is presumed that no respondent would want to remove or change project types, or that the Province only wishes to hear from respondents in favour of expansion.

Second, the construction of the survey limits opportunities for respondents to provide detailed and nuanced responses. It is often not clear what multiple-choice responses will provide additional open-ended questions, and all open-ended questions are limited to 500-character responses. The survey asks highly complex policy questions, but respondents must limit themselves to one or two highly simplified responses to meet the character limit.

Third, for most respondents, the survey is the only opportunity for participation. The limits of the survey design would be less problematic if

members of the public could provide their own written submissions, or – as the Engagement Process page promises – participate in small group discussions. While we appreciate the opportunity to provide these submissions and to meet with Infrastructure staff, these opportunities were deliberately not made available to members of the public without existing Ministry contacts. This approach is not reflective of a genuine interest in public input, and will limit the usefulness of the engagement process for regulation development.

D. Eligibility Requirements Part 1: Project Types

1. Add existing exclusion commitments

The Minister committed in the Legislature that the criteria for designating provincially significant projects would expressly exclude the use of the IPA for LNG facilities and pipeline projects. These exclusions were not included in the government's draft eligibility requirements.

At minimum, these exclusions should be added explicitly in the regulations, but our groups feel strongly that they should be added through legislative amendment to ensure permanence.

2. Additional exclusions

The Minister's stated rationale for expressly excluding certain types of projects was that they were "controversial", and that the IPA is "not there to ram controversial projects through." The list of excluded project types should be expanded to include other controversial projects and projects with high or uncertain risks of environmental harm, including:

a. all projects related to fossil fuels, including pipelines and ancillary infrastructure intended to support LNG facilities or other fossil fuel industry projects;
b. all mining projects;
c. carbon capture and storage projects;
d. geoengineering projects; and
e. projects intended to serve as an offset for environmental harms caused by another project.

3. Critical minerals and mining

Mines carry an extremely high risk of environmental harm. Regardless of any potential economic benefit, it is not appropriate to divert such potentially destructive activities out of the comprehensive environmental assessment process to which they would otherwise be subject. Limiting environmental assessment and oversight for mining would increase the risk of catastrophic effects on the environment or human health, like the Mount Polley Mine disaster.

Furthermore, a recent study of British Columbia mines found that the primary drivers of delays to the commencement of mining operations are external economic factors such as changing commodity prices, not regulatory processes. There is no good evidence that expediting environmental assessments for mines and removing other key safeguards will lead to more mines being built or more economic benefits for British Columbians.

We believe that the government cannot credibly claim that it is not lowering environmental standards if it allows the tools provided by the IPA to be used for mining. However, if the government insists on retaining this project type, it must at the very least be strictly limited to transition minerals that, using evidence-based methodology, demonstrably support the transition to a low-carbon economy (explicitly excluding coal, gold, and silver).

4. Environmental restoration

This is the only project type that is limited to only “large-scale (large area/regional)” projects. Environmental restoration projects, like all other projects, will already be subject to the “material and significant” core requirement; they should not be further limited based on geographic scope when no other project types are. Small-scale restoration projects in key locations have the potential to provide significant environmental and economic benefits by enhancing or restoring key ecosystem services that benefit the whole community.

5. Housing

The housing project type should prioritize climate-proof housing. This could include low-carbon, affordable new builds and market development initiatives like retrofits. A more expansive approach to major projects would recognize the potential of these sorts of market development initiatives to accrue multi-generational climate and housing co-benefits, support good jobs, and develop the sector. This is a chance to not just invest in one-off projects, but to support sustainable communities for the long term.

E. Eligibility Requirements Part 2: First Nations Decision-makers' Support

1. Consent and consultation

We understand that the Province deliberately avoided using the words "consult" and "consent" in this section of the framework because it sees this process as wholly separate from the Crown's duty to consult with First Nations on the project.

A designation under the IPA, as with the rest of the matrix of statutory decisions leading to the approval of a project, is Crown conduct with the potential to adversely affect Aboriginal rights and title. As such, the Crown has a duty to consult with impacted title and rights holders before making this decision. In addition, statutory decisions must be made in a manner consistent with the UN Declaration, and no project should be eligible for designation unless that designation has received the free, prior, and informed consent of all affected Indigenous peoples. To that end, impacted title and rights holders should be included in a co-development process for designation regulations and all other regulations under the IPA, and the IPA should be amended to formalize the requirements for consent and co-development.

The honour of the Crown is engaged in all of the government's dealings with First Nations, not only in final approval decisions. The Province must ensure that its obligations are met at every stage of the process.

This also means that the tools made available by the IPA must not be used to circumvent consultation and cooperation with First Nations, such as by compromising the environmental assessment process or making permits automatic that may otherwise require consultation. While section 20 of the IPA prevents sections 18 and 19 from being used to remove specific provisions in

other Acts regarding consultation, there is no such restriction for the rest of the tools, and the amendments to the *Environmental Assessment Act* exempt designated projects from requirements of that Act related to consensus-building and consent.

The protection provided by section 20 must be extended to all IPA tools. This would be best achieved by way of a statutory amendment; in the absence of such an amendment, the protection must be included in the regulations pertaining to each of the IPA tools.

2. Scope

It is not clear who qualifies as a "First Nations decision-maker", nor how the government will determine which First Nations are "significantly and directly impacted". These criteria should be carefully defined in consultation with First Nations, and should respect traditional Indigenous governance structures and decision-making processes. The criteria should not be used to screen out title and rights holders with legitimate concerns about the effects of a project.

F. Eligibility Requirements Part 3: Core Requirements

1. Protecting BC's environment and climate

In Part A of these submissions, we described how fast-tracking industrial development before fulfilling conservation commitments can undermine the effectiveness of those conservation measures. While not a replacement for the comprehensive implementation of the Province's commitments, the risk posed by the IPA can be mitigated in part by enhancing the eligibility criteria for designating projects. We propose to address this by the addition of a new core requirement.

The proposed core requirement is as follows:

> The project proponent must demonstrate through evidence-based methodology that the proposed project, together with other past, present, and reasonably foreseeable future development, does not jeopardize:

a) biodiversity and ecosystem health,
b) BC's legislated climate commitments, assessed cumulatively with emissions from current and future projects and activities, or
c) human health and safety, including access to clean air, water, and local food security.

In assessing the evidence submitted by the project proponent, the government should employ the precautionary principle, i.e. the lack of full scientific certainty should not prevent the government from declining to designate a project if there are threats of serious or irreversible damage.

2. Parks and Indigenous protected and conserved areas (IPCAs)

It should be a core requirement that no project can be designated that would be located in or cause damage to any park, protected area, Indigenous Protected and Conserved Area, Tribal Park, ecological reserve, or other similar area designated for ecological or cultural purposes (such as in Crown or Indigenous-led land or water use plans).

Proposals to build infrastructure in protected areas should be subject to careful consideration following the normal environmental assessment and approval processes. It is not appropriate to fast-track development in the Province's most ecologically sensitive areas.

3. Material and significant requirement

The "public benefit" component of this core requirement appears to be framed through an urban infrastructure lens. Several of the proposed project types would seem to allow more nature-focused projects, whose public benefits may be less direct but no less significant, but it is not clear that they would meet this core requirement as drafted. For example, a shoreline restoration project (under the "environmental restoration" project category) could provide substantial physical and economic benefits from ecosystem services, such as flood protection, erosion protection, improved recreational values, and increased tourism.

The second component of the "material and significant" requirement should be expanded, or an additional component added, to clearly ensure that projects with primarily environmental or social benefits are eligible.

Additionally, it should not be presumed that merely having a high capital cost makes a project provincially significant. There is no guarantee that those funds will be spent in such a way that they will directly benefit BC's economy, nor that the project will result in a net benefit to British Columbians. Projects meeting the capital cost threshold should not be eligible unless they also provide significant public benefits. For example, depending on project type, this could mean benefits such as a minimum number of permanent jobs for local communities or a minimum number of affordable housing units made available to vulnerable populations.

G. Eligibility Requirements Part 4: Additional Benefits

1. Social and environmental benefits

The list of additional benefits is almost exclusively focused on economic factors, and would likely result in most or all projects in categories such as "post-disaster recovery," "environmental restoration," "BC's climate goals," "food or water supply," and "human health and safety" being ineligible for designation.

In addition to the inherent value of nature and the intangible benefits humans derive from it, ecosystem services also provide significant and measurable economic benefits. For example, a 2010 study of BC's lower mainland found that natural capital in the region provided ecosystem services valued at an estimated $5.4 billion per year, or $2,462 per person per year.

In its draft Biodiversity and Ecosystem Health Framework, the Province recognized that "[h]ealthy ecosystems and biodiversity underpin B.C.'s economy and are critical for key economic sectors, including tourism and recreation, forestry, agriculture and fisheries, and innovation for medical and pharmaceutical industries." (p. 2)

Additional benefits should be added that explicitly recognize the value of social and environmental benefits, such as:

a. helping BC meet its climate goals,
b. supporting biodiversity and ecosystem health,
c. providing, restoring, or enhancing ecosystem services,
d. protecting and restoring BC's natural capital,
e. advancing reconciliation,
f. helping communities adapt to climate change, and
g. helping communities rebuild in the wake of natural disasters.

Priority should be given to 'no regrets' projects that make the greatest mutually reinforcing, lasting, positive contribution to environmental, cultural, social and economic sustainability.

Thank you for the opportunity to provide these submissions. We look forward to continuing to engage with the Province on these important matters as development of the IPA regulations proceeds.

Sincerely,

Canadian Parks and Wilderness Society – BC Chapter

Georgia Strait Alliance

Sierra Club BC

West Coast Environmental Law Association

Wildsight