



BRIEFING ►

# What you need to know about Bill C-5: *The Building Canada Act*



On June 28, 2025, the federal government passed the [Building Canada Act](#) (BCA), a law aimed at fast-tracking the approval of projects deemed to be in the national interest. In August, the federal government [launched](#) the Major Projects Office, which has a mandate to help fast-track projects deemed to be “nation-building” by helping streamline federal regulatory processes and coordinate and structure financing. On September 11, Prime Minister Mark Carney announced that he would be referring a set of projects to the Major Projects Office, with more to be announced in the upcoming months.

It appears that while the Major Projects Office will play a role in fast tracking all “nation-building” or “national interest” projects, only some of those projects will be fast tracked under the BCA. This briefing note answers key questions about the BCA, how projects are designated and reviewed, and whether and when Indigenous consultation and public participation might occur.

## What does the *Building Canada Act* do?

The *Building Canada Act* applies to projects designated by the Governor in Council (federal cabinet) on the recommendation of the Minister of Intergovernmental Affairs and President of the King's Privy Council (the Minister). Projects are designated by being added to Schedule 1 of the Act.

Adding a project to Schedule 1 acts as their pre-authorization. Normally, project proponents must obtain authorizations and permits from various responsible authorities, who review the project before deciding whether to issue the approval. The BCA reverses that sequence. It also consolidates authorizations and permits into one document issued by the Minister, which includes conditions with which proponents must comply. This document (informally called the "conditions document") is deemed to be each authorization and permit that it replaces.

For example, if a mine that would normally require *Fisheries Act* authorizations, explosives permits and other federal approvals were added to Schedule 1, the proponent would only need to obtain the conditions document from the Minister rather than the different authorizations and permits from the responsible authorities. While the conditions document replaces permits and authorizations, proponents must still take all measures they would normally have to if they were obtaining the customary permits and authorizations.

## How are projects designated?

The process begins with the Minister consulting relevant federal ministers, provincial and territorial governments, and Indigenous peoples. Following those consultations, the Minister may recommend adding a project to Schedule 1 of the BCA, so long as the Minister is satisfied that there would not be a conflict of interest arising from adding the project to Schedule 1.

If the Governor in Council is of the opinion that the project is in the national interest, it must publish a 30-day notice with the name and description of the project in the *Canada Gazette*. It also must consult with the government of the province or territory the project is in, and if the project falls within the exclusive jurisdiction of the province or territory, obtain its written consent.

When deciding whether to make an order to add a project to Schedule 1, the Governor in Council may consider any factor it considers relevant, including the extent to which the project can:

- ▶ strengthen Canada's autonomy, resilience and security;
- ▶ provide economic or other benefits to Canada;
- ▶ have a high likelihood of successful execution;
- ▶ advance the interests of Indigenous peoples; and
- ▶ contribute to clean growth and to meeting Canada's objectives with respect to climate change.

These factors are not mandatory considerations. As such, the Governor in Council may ignore them, and may consider any other factors it considers relevant.

Following the 30-day notice period, if the Governor in Council believes the project is in the national interest, it may then make an order adding the name of the project and a detailed description of it to Schedule 1.

The Major Projects Office (described below) has published a [project intake form](#) that proponents can use to apply for their project to be a national interest project. As noted above, not all projects deemed to be national interest projects may necessarily proceed through the BCA. Some may receive assistance from the Major Projects Office without going through the BCA process.

## What does the “national interest” mean?

The BCA does not define national interest, although it does allow the Governor in Council to make an order defining national interest for the purpose of designating projects. Any order defining national interest must include criteria that project proponents must meet in order for the project to be found to be in the national interest. As of the time of writing, no such order has been made.

If the Governor in Council makes an order defining national interest, it is unclear whether the criteria that must accompany the order will be binding on the Governor in Council or on project proponents. For example, if a proponent cannot meet the criteria, it is unclear whether the project would have to be removed from Schedule 1.

## What is the Major Projects Office?

The [Major Projects Office](#) is a federal Crown body established by the Minister to facilitate the review and approval of major projects, including but not limited to national interest projects designated under the BCA. An independent body, it is supported by the Clean Growth Office of the Privy Council Office. Its Chief Executive Officer answers to the Minister.

The Major Projects Office is responsible for:

- a. Coordinating project financing;
- b. Coordinating the advice and involvement of relevant federal departments and agencies;
- c. Providing guidance on assessments, regulatory requirements and decision making;
- d. Providing guidance on Indigenous engagement and partnerships;
- e. Identifying solutions to project barriers; and
- f. Project monitoring and oversight.

## Will national interest projects go through an environmental impact assessment?

It depends. The *Impact Assessment Act* (IAA) governs federal impact assessments. It applies to projects that are described in regulations or designated by the Minister of Environment and Climate Change (ECC). Projects that are “national interest projects” under the BCA are not necessarily designated for impact assessment by the ECC Minister, but if they are described in the IAA regulations, they will by default require an impact assessment.

However, the BCA allows the Governor in Council to make orders stating that certain laws, including the IAA, do not apply to national interest projects in Schedule 1. As a result, the Governor in Council could exempt national interest projects from federal impact assessment.

If a project does require an impact assessment, the BCA states that it will not go through the initial six-month planning phase usually required under the IAA. The planning phase is an opportunity for Indigenous engagement and public participation on the scope of assessment (what issues will be considered) and the assessment plan. Instead, the assessment will start once the proponent has submitted its impact statement containing the information required for the assessment.

## How will projects be reviewed?

If national interest projects do not require an impact assessment, they will be reviewed by the Minister of Intergovernmental Affairs and relevant federal departments with the help and coordination of the Major Projects Office. Before issuing the conditions document, the Minister must:

- a. Be satisfied that the proponent has taken all measures required to obtain the authorizations and permits that the conditions document replaces;
- b. Consult with each minister responsible for authorizations and permits that the conditions document replaces;
- c. Undertake a national security review for all state-owned projects or foreign investments from “hostile countries” (the BCA does not define hostile countries);
- d. Ensure that Indigenous rights holders have been consulted; and
- e. Be satisfied that all measures have been taken to protect national security interests in respect of foreign investments.

If a project is regulated by the Canada-Newfoundland or Canada-Nova Scotia energy boards, the Minister must consult with the relevant board with respect to any conditions in the conditions document.

If a project is regulated by the Canadian Nuclear Safety Commission, the Minister must consult the Commission and may not issue or amend the conditions document unless the Commission has confirmed that it is satisfied that the project will not compromise the health or safety of persons, national security or the implementation of Canada’s international obligations.

If the project is regulated by the Canadian Energy Regulator, the Minister must consult with the Regulator and may not issue or amend the conditions document unless the Regulator confirms that it is satisfied that the project will not compromise the safety or security of persons or regulated energy facilities.

## Can environmental standards be weakened or bypassed?

Yes. As noted above, the BCA allows the Governor in Council to make regulations exempting projects from any provision of federal laws and regulations. The laws and regulations must first be listed in Schedule 2. The Governor in Council may make orders adding laws and regulations to Schedule 2.

Some laws and regulations were included in Schedule 2 when the BCA was passed. They are the:

- ▶ *Fisheries Act*
- ▶ *International River Improvement Act*
- ▶ *National Capital Act*
- ▶ *Canadian Navigable Waters Act*
- ▶ *Dominion Water Power Act*
- ▶ *Migratory Birds Convention Act, 1994*
- ▶ Section 98 of the *Canada Transportation Act*
- ▶ *Canada Marine Act*
- ▶ Division 3 of Part 7 of the *Canadian Environmental Protection Act*
- ▶ *Species at Risk Act*
- ▶ Subsection 186(1) and paragraph 262(1)(c) of the *Canadian Energy Regulator Act*
- ▶ *Impact Assessment Act*
- ▶ Migratory Bird Sanctuary Regulations
- ▶ Dominion Water Power Regulations
- ▶ Marine Mammal Regulations
- ▶ Sections 25 and 27 of the Port Authorities Operations Regulations
- ▶ Metal and Diamond Mining Effluent Regulations
- ▶ Migratory Birds Regulations, 2022

To be clear, these are not just any laws. These laws are the cornerstones of federal environmental protection across the country. Because they are already on Schedule 2, the Governor in Council can now make regulations exempting projects from them. For example, if a project will jeopardize the survival or recovery of an endangered species, the Governor in Council could make a regulation stating that provisions of the *Species at Risk Act* protecting that species do not apply to the project. It could also exempt the project from impact assessments, laws regulating toxic pollution and fish habitat protections.

In addition to the exemption power, the BCA allows projects to circumvent rules by “deeming” them to meet legal standards. Section 6 of the Act states that all determinations and findings that have to be made and all opinions that authorities must form in order to grant authorizations and permits are deemed to have been made in favour of approving the project. Section 7 states that the Minister must issue proponents a document, known as the “conditions document,” that will replace all the permits and authorizations that proponents would normally have to obtain. In other words, national interest projects are deemed to meet environmental and safety standards regardless of whether they actually do, and will not have to obtain the customary permits. While the Minister must attach conditions to the conditions document, those conditions do not need to be as stringent as the law requires.

For example, if a project will harm fish habitat, it would customarily need to obtain a *Fisheries Act* authorization to cause that harm. In order to qualify for the authorization, it would have to submit a plan for how it will offset the harm to the fish habitat. If that project is designated as a national interest project, it may be possible for the proponent to submit a plan that does not meet the regulatory standards, and instead is only “deemed” to meet those standards.

## Will Indigenous peoples be consulted on national interest projects?

Yes. The Minister must ensure that Indigenous peoples are consulted before adding projects to Schedule 1, changing the project name or description, removing a project from Schedule 1, and issuing the conditions document.

For consultations on the conditions document, the BCA requires the Minister to ensure that a process is established for Indigenous peoples' active and meaningful participation, and that a report of consultations is made publicly available within 60 days of issuing the conditions document.

Of course, beyond these legislative requirements are constitutionally rooted consultation duties owed by the government to Indigenous peoples whose rights may be adversely affected by the project.

## Will Indigenous rights be respected?

It depends. The BCA does not require the Minister or Governor in Council to obtain the free, prior and informed consent of Indigenous peoples prior to listing projects in Schedule 1 or issuing the conditions document. Whether the Minister and Governor in Council choose to do so remains to be seen.

The Major Projects Office [website](#) states that the Office will work in partnership with Indigenous peoples and uphold the United Nations Declaration on the Rights of Indigenous Peoples. However, the federal government [has also said](#) that the BCA will shift the focus of project reviews from whether they should proceed to how they should. The question of “whether” is a critical aspect of the duty to consult and is fundamental to free, prior and informed consent. First Nations have [voiced serious concern](#) about the law, and shortly after Bill C-5 passed into law, nine First Nations in Ontario launched a [lawsuit](#) challenging the BCA.

## Will the public be able to participate?

It depends. The BCA does not require public participation on project reviews, orders adding projects to Schedule 1, or the conditions document. If national interest projects require an impact assessment the public will have opportunities to participate in the assessment (with the exception of participating in the planning phase, which the BCA eliminates) unless the Governor in Council makes a regulation stating that participation requirements do not apply. If national interest projects do not require an impact assessment, it will be up to the Minister, relevant federal authorities, and the Major Projects Office to decide whether, when and how to engage the public. In practical terms, it may be that public participation occurs informally, either through participant-led community engagement or through the public voicing its concerns publicly.

## Will information be made public?

Yes. The BCA requires the Minister to establish and maintain an online public registry of national interest projects, including the following information:

- a. A detailed project description and why it is in the national interest;
- b. The extent to which the project is expected to meet the factors the Governor in Council may consider when deciding to add a project to Schedule 1;
- c. Detailed cost estimates that do not include private sector commercially sensitive financial information;
- d. The estimated timelines for completion of the project.

The Minister must also make the conditions document available to the public, along with:

- a. All documents and information used to issue it;
- b. All conditions that apply to the project;
- c. All studies and impact assessments the project has undergone;
- d. All recommendations received from federal departments and agencies;
- e. The reasons why any recommendations were not accepted; and
- f. A description of the normal regulatory process that would have been followed if the project had not been designated as a national interest project.

The Minister must make this conditions document information available to the public at least 30 days before issuing the conditions document.

## Can project approvals be revoked?

Yes. So long as the Minister has not issued the conditions document, the Governor in Council may decide that a project is not in the national interest and make an order removing the project from Schedule 1. The Governor in Council cannot remove a project from Schedule 1 after the Minister has issued the conditions document.

Also, if a national interest project has not been substantially started within five years of the Minister issuing the conditions document, the document expires. If a conditions document expires, the project will no longer have the authorizations and permits it needs to go ahead.

## Can conditions be changed?

Yes. Section 8 allows the Minister to amend any conditions set out in the conditions document.

## Does the *Building Canada Act* do away with provincial reviews and approvals?

No. The BCA only applies to federal decision making and permitting. It does not affect provincial laws or processes. It is important to note, however, that provincial reviews tend to be narrower than federal ones, meaning some important information and impacts could fall through the cracks.