

# Intelligence MEMOS



From: Heather Exner-Pirot and Michael Gullo

To: The Honourable Steven Guilbeault, Minister of Environment and Climate Change and The Honourable Jonathan Wilkinson, Minister of Natural Resources

Date: July 20, 2023

Re: **REFORMING CANADA'S REGULATORY APPROVAL AND PERMITTING PROCESS**

There is widespread consensus that Canada's system for regulating and approving major infrastructure projects is too slow and burdensome. Far from simply imposing costs on proponents, our inefficient regulatory system is hurting Canada's economic competitiveness, climate goals, and the energy security of Canadians and our allies.

The federal government announced efforts to address these challenges in its last budget, [promising](#) to outline by year-end a concrete plan to improve the efficiency of the impact assessment and permitting processes for major projects. As you lead this important work for Canadians, we urge you to address the following:

1. Speed up the timelines to getting projects built. Budget 2023 laments that mines should not take 12 years to open. In fact, the real average is 17.9 years, according to an S&P Global [analysis](#). This is not only a huge deterrent to investment, but it makes energy transition goals for 2030 totally unfeasible. Other countries are moving faster. Both the United States and the European Union will shortly finalize their intentions to limit timelines to two years for many projects. We need to move with the same sense of urgency. You can help proponents and policy makers by identifying and fast-tracking projects that are in the national interest. These would include those that contribute to global energy security, provide low-carbon electricity and fuels, or are Indigenous led, owned or supported.
2. Improve the coordination and governance of major projects. Identifying tighter timelines and milestones does not help if they are rarely met, as recent [analysis](#) of our current regulatory process determined. Much work needs to be done to maximize efficiency and address barriers to the timely completion of a major project assessment, as Deputy Prime Minister Chrystia Freeland [outlined](#) in a Washington speech last fall. The federal government should consider empowering the Privy Council Office to ensure ongoing coordination amongst senior departmental officials and the Impact Assessment Agency. Similarly, projects that involve federal and provincial jurisdiction would benefit from a "clerk-to-clerk" table to instill disciplined coordination.
3. Expedite processes for brownfield sites, which have already experienced development and undergone approvals for similar projects. Expanding mines, licensing small modular reactors at existing nuclear sites, or adding pipeline and transmission line capacity within an existing right of way are the types of projects that can unlock capital faster.
4. Ensure new projects undergo a single assessment process wherever possible. Long timelines are exacerbated by the redundancy inherent in our approach. Different requirements are imposed not only between the federal and provincial/territorial levels, but by different departments from within those governments. You can deliver on the long-promised principle of "one project, one assessment" by formalizing substitution agreements between the federal government and each province and territory. The current [agreement](#) with BC and the efficient approval last March for Cedar LNG show what's possible. Leaving decisions on carbon capture pipelines to Alberta regulators would be another example. The success of this approach will require Ottawa to recognize provincial regulators as appropriate substitutes in more cases.
5. Better define the criteria used to designate a project under the *Impact Assessment Act*. Currently the [guidance](#) is ambiguous, and there is valid concern that projects could be vetoed for political reasons even when they meet all other standards. The federal government should further specify that the Minister of Environment and Climate Change's power to designate a project under the *Impact Assessment Act* would only be exercised in exceptional circumstances.
6. Clarify the requirements for Indigenous consent of projects, including guidance on how UNDRIP should be applied. Good work has been done in the past two decades between industry and Indigenous nations to build mutually beneficial relationships. New models for participation, engagement and equity are being developed, and there are ongoing efforts to minimize environmental and cultural impacts from new projects. But more often than not, the federal government has muddied the waters about what consent looks like, who needs to provide it, and how to assess impact on Indigenous peoples and territory. We need greater clarity and consistency on what is expected of industry and each level of government in engaging with Indigenous nations.

Ultimately a system that works for Canadians is one that facilitates the development of major projects, not stymies them. Our regulatory system has become overly political and adversarial. This serves no one. Reforms must focus on attracting responsible development by providing predictability, certainty and a reasonable return on investment. Without those elements, Canada will struggle to attract the capital it needs to compete in a low-carbon economy. An efficient and predictable regulatory regime can be a new and significant competitive advantage for the country. Canada needs to be seen as a country that can build big things again.

*Heather Exner-Pirot is special advisor, Business Council of Canada where Michael Gullo is Vice President (Policy).*

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