UBCIC: Submission on Getting Major Projects Built in Canada — Discussion Paper on Proposed Legislative, Regulatory, and Policy Reforms

Submission to:

One Canadian Economy / Government of Canada

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INTRODUCTION

The Union of British Columbia Indian Chiefs (UBCIC) submits these comments in response to the Government of Canada's discussion paper: Getting Major Projects Built in Canada – Discussion Paper on Proposed Legislative, Regulatory, and Policy Reforms (Discussion Paper). UBCIC represents First Nations across what is now known as British Columbia (B.C.), and has consistently advocated for the recognition and implementation of the inherent and constitutionally protected title and rights of First Nations in B.C. The UBCIC also continues to advocate for the fair, just, and timely resolution of First Nations' historical grievances, such as specific claims.

While Canada has expressed commitments to upholding the rights of First Nations and implementing the *United Nations Declaration on the Rights of Indigenous Peoples* (UN Declaration), as required by its federal legislation, the *United Nations Declaration on the Rights of Indigenous Peoples Act* (UNDA), the substance of these six proposals, and the speed with which they are being advanced, fundamentally contradicts and undermines those commitments. The framing of the Discussion Paper is centered on investor timelines, competitive positioning against other states, and reducing regulatory "costs." This framing fails to reflect the legal and constitutional reality that First Nations are **not** stakeholders in major project processes. We are rights-holders and title-holders whose free, prior, and informed consent must be obtained before projects affecting our territories proceed.

Further, the Discussion Paper has been prepared concurrent with a marked retreat by the federal government from upholding its lawful obligations and rights-based commitments to First Nations to resolve their historical claims and ensure Canada's processes for doing so align with the UN Declaration. These obligations and commitments must be upheld to demonstrate to First Nations that Canada is a trustworthy partner dedicated to meeting its reconciliatory objectives.

RESPONSES TO SPECIFIC PROPOSALS

Proposal 1: Federal Review and Decision-Making in No More Than One Year

Through unanimous UBCIC resolution 2025-24 "Opposition to Bill C-5, An Act to enact the Free Trade and Labour Mobility in Canada Act and the Building Canada Act, and Call for Coordinated First Nations Response" UBCIC has opposed fast tracking legislation and continues to advocate for the free, prior, and informed consent of Nations. UBCIC opposes the one-year federal review timeline as a legislated cap. The imposition of arbitrary timelines on processes that intersect with legal and constitutional rights and obligations is legally and morally untenable.

The complicated and time-consuming decision process faced by major projects in Canada is not due solely to issues like duplication, poor coordination between government departments, and consultation processes that can be difficult to navigate. Often these processes are complicated and time-consuming due to the complicated nature of major projects and the significant environmental, social, and other impacts that accompany them.

The duty to consult is governed by the depth and nature of the potential impact on First Nations rights, and the obligation to obtain First Nations' free, prior, and informed consent requires that First Nations be given the time necessary to absorb, understand, and analyze information and to undertake their own

decision-making processes. The more complex a major project and its resultant impacts are, the more time is required for these vital processes to occur, particularly when there are chronic capacity issues as one of the legacies of colonialism. Delay is further compounded when Canada's past wrongdoings remain unresolved. That is not a problem that has been created by a bloated and inefficient bureaucracy, that is a problem that has been created by the fact that Canada is a settler colonial state.

Canada's duties and obligations cannot be unilaterally circumscribed at the outset by the imposition of arbitrary legislated timelines. When consultation within the legislated window inevitably proves inadequate and free, prior, and informed consent cannot be obtained, First Nations will have no structural recourse except litigation, imposing enormous costs on communities that must repeatedly defend their rights in court, and causing the lengthy delays Canada and proponents wish to avoid.

UBCIC recommends that, at minimum, any federal review and decision-making timelines introduced:

1. be advisory and aspirational, not legislated;
2. be dictated by the scope and content of Canada's legal and constitutional obligations, specifically the depth and nature of the potential impact on First Nations' rights and the obligation to obtain free, prior, and informed consent; and
3. be accompanied by adequate, independently administered capacity funding for First Nations to participate meaningfully at every stage of assessment and permitting.

Proposal 2: One Crown Consultation Process / Crown Consultation Hub

UBCIC is particularly alarmed by the proposal to create a Crown Consultation Hub within the Impact Assessment Agency of Canada. While reducing consultation fatigue is a legitimate objective, as structured, this proposal is deeply problematic. The creation of a centralized Hub risks papering over the distinct and separate obligations owed to each First Nation who hold title and rights in an affected area. It risks becoming a mechanism to minimize rather than engage in effective consultation, concentrating control in a federal body with a structural interest in prioritizing project approval timelines.

Nation-to-Nation consultation processes must be grounded in First Nations' own governance structures and protocols. The federal government cannot unilaterally shape the consultation process by creating a body responsible for coordinating consultation processes for each major project. UBCIC further opposes any use of the Hub to coordinate with provincial consultation efforts in B.C., as most provincial processes do not meet constitutional standards for Nations without treaty frameworks. Canada cannot rely on deficient provincial consultation processes to fulfill its own obligations. UBCIC rejects the proposed One Crown Consultation Process.

Proposal 3: One Project Decision

The proposed consolidation of federal permits and decisions into a single ministerial decision document raises accountability and transparency concerns that UBCIC cannot overlook. The concentration of decision-making authority in the Minister of Environment, Climate Change and Nature risks the erosion of the expertise and independence of sector-specific regulators. Departmental expert assessments must remain transparently documented and available to First Nations in full, not simply reflected in a consolidated decision.

Proposal 4: Single Project Authority (CER and CNSC)

UBCIC opposes the removal of certain projects from impact assessment under the *Impact Assessment Act* in favour of exclusive jurisdiction by the Canada Energy Regulator (CER) or the Canadian Nuclear Safety Commission (CNSC). UBCIC is on record opposing the expansion of the LNG industry in B.C. and the associated pipeline infrastructure. UBCIC Resolution 2024-45, opposed the Prince Rupert Gas Transmission (PRGT) pipeline and called on the B.C. government to terminate its Environmental Assessment Certificate. Further, UBCIC Resolutions 2016-34, 2021-08, and 2022-49 have consistently called for a halt to investment in and approval of new oil and gas projects in B.C., and a transition to a net-zero economy.

UBCIC Resolution 2021-55, addressed the LNG and fracking industry directly, supporting a moratorium on fracking expansion and calling on government to provide financial support for workers and Indigenous communities impacted by LNG production to transition to a clean-energy economy. That resolution documented the severe health and environmental hazards of fracking operations, including their documented links to birth defects, cancer, and asthma, and their contamination of fresh water, and noted that the LNG-fracking industry undermines BC's legislated greenhouse gas reduction targets.

Granting the CER exclusive authority over pipelines and LNG projects, and removing the IAA process, eliminates a key layer of accountability for cumulative environmental impacts, project alternatives analysis, and substantive engagement with First Nations rights and title. The CER's mandate is fundamentally economic and safety-focused; it is not structured to conduct the rights-based analysis that the constitutional and UNDA context demands. This change would be a significant regression, not a reform. UBCIC's consistent, multi-year opposition to LNG expansion makes clear that transferring these decisions to the CER would not produce outcomes consistent with First Nations' rights and interests.

Further, the Governor in Council being enabled to make the decision about whether a project is in the public interest for pipelines with lengthy routes before the CER completes its review of conditions and routing details is deeply misguided. The decision of whether a project is in the public interest cannot be made before the full scope of potential impacts of First Nations' rights and related accommodations are known; a pipeline's route and the conditions that attach to it are essential to making this assessment.

Proposal 5: Federal Economic Zones and Pre-Approved Development

UBCIC strongly opposes the proposal to create Federal Economic Zones that pre-approve categories of development, subject only to conditions, without project-specific assessment and consultation. Pre-approval of development within defined zones, including transportation corridors, energy production zones, and telecommunications networks, can only occur if Canada obtains the free, prior, and informed consent of all affected First Nations.

The proposed grant of authority to the Governor in Council to decide that developments within a zone are "pre-approved" concentrates enormous, nearly unreviewable power in Cabinet. This is antithetical to reconciliation and to the rule of law as it applies to Aboriginal rights. In British Columbia, where title remains unextinguished across the vast majority of the province, pre-approval of project categories

without obtaining the free, prior, and informed consent of all affected First Nations is constitutionally and legally indefensible and will create greater uncertainty.

Proposal 6: Streamlined and Efficient Regulatory Environment

UBCIC notes with concern the breadth of regulatory streamlining contemplated under Proposal 6. Several elements are of particular alarm:

Water Protections: Any streamlining of regulatory requirements affecting waterways, fish habitat, or water quality must be assessed against the rights and interests of First Nations whose territories include those waters. UBCIC's Resolution 2023-43, called on Canada to fully uphold and strengthen First Nations water rights in federal legislation, including full alignment with the UN Declaration. That resolution directed UBCIC to support legal actions if First Nations' minimum requirements were not meaningfully incorporated into federal water legislation. Narrowing navigation permits, making permits for fish and fish habitat more flexible for offsetting and for permits related to Disposal at Sea are precisely the kinds of changes that will trigger those legal challenges.

Early Construction Before Impact Decision: Allowing early construction activities before an impact assessment decision is made fundamentally undermines the purpose of assessment. If construction begins and irreversible changes occur to the land, the assessment is rendered meaningless. This creates facts on the ground that foreclose meaningful accommodation of First Nations' concerns. UBCIC opposes this proposal without qualification.

Ministerial Power to Adjust Conditions: The proposal to allow the Minister of One Canadian Economy to adjust environmental conditions for projects of national interest eliminates effective checks on executive action. Conditions established through consultation with First Nations cannot be adjusted unilaterally by a Minister. Any adjustment requires a new, adequate consultation process with affected First Nations.

GIC Power to Exempt from the application of the jeopardy test: UBCIC unequivocally rejects this proposal. Under no circumstances is it in the public interest to jeopardize the survival or recovery of endangered species, and the GIC must not be given the power to do so.

RESPONSES TO THE GUIDING QUESTIONS

Indigenous Engagement Question 1: Alignment with the UN Declaration

UBCIC's view is that the proposals as currently framed are not aligned with the UN Declaration, they contradict it. To achieve alignment, the government would need to: abandon any proposal that pre-approves project categories or substitutes zone-level assessments for project-specific rights analysis; remove legislated timelines that cannot accommodate the depth of consultation required by affected Nations; and ground the entire framework in FPIC, with First Nations having a genuine right to withhold consent.

Indigenous Engagement Question 2: Intersections with First Nations Rights

Every proposal in this Discussion Paper intersects with the rights and interests of First Nations in B.C.

The right to lands, territories, and resources (Articles 25, 26, 27); the right to conservation and protection of the environment (Article 29); the right to determine and develop priorities for the development or use of lands and resources (Article 32); and the right to FPIC for legislative and administrative measures (Article 19) are all directly engaged.

Indigenous Engagement Question 3: Working in Partnership

The Government of Canada can best work in partnership with Indigenous Peoples by pausing this process and resetting it on a Nation-to-Nation basis. Partnership means co-development, not consultation on proposals that have already been substantially shaped. UBCIC calls for a joint First Nation-Canada working table, with Nations meaningfully represented at all stages of policy development, and with adequate federal funding support for First Nations-led participation as a precondition of any accelerated timeline regime. The engagement process itself must be consistent with the UN Declaration, specifically Canada's obligation to consult and cooperate in good faith with First Nations in order to obtain their free, prior, and informed consent before adopting legislative or administrative measures that may affect them (Article 19).

Any engagement with First Nations must also explicitly recognize and uphold First Nations' right to redress for historical land-related grievances (Articles 8(2) and 28), as well as the right to fair processes of redress (Article 27).

Indigenous Engagement Question 4: Lessons Learned

UBCIC's experience across decades of engagement with federal and provincial resource development processes yields the following consistent findings: Crown governments have repeatedly treated consultation as a procedural requirement to be managed and the obtaining of free, prior, and informed consent as an aspiration, rather than a substantive obligations to be honoured; Crown governments and proponents have engaged with Nations too late in project development, after key design decisions are locked in; and underfunding of First Nations' capacity to participate has been used as a de facto tool to compress and limit the depth of engagement.

What Crown governments and proponents have done well is limited to isolated examples of early, genuine Nation-to-Nation dialogue that has resulted in projects being designed differently, or not proceeding, based on First Nations' substantive input. These examples share a common feature: time, resources, and genuine openness to a "no" answer.

Indigenous Engagement Question 5: Views on the Crown Consultation Hub

UBCIC's views on Proposal 2 are set out in full above. In summary: a centralized Hub that coordinates and manages consultation across departments is not the same as meaningful, Nation-specific consultation. The Hub's design, situated within IAAC, with a mandate to keep processes "on track to meet timelines" reflects an institutional mandate that is fundamentally at odds with the open-ended, rights-respecting consultation required. UBCIC does not support the Crown Consultation Hub as proposed.

CONCLUSION

Canada has an opportunity and an obligation to design a major project assessment and permitting system that reflects the constitutional and legal reality of Aboriginal title and rights, and First Nations' basic human rights, such as the right to redress, in British Columbia, and that gives genuine effect to the Nation-to-Nation relationship the Crown professes to seek. The proposals in this Discussion Paper, as currently framed, do not do this.

UBCIC has spoken clearly and consistently on these questions for years. UBCIC has opposed the expansion of fossil fuel infrastructure without consent, opposed legislative processes that bypass meaningful consultation and the obtaining of consent, called for the protection of water rights and environmental safeguards, and demanded that Canada's laws align with the *United Nations Declaration on the Rights of Indigenous Peoples*. This submission reaffirms all of those positions in the context of the Discussion Paper.

Reconciliation demands more than rhetorical commitment; it demands structural change that First Nations have helped design and that they can trust. UBCIC urges the Government of Canada to take a fundamentally different approach: pause, resource First Nations adequately, and begin again, this time, together.