



**URBAN DEVELOPMENT INSTITUTE – PACIFIC REGION**

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Director, Professional Reliance Review, B.C. Ministry of Environment and Climate  
Change Strategy  
PO Box 9341 Stn Prov Govt  
Victoria B.C. V8M 9M1

Dear Director:

***Re: Regulations Intentions Paper Consequent to the Professional Governance Act***

On behalf of our 850 members, the Urban Development Institute – Pacific Region (UDI) respectfully submits its response your Ministry's *Regulations Intentions Paper* on the *Professional Governance Act (PGA)*. This is an important issue for our membership who include and employ professionals in a wide range of fields, including building design/construction, streamside and riparian reviews and investigating and remediating brownfield sites.

**About UDI and the Real Estate and Building Industry**

UDI Pacific Region is a non-profit and non-partisan association of the development industry and its related professions in British Columbia. UDI represents thousands of individuals involved in all facets of land development and planning, including: builders, property managers, financial lenders, lawyers, engineers, planners, architects, appraisers, real estate professionals, local governments and government agencies. Many of our members will be governed under the *PGA*.

The Real Estate and Development Industry, which we represent, has a significant impact on employment, economic growth and government tax revenues. An independent MNP analysis found that the B.C. building industry annually:

- Contributes almost \$23 billion to the provincial GDP;
- Employs over 230,000 British Columbians; and
- Generates \$6.6 billion in revenues to governments at all levels.

Since 1972, UDI Pacific Region has been a “partner in community building” with governments and the public; and aims to improve both housing and job opportunities for all British Columbians in a sustainable manner through a positive policy/regulatory framework. UDI Pacific also serves as the public voice of the Real Estate Development Industry, communicating with local governments, the media, and community groups. We also have extensive education programs in which emerging trends, new government initiatives and best practices are shared with the membership.

UDI has a number of Standing Committees that include *PGA* governed professionals. We have worked with our Building Code, Environmental and Contaminated Sites Standing Committees to develop our response to the *Intentions Paper*. One of UDI's principle objectives, along with the Government of British Columbia's is to improve housing affordability across the region. In reviewing the *Intentions Paper*, we applied this lens, considering the context of fees and taxes already applied to housing developments, and that any lack of clarity will only further increase costs.

### **PGA Objectives**

UDI is supportive of the Government's intentions in establishing a *Professional Governance Act*. Builders rely on the objective advice provided by various professionals during the development of their projects. They want to ensure that professionals provide appropriate advice, accurate information and designs that protect and improve the environment and ensure public safety. For this to occur, it is critical that Professional Regulatory Bodies (PRBs) enforce codes of ethics and professional competencies. Skills should also be updated through annual educational requirements.

As such, ***UDI supports the Government strengthening the governance of the Professional Regulatory Bodies through establishment of the Office of the Superintendent of Professional Governance (OSPG)*** that will oversee PRBs. They will ensure that best practices in governance are followed. Improving consistency in governance will also be improved because the Superintendent and the PRBs are under the Ministry of the Attorney General as opposed to the old approach of those bodies being under numerous ministries.

### **Consultation and Natural Resources Focus of the PGA**

The consultation process on the *PGA* from our members' perspective has been limited. UDI was not consulted as *Bill 49*, the *Professional Governance Act* was developed and written. It appears there are several policies and issues that have been finalized with little further review likely to occur. We were also disappointed that the Ministry did not post on its website the videos of the consultation webinars held in December on the *Intentions Paper*. They would have assisted those, like UDI, who are less familiar with the *PGA*.

One issue that we have noticed about the *PGA* and the *Intentions Paper* is the focus on the natural resources sector thus far. It appears from the *Paper* that this initiative began because of high profile incidents in that sector. There are twenty references to the natural resources sector in the *Intentions Paper*, and the Ministry of Environment and Climate Change Strategy is conducting the consultation as opposed to the Ministry of the Attorney General, which will be responsible for the *Act* and the *OSPG*.

Despite this natural resources focus, the Government intends to use the *PGA* and the Superintendent of Professional Governance in other professional sectors. It is already happening because there are PRBs governed under the *Act*, such as the Association of Professional Engineers and Geoscientists of B.C. (EGBC), College of Applied Biology (CAB), and the Applied Science Technologists and Technicians of B.C. (ASTTBC) have many members outside of the natural resources sector. We note that just 20% of EGBC's members work in the Natural Resource sector, and yet these regulations will apply to all engineers and geoscientists.

**We need to ensure that before the application of the PGA expands beyond the natural resources sector there is appropriate and extensive consultations with professions working in those sectors, their clients and other relevant stakeholders.** Otherwise, unintended consequences may arise. Some matters such as conflict of interest requirements may be able to be standardized; however, other issues such as the amount and type of continuing educational requirements may have to vary between and within the professional associations. The issue of practice rights is also difficult to assess outside of the natural resources sector because there are different regulatory approaches and different PRBs, which could lead to unintended consequences.

It is not clear whether the *PGA* should be applied to building and development sector, or how it would be. As noted above, our members use professionals for building design/reviews, *assessment and management of environmentally sensitive areas, obtaining permits to take water*, and managing contaminated sites. Outside of the Natural Resource sector there is substantial government oversight including audits of all Qualified Environmental Professional (QEP) submissions. With regard to contaminated sites, there is the Contaminated Sites Approved Professionals (CSAP) Society that oversees regulatory submissions in addition to the PRBs for QEPs that the *PGA* intends to further regulate. The Ministry of Environment and Climate Change also has an oversight role and regularly issues recommendations, requirements, and legal determinations, for which there is often no professional oversight (under a PRB) on behalf of the government. It is not clear what the relationship will be between the PRBs, CSAP, the Ministry and the Superintendent. **More consultation is needed with our members – including or professional members – as the regulatory reach of the PGA expands. This includes the issue of practice rights and the capacity and competency of government employees under the proposed regulations.**

### **Role of the Office of the Superintendent of Professional Governance**

We are concerned that the role and size of the Office of the Superintendent in itself may not meet the objectives the Government had when it developed the *PGA*. In fact, it could undermine the oversight provided by PRBs. It is our understanding from the December webinars that the Office will be staffed with public administrators. To avoid the high profile incidents that led to the *Act*, the Professional Regulatory Bodies need additional professional resources for their oversight efforts.

**Given the staffing of the Superintendent's Office, its role needs to be limited to reviewing the regulatory practices of Professional Regulatory Bodies. They should not be delving into issues that involve professional judgement; this needs to remain the purview of the PRBs.** We are concerned with the depth of technical questions posed in the *Intentions Paper* that the OSPG may become involved with the regulation of professionals beyond overseeing the overall regulatory structures of the PRBs.

Should the measures contained in the *Intentions Paper* be adopted, **we would like to see an ongoing monitoring of compliance costs associated with the regulation of firms/professionals and PRBs as well as the OSPG.** Given the rising costs of building and development, which is exacerbating the housing affordability challenges the Province is facing, we believe that minimizing the regulatory burden on firms needs to be a key consideration for the Superintendent and the PRBs. It is also important to assess if there will be an impact on access to

professionals in the interior and northern parts of the B.C. because of the emerging *PGA* regulatory regime – especially for sectors outside of natural resources.

### **Regulation of Firms**

This is a potential direct concern for our builder corporate members, as they could be regulated under the *PGA* regime. Many companies operating in the development industry actively employ regulated professionals in a non-practicing capacity. In the vast majority of cases, these employees do not produce designs or stamp drawings because they rely on third-party consulting firms to do this work. ***We stress that builders and developers SHOULD NOT be regulated under the proposed changes*** unless in those rare circumstances employees of these firm are acting as practicing professionals.

In terms of multi-disciplinary firms, in which many different practicing regulated professionals are employed, ***we support the proposed measures to create consistency in standards of regulation across professions, with the caveat that sufficient flexibility would be required to allow each profession to address needs unique to their work.*** Under the current system, a multidisciplinary firm may develop processes to comply with EGBC requirements, which may contravene compliance requirements of the Architectural Institute of B.C., for example. How reviews of these firms are conducted still needs further discussion. There may be some concern if EGBC reviews the continuing education programs of a multi-disciplinary firm with regard to its architects and other professions.

UDI does not object to single-person firms being regulated under the *PGA*. However, to reduce compliance costs, we recommend that the PRBs avoid conducting professional practice reviews of individuals soon after their firms have undergone a review – and vice versa.

### **Regulation of the Province/Municipalities**

With regard to the regulation of Province (and local governments) as a firm or the professionals who work with governments, further discussion is needed. Provincial agencies and the employees who work with them have an impact on the health and safety of British Columbians. Very often the employees are NOT registered professionals, but they set the rules/requirements that regulated professionals must comply with, and review their work and provide recommendations/requirements in many instances. As such, there is a strong argument for Provincial/municipal governments and their professional employees to be regulated under the *PGA*. There is also an issue of fairness. The Government should be following and subject to the regulatory framework it is imposing on others, however, we are also concerned that this would also increase delays for our members' projects if agencies and their employees undergo lengthy reviews. To our knowledge, a labour forecast has not been conducted to determine if a sufficient volume and range of professionals is available to support the enhanced level of government oversight. If government is subject to the framework it intends to enforce, it may also discourage government entities from hiring professionals and conducting reviews. This would exacerbate current problems with approval processes.

### **Conflict of Interest and Competency Declarations**

UDI supports the use of Conflict of Interest Declarations and the standardization of regulating this aspect of professional oversight. We also support the use of Competency Declarations. However, we believe that the PRBs are best suited to adjudicate and enforce them because they have the technical knowledge to make decisions on what is an issue of professional judgment. It would be problematic if the OPSG became involved in specific cases with regard to the Competency Declarations. UDI would also be concerned if municipal and provincial regulators delayed the approval of projects to assess the Declarations – or wait for them to be assessed. The development approval process is already lengthy and costly. To reduce costs and regulatory delays, UDI is supportive of a process in which Declarations could be completed, submitted, reviewed and stored through an online process.

### **Separating Governance and Advocacy in PRBs**

We ask that the Government and the Superintendent be careful in limiting the advocacy activity of the PRBs. Representatives from these organizations sit on advisory committees such as the B.C. Energy Step Code Council. They and the advice they provide are critical to the policy development process. We would be concerned if this important source of information and guidance were to be curtailed in the future.

In conclusion, UDI is generally supportive of the objectives and direction the *PGA* regime. However, because the focus thus far has been on the natural resources sector, we ask that the Government to proceed with caution as it expands the scope of this “*umbrella legislation*” to other areas, including the building and development sector. UDI would expect to participate in future consultations – especially on issues that affect our members, which include professional consulting firms. If you have any questions regarding our comments or recommendations, please do not hesitate to contact us, and we would be pleased to discuss them further.

Yours sincerely,



Anne McMullin  
President & CEO

CC: The Honourable George Heyman, Minister of Environment and Climate Change Strategy

Mark Zacharias, Deputy Minister of Environment and Climate Change Strategy