



URBAN DEVELOPMENT INSTITUTE – PACIFIC REGION

#1100 – 1050 West Pender Street
Vancouver, British Columbia V6E 3S7 Canada
T. 604.669.9585 F. 604.689.8691
www.udi.bc.ca

July 26, 2019

Honourable Doug Donaldson
Minister of Forests, Lands, Natural Resource Operations
and Rural Development
PO Box 9049 Stn Prov Govt
Victoria, BC V8W 9E2

Dear Minister:

Re: Water Sustainability Act (WSA) Permits

The Urban Development Institute – Pacific Region (UDI) represents the building and development sector in British Columbia. Our 850 members build the new housing, office, retail, recreational and industrial projects for businesses and families. The sector 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.

However, this activity is increasingly being hindered by increasing delays by the Ministry of Forests, Lands, Natural Resource Operations and Rural Development (FLNRORD) in approving *WSA* permits for infrastructure works that are critical for our members' projects to proceed – in particular the authorizations under Section 11 of the *Act*. Many local governments such as Surrey will not begin reviewing development applications until after FLNRORD has approved the *WSA* permit(s) for a project. Ministry approvals that used to take 140 days, are now taking 12 to 24 months. Even worse, if the brief ~ six week Instream Work Windows (lowest risk time for fish and stream ecosystems) in the summer is missed, projects can be put on hold for an additional year.

Local governments are also concerned; not only because of the delays in our members' projects, but also because their infrastructure works are being postponed. In fact, at the 2019 LMLGA Conference Delta has [proposed a resolution](#) to ask the Province to return to the 140-day timeframe for approvals. We also understand that Mission has informed you about similar problems with obtaining *WSA* authorizations.

The issue is also undermining provincial priorities. As you know, your Government is committed to constructing 114,000 rental and affordable housing units by 2027. The delays in *WSA* approvals is making achieving this goal even more challenging. In an effort to improve local government processing times, so the 114,000-unit target can be met, the Ministry of Municipal Affairs and Housing is conducting a Development Approvals Process Review. However, any improvements to municipal processing times are being undercut by ever-increasing timeframes for FLNRORD authorizations.

The matter is so concerning to our membership that last month UDI held a joint meeting of its Environment and Contaminated Sites committees, which includes developers and professionals involved in WSA applications. The Canadian Home Builders' Association of BC (CHBA BC) also participated in the meeting. This group has assisted UDI in preparing recommendations and options to the Ministry to resolve the issue, which we respectfully now submit to you.

Improving the Process

Adding more resources alone will not solve the problem. One significant issue that was identified by our members is process under Section 11 of the *WSA* is lengthy review times on whether the authorization is minor (e.g. relocating a roadside ditch) or major (diverting a significant river). The differentiation between major and minor changes is, in our view, the most critical issue, and we hope that staff will consider the below proposals to address the processing time for applications.

- UDI recommends that Ministry staff and/or qualified professionals be granted the authority to screen applications to determine within the first two weeks after application intake, whether proposed infrastructure works will have a potentially major or minor impact on water resources. If the application is determined to be major, a full Ministry review and First Nations consultation needs to be conducted. However, if the proposed works are minor in nature, the level of review work by the Ministry and the level of treatments required of applicants could then be minimized. For minor works, First Nations could receive notifications from the Ministry instead of there being full consultations. As with the contaminated sites process, qualified professionals could be used to review and manage minor works, so Ministry staff can focus on the major projects. We ask that staff be empowered to vary certain requirements (e.g. allowing more than 2 meters of fill above a culvert for an infrastructure work to fall under Section 37/38 of the Act instead on Section 11). We understand that in Ontario for road construction, there is a streamlined approval for less complicated works. It is called an [Environmental Activity and Sector Registry](#), which could be considered as an example of regulatory streamlining while maintaining administrative requirements and timeliness of reviews.
- Even without triaging applications into major and minor authorizations, the early screening process could also be useful in making the review process more efficient. Ministry staff could conduct a preliminary review of applications to determine their completeness. Staff would immediately understand what reviews will be time-consuming, what further information may be needed from proponents and what additional resources would be required to review the applications. This information could then be shared with proponents, so they are better prepared, and can begin to complete the work earlier in the process. In addition, if all of the submitted material for a project is complete, the Ministry could immediately forward the information to First Nations to begin their consultation process – as opposed to waiting for the Ministry's review of proposals to allow the processes to work concurrently and reduce the total time but not the end result of the review process.

- To improve transparency, we also recommend that applicants be updated on the status of the *WSA* authorizations on a regular basis, for example, every 2-3 months. This will assist them in managing other aspects of their development applications with other provincial agencies, the federal government and municipalities.

Increasing Resources

To address these challenges we recognize that additional resources may be required. Despite the challenges faced by builders, we would like to state that your staff at the Ministry have been very professional to our members. UDI has no complaints regarding their efforts to assist builders. The issue is there are not enough staff resources to handle the influx of *WSA* authorizations coming into the Ministry – especially in the urban centres of the British Columbia where most of the development activity is occurring. We understand that the only three staff are available in the Lower Mainland office to manage the *WSA* approvals, and they are routinely temporarily reassigned when forest fires or flooding events occur in other parts of the Province. These times are also very critical in the lead up to the seasonal Instream Work Window. Substantially more resources are needed to speed up the *WSA* authorizations. UDI suggests two potential options for the Ministry to consider.

- The Ministry could review establishing a qualified professional model for some of the work associated with the *WSA* authorizations. When the Ministry of Environment and Climate Change Strategy faced similar backlogs and delays a few years ago with the Contaminated Sites Regulation, they established a system of qualified professionals that are hired by project proponents to manage the less complicated reviews. The professionals are self-governing through the [Contaminated Sites Approved Professionals Society](#), which includes Ministry representatives. Audits and reviews of the work of professionals under the system on audited on an ongoing basis.
- Alternatively, significantly more dedicated staff could be hired to approve the authorizations – especially in the FLNRORD offices servicing high growth communities. The industry would be open to fee increases to improve staffing resources because delays in approvals is having a greater impact on project risks and costs. However, it would important to our members that improved service and processing times be provided in exchange for higher fees.

We acknowledge that staff reallocations may need to occur during emergency circumstances. If options for additional staff capacity were created through higher fees, we hope that this would allow consistent reductions in processing times throughout the year. Additionally, there may have to be discussion regarding the how the new fees are structured, as proponents of larger projects are better able to pay higher fees.

To address immediate concerns with the 2019 Work Window closing, we ask the Ministry to consider a temporary reallocation of files to other branches outside of the Lower Mainland. If files were temporarily reassigned to lower volume branches it

could help improve processing times for some applications which have already experienced lengthy delays.

UDI would be pleased to discuss the issues arising from the *WSA* authorizations as well as our recommendations with you or your staff. If possible, we would like to establish a Working Group with UDI, CHBA BC, environmental professionals and Ministry staff to review our suggestions – as well as other options to reduce delays in this critical FLNRORD process.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Anne McMullin', with a stylized flourish at the end.

Anne McMullin
President & CEO