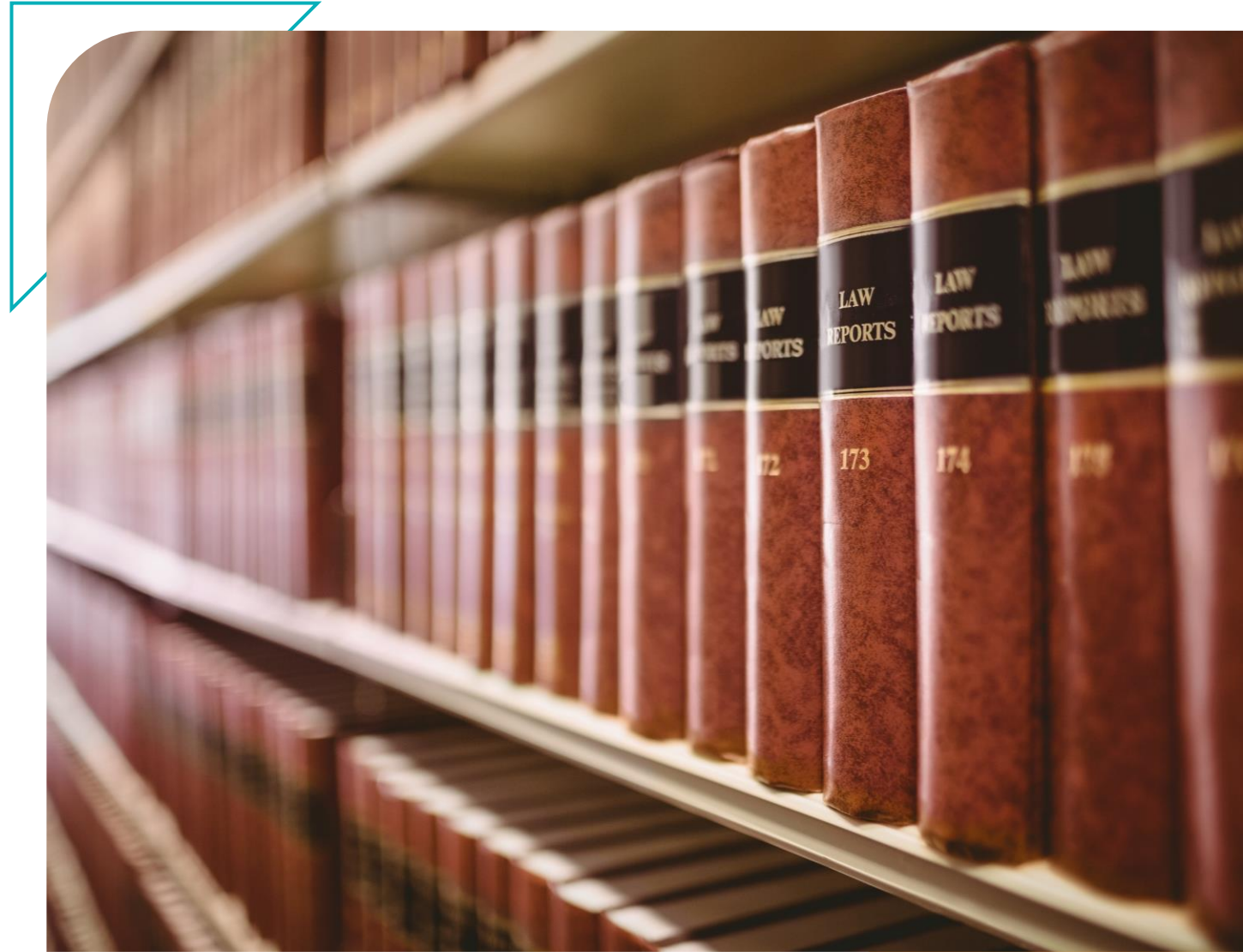


# Bill C-5: The *Building Canada Act*

June 16, 2025



# Agenda

1. What is Bill C-5?
2. What is a National Interest Project?
3. Bill C-5 and the Project Approval Process
4. Potential Implications for Indigenous Peoples

# What is Bill C-5?

## Bill C-5 – The *Building Canada Act*

- Bill C-5 was introduced on June 6, 2025
- Part 2 of Bill C-5 would enact the *Building Canada Act*
- Stated purpose:

“The purpose of this Act is to enhance Canada’s prosperity, national security, economic security, national defence and national autonomy by ensuring that projects that are in the national interest are advanced through an accelerated process that enhances regulatory certainty and investor confidence, while protecting the environment and respecting the rights of Indigenous peoples.”

# What is a National Interest Project?



## “National Interest Project”

- Factors relevant to the national interest:
  - 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
  - Contribute to clean growth and to meeting Canada’s objectives with respect to climate change
- List of factors is not closed – other factors may be considered
- Does not appear that all factors need to be met for a project to be a national interest project

## Designating a National Interest Project

- Governor in Council (Cabinet) may add or remove projects from the List of Projects on the Minister's recommendation
- Not clear which Minister would be responsible for the Act
- Before a project is added or removed, consult with:
  - Federal ministers
  - Provincial/territorial governments
  - Indigenous peoples whose rights may be adversely impacted
- Act does not prescribe specific timelines for the project listing process
- Review and report required after 5 years

# Bill C-5 and the Project Approval Process

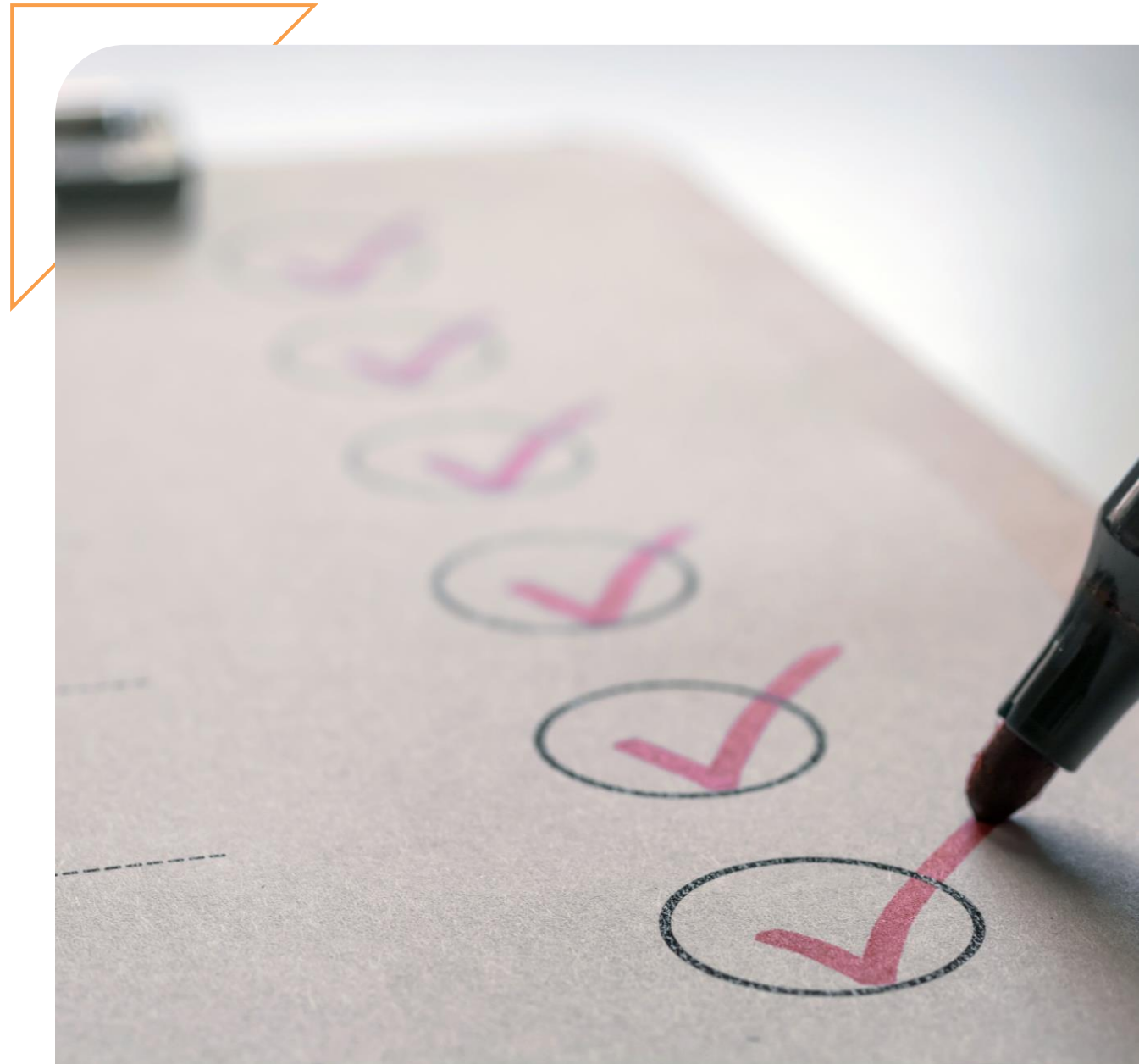


# Approvals for National Interest Projects

Steps for proceeding with a “national interest project”

1. The project receives national interest project designation by the GIC
2. The proponent applies for all federal authorizations required for the project
3. The Minister consults with the ministers responsible for each federal authorization about conditions that should be included in the decision document
4. The Minister issues a document that is deemed to be all authorizations required for the project

The Act states that consultation with Indigenous peoples whose rights may be adversely affected must occur at various points throughout this process



## Section 6 – Deeming Provision

- For projects on the List of Projects, “determination and finding” and “opinion that has to be formed” is deemed to be made in favour of permitting the project to be carried out
- Despite this “deeming” provision, a project still needs to apply for the authorizations that are required for the project
- Practical effect of the deeming provision is unclear – will proponents be guaranteed to receive authorizations as long as they go through the application steps?

## Section 7 – Decision Document

- National interest projects receive a “document” that is deemed to be all of the authorizations required for the project
- Before the document can be issued:
  - The proponent must take all necessary measures to obtain required federal authorizations, including providing information and paying fees
  - Ministers responsible for those authorizations have been consulted about conditions that should be included
  - Indigenous peoples whose rights may be adversely impacted by the project have been consulted
- Document must include the conditions that apply to each authorization for the project

# Potential Implications for Indigenous Peoples

# Consultation

The Act states that the Minister must consult with potentially impacted Indigenous peoples in the following instances:

- before adding, deleting, or amending the name or description of a national interest project on the List of Projects;
- before issuing the section 7 decision document
- before amending a condition or a document for a national interest project

The Minister may also consider whether a project advances the interests of Indigenous peoples when deciding whether to add a project to the List of Projects

The duty to consult is not limited to the situations in the Act – triggered whenever the Crown contemplates conduct that may have adverse impacts

# Federal Review Processes

- Changes to federal review processes have the potential to impact Indigenous peoples and our rights
- **Deeming provision:**
  - How will consultation fit into the timeline for review of federal authorization applications?
  - If an approval is virtually guaranteed, renders consultation meaningless
- **Federal impact assessments:**
  - If a national interest project is a “designated project” under the IAA, the planning phase in the IAA will not apply
  - Impact assessment still required
  - Planning phase is where much of the information needed to support impact assessment is gathered – including initial consultation and assessment of impacts to rights
- **Indigenous procurement:**
  - How will potentially rushed review process impact existing weaknesses in federal Indigenous procurement strategies?

# Thank you

Drew M. Lafond

(306) 956-6980

dlafond@mltaikins.com



*"MLT Aikins," the MLT Aikins Designs and "Western Canada's Law Firm" are trademarks of MLT Aikins LLP.  
Copyright © 2025 MLT Aikins LLP. All rights reserved.*

*Note: This presentation is of a general nature only and is not exhaustive of all possible legal rights or remedies. In addition, laws may change over time and should be interpreted only in the context of particular circumstances such that these materials are not intended to be relied upon or taken as legal advice or opinion. Readers/viewers should consult a legal professional for specific advice in any particular situation.*