

Public Participation Pathways Under the Building Canada Act Regime

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Introduction

The rapid development of large-scale energy infrastructure required for decarbonization intensifies a central governance tension: the pressure to accelerate major projects at the national scale frequently conflicts with the procedural openness required for meaningful public participation at the local scale. This research evaluates the federal fast-track major-project approval framework, the *Building Canada Act* (BCA), to determine its impact on this tension. Despite the formal inclusion of participation within federal project governance, a persistent gap remains between the stated purpose of engagement and the practical influence that public input has on final outcomes.

The research question of this study is: Do the public participation pathways (or lack thereof) within the fast-track federal Building Canada Act (BCA) reduce regulatory friction, or do they simply displace it?

This project applied an interdisciplinary lens across energy, environmental, and legal dimensions aligned with UN SDG 9 and 16.



Methodology

This study pairs a doctrinal legal analysis of statutory pathways within the Building Canada Act with a systems-thinking evaluation to assess how legal mechanics function as feedback loops. The analysis contrasts the holistic, precautionary sustainability mandate of the baseline Impact Assessment Act (IAA) against the BCA's reliance on centralized, macro-economic Cost-Benefit Analysis (CBA). Engagement quality standards stem from Arnstein's Ladder of Citizen Participation and the sociological framework of the Social License to Operate (SLO).

Analysis: A systematic and critical examination of the statutory text, legal rules, and institutional guidelines that dictate public participation to delineate the exact legal thresholds and discretionary powers granted to regulators.

Evaluation: In this context, public participation pathways are analysed as feedback loops within the broader project approval ecosystem. This lens allows the research to evaluate whether public inputs influence regulatory outputs (project decisions and conditions) or if the pathways function as closed, disconnected administrative loops.

Conclusions

The global push for a decarbonized grid demands an unprecedented mobilization of capital and large-scale infrastructure. However, the systematic evaluation of public participation pathways under the Building Canada Act reveals a regulatory landscape fundamentally misaligned with the realities of sustainable project development. By replacing the Impact Assessment Act's holistic sustainability mandate with a centralized, macroeconomic definition of the national interest, the BCA utilizes upfront deeming provisions and Henery VIII clauses to shortcut democratic oversight. This approach strips the public of its democratic agency, reducing participation to mitigative bargaining over a Single Conditions Document. Furthermore, the aggressive consolidation of environmental safety-net statutes without a binding statutory requirement to secure Free, Prior, and Informed Consent (FPIC) introduces profound constitutional vulnerabilities. Attempting to bypass the constitutionally protected Duty to Consult ironically threatens the exact infrastructure the Act aims to expedite by triggering protracted judicial injunctions.

In an era of volatile geopolitics, and escalating climate risk, there is need to secure equitable energy systems. This study recommends structural policy reforms towards procedural openness, exemplary proponent risk strategies, and adaptable public stakeholder approaches that are crucial to ensure the sustainable and democratic regulatory landscape required for Canada's modern energy expansion.

Results

The implementation of the Building Canada Act structurally alters public participation from proactive project justification to reactive mitigative bargaining. The regulatory framework achieves expedited timelines by redefining engagement pathways, consolidating executive pathways and off-ramping democratic oversight.

Henry VII Clauses



Regulatory Off-ramping and the Privatization of Social License to Operate

The Single Conditions Document under the discretion of the Minister of One Canadian Economy, legally constitutes the authorization for a project across all applicable federal statutes. Replacing iterative, sequential public review phases by consolidating all federal regulatory approvals into one final set of technical conditions. Additionally, project records from the Impact Agency of Canada show a 33% reduction in Impact Assessment Act public comment windows from 2020-2026. Public input has crept to finally being legally barred from addressing holistic sustainability arguments and is instead funneled into narrower, secondary legislation and sub-federal bodies. Leaving communities to rely on industry guidelines, causing the privatization of the Social License to Operate.

Building Canada Act vs. US FAST-41

A comparative analysis of the US FAST-41 framework demonstrates that regulatory Speed does not inherently require the suspension of democratic oversight. While FAST-41 is not perfect, notably experiencing fluctuating Compliance with centralized reporting. It shows that rigid timelines can still accommodate early-stage engagement.

Regulatory Mechanism	Building Canada Act (Canada)	FAST-41 (United States)
Early Project Planning	Bypassed entirely via upfront by Project of National Interest designation.	Institutionalized via a mandatory Coordinated Project Plan developed within 60 days.
Centralized Transparency	Statutory requirement is restricted to publishing the final Single Conditions Document.	Mandated transparency with all public meetings, hearings and public comment periods posted to a Federal Dashboard.
Execution Strategy	Consolidates all permits into a single upfront deeming document.	Utilizes compression while preserving a 45-day public comment period

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