



URBAN DEVELOPMENT INSTITUTE – PACIFIC REGION

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The Hon. George Heyman  
Minister of Environment and Climate Change Strategy  
Parliament Buildings  
Victoria, British Columbia V8V 1X4

Dear Minister:

***Re: Professional Reliance Review***

The Urban Development Institute (UDI) – Pacific Region is very interested in your Ministry's current Review of Professional Reliance in British Columbia. Of particular significance to our membership is how it may impact the redevelopment of brownfields and sites near riparian areas. Our industry has been a strong proponent of the Professional Reliance Model, and we would be concerned if the role of Qualified Environmental Professionals (QEPs) were curtailed and combined with an expansion of the role of Government in reviews of applications. If substantial changes are being contemplated in areas that would impact development projects, UDI asks to be directly engaged throughout the consultation process.

**About UDI - Pacific Region**

The Urban Development Institute is a non-profit and non-partisan association of the development industry and its related professions. With over 700 corporate members, UDI Pacific Region represents thousands of individuals involved in all facets of land development and planning, including: developers, property managers, financial lenders, lawyers, engineers, planners, architects, appraisers, real estate professionals, QEPs, local governments and government agencies. UDI has chapters in the Lower Mainland, the Capital Region, and in the Okanagan. Our members build residential, commercial, industrial, institutional and resort projects throughout British Columbia.

Since 1972, UDI Pacific Region has been dedicated to fostering effective communication between the industry, government, and the public; and aims to improve both housing and job opportunities for all British Columbians. UDI Pacific Region also serves as the public voice of the Real Estate Development Industry, communicating with local governments, the media, and community groups. UDI concentrates its activities in three primary areas: government and community relations, research, and professional development and education. To enhance the professional development of those employed in our industry, UDI has established Under-40 and Women of UDI Committees.

As a “*Partner in Community Building*,” the Urban Development Institute is committed to working with communities and governments to create and achieve the vision of balanced, well-planned and sustainable communities. UDI has held numerous seminars to educate our members on environmental best practices for development projects. We also have well established volunteer committees of subject matter experts including our Environmental Committee and a Contaminated Sites Committee, both of whom have assisted us on our submission.

## **Our Industry**

The Real Estate and Development Industry has a significant impact on employment, economic growth and government tax revenues. In British Columbia, our industry represents one-quarter of the Province’s GDP. An independent analysis found that the development industry every year in B.C.:

- Contributes over \$17 billion to the provincial GDP;
- Employs over 200,000 British Columbians (including dependent occupations); and
- Generates \$3.5 billion in revenues to governments at all levels.

## **Industry Concerns with a Potential Diminishing Role for QEPs and the Capacity of Government**

While recognizing the focus of the Business Council of British Columbia’s (BCBC’s) submission to the Ministry on the *Professional Reliance Review* was on QEPs for natural resource projects, UDI agrees with many of the points made in their letter as they also apply to QEPs involved in brownfield redevelopments and projects impacted by the *Riparian Areas Regulation (RAR)*. In particular, we fully support BCBC’s point that:

*“When regulators are challenged with balancing prescriptive measures and results-based outcomes in decisions or enforcement actions, professionals play a key role in providing solutions that protect the interests of all British Columbians. It is wholly unrealistic to expect that government can or should replicate professional reliance infrastructure in-house. There is neither the capacity (ability to provide adequate oversight) nor sufficient funding to hire and retain the talent required.”*

This capacity concern is critical to industry, government, the public and the environment. Firstly, it is uncertain the level of professional capacity (as it relates to environmental issues) that currently exists within the BC Civil Service, or what capacity that may be available in the future. As you know, QEPs are highly qualified people with extensive educational backgrounds and years of experience. In many cases, they have gained more experience and expertise through their careers than the governmental officials (especially more junior staff) that review their work. If the role of Government were to increase, the expectations from our industry and the public would be that those in Government reviewing applications are as well qualified as the QEPs doing this work today. There would need to be significantly more transparency about the qualifications of those officials and a resulting additional staff

loading of thousands of employees that would have to be recruited at significant costs to taxpayers.

Secondly, UDI is concerned that the Government's lack of capacity will delay the review of applications and projects. Professional Reliance was established for brownfield redevelopments and the *RAR* in large part because of delays in Government reviews. In fact, these delays are occurring today under the *Water Sustainability Act (WSA)* because the role of QEPs under the legislation is limited. It is taking developers up to 200 to 300 days to obtain approvals for projects under the *WSA*.

***Recommendation 1: The Government should not diminish the role of QEPs in favour of a larger role for Government officials because we believe that this would not result in more qualified people overseeing applications and could add extensive delays to development projects, which would seriously undermine the Government's objective to build 114,000 affordable housing units over the next decade.***

### **QEPs and Brownfield Redevelopments**

If the Ministry is contemplating reducing the role of QEPs in the brownfield redevelopment process, another concern in addition to potentially undermining the 114,000-unit affordable housing commitment, is that of the cleanup of the Province's many contaminated sites. Remediation work that provides communities with an improved environment and new economic development opportunities may be adversely affected.

Ministry of Environment and Climate Change Strategy staff have reiterated to our industry many times that the primary vehicle to cleanup polluted sites and contaminated groundwater, especially in urban areas, is through the redevelopment of those sites. In fact, funding programs have been provided by the Government to incentivize our members to remediate and redevelop brownfield properties throughout British Columbia.

Redevelopment of brownfield sites will only occur if the economics and timelines for the projects are productive. This is why the vast majority of clean-up sites occur in more urban areas where former polluted sites areas are transformed into new, larger and vibrant residential and commercial developments.

However, as noted above, time is important to developers. Delays in approvals add costs and risks to projects. Our members face a tremendous number of upfront costs:

- Purchasing Land
- Municipal Servicing Requirements
- DCC/CACs and other government fees
- Site Remediation costs
- Design fees
- Construction costs
- Marketing costs
- Interest on the above (holding costs)

Developers start receiving most of their revenues when buildings are occupied - years after they purchased land. It can be a decade or more for a master planned community. If you are a commercial or rental developer, the timeframes are even longer. Holding costs have substantial cost impacts on our members' projects.

Longer timeframes will mean more risks. Markets, demographics and the economic cycle change over time. Material and construction costs as well as government imposed costs can increase (e.g. the introduction of the Foreign Buyers' Tax). These can all have substantial negative impacts on development.

Another potential issue is that insurance is available when issues arise under the current QEP model. If the Government were to assume responsibility for more approvals related to the remediation of contaminated sites, will it also be assuming the liability when problems occur? This is similar to the existing Contaminated Sites Approved Professional (CSAP) mandate (which requires additional liability insurance) that is already approved and has been working for two decades. Would this QEP be in addition to the CSAP mandate or a parallel model (with an additional layer of insurance)?

***Recommendation 2: The role of QEPs in brownfields be maintained or even enhanced to reduce delays in the approval process, so the Province can continue to expand the number of contaminated sites in British Columbia being redeveloped (and thus remediated).***

#### **QEPs and the RAR**

UDI was surprised to find that QEP involvement in the *Riparian Areas Regulation* was included in the recent Ministry *Professional Reliance Review* survey given that there has been an extensive process of review already initiated by the Office of the Ombudsperson. In March 2014, the Office released the *Striking a Balance: The Challenges of Using a Professional Reliance Model in Environmental Protection – British Columbia's Riparian Areas Regulation Report*.

The Ministry of Forests, Lands and Natural Resource Operations (FLNRO) has been actively implementing the 25 recommendations in that Report, the majority of which have already been completely or substantively met. UDI has recently received correspondence from FLNRO indicating that legislative changes being brought forward to implement other recommendations in the Ombudsperson's Report and to "... support recommendations made to the Province during the Cohen Commission (Federal Inquiry into the Decline of the Fraser River Sockeye Salmon), and the 2013 changes to the federal Fisheries Act."

Why is the Ministry of Environment and Climate Change Strategy potentially considering another review of the role of QEPs with regard to the RAR given all of the work that has been completed on the issue, and the fact that we are in the midst of implementing the recommendations from this work? Another review will likely lead to confusion for our members, QEPs, and the public.

We agree that more consultation is needed to improve the RAR. For example, UDI understands that the Minister of Environment has accepted almost all the recommendations from the Ombudsperson report, which includes the recommendation of creating an authority to reject or accept assessment report submitted by QEPs. How and when this power would be used, is an important matter

for our membership. We would also like to see more leadership from the Province with regard to municipal requirements that are imposed in riparian areas that are not aligned with *RAR*, which is creating much confusion for QEPs and project proponents. Your Ministry has been clarifying provincial and municipal roles related to brownfields, and we would like to see FLNRO do the same for the *RAR*. UDI would also be open to developing certification standards with the Government and Professional Associations that QEPs need to meet to do reviews under the *RAR*. The industry wants to ensure that it is hiring the right people for this important work. Even though there is a need for further consultation, we believe it would be more appropriate for it to be linked to the current FLNRO process.

***Recommendation 3: The Professional Reliance Review not include RAR QEPs. Instead, FLNRO (with the Ministry of Environment and Climate Change Strategy) consult with UDI, QEPs, professional associations and other stakeholders regarding the implementation of the Ombudsperson's Report and the issues noted above.***

### **QEPs and the WSA**

As noted above, one area in which there is no approval role for QEPs is applications under the *Water Sustainability Act*. Because of the Ministry's capacity issues, this has resulted in substantial delays in approvals (200 to 300 days) for applications under the *WSA*, which will likely undermine the Government's ability to achieve its affordable housing targets.

***Recommendation 4: The Government should consider developing a Professional Reliance approach for applications under the WSA – after consultation with industry, QEPs (especially those involved with the RAR) and other stakeholders.***

### **Future Consultation under the Professional Reliance Review**

UDI has some significant concerns about how much the Government can ascertain from the initial survey. The timeframes for responding were short. We received the survey in December and responses are due in mid-January; making it difficult to obtain responses from our members over the holiday season.

It is also not clear how this consultation relates to the work done in 2012 on the assessment of qualified professionals that was released in 2014. How much of this work is being duplicated, and what has changed in the last 3 to 5 years that would lead to the need for another Professional Reliance Review?

Contained in the survey, there are few questions and many of them are demographic in nature. There are no questions regarding participants' current knowledge of what a QEP is, their qualifications or role. As BCBC pointed out in their submission, the real issue may be insufficient communication with the public about QEPs.

UDI was also wary about sending the questionnaire to our members because their responses could be misinterpreted. For example, the second question is: "*the provincial government provides the right level of oversight of work conducted by qualified professionals*". Many UDI members check strongly disagree for this statement. However, they would likely be seeking less Government oversight of

QEPs – not more oversight – as maybe interpreted by those in the Ministry analyzing the results.

It is also not clear from the survey questions what direction the Government is going. We are pleased if this means there is an open mindedness approach with regard to the Professional Reliance Model. However, it also means that we are at the very early stages of the process. Much more consultation is needed before legislative or regulatory actions should be taken – future more detailed surveys and Green/White papers are needed.

UDI was involved in a very positive consultation process with the Ministry recently for the *Omnibus* amendments to the *Contaminated Sites Regulation* that came into effect in Fall 2017. The Environmental Emergencies and Land Remediation Branch of the Ministry extensively engaged with UDI's Contaminated Sites Committee (and other stakeholders) throughout the process. UDI met directly with Ministry staff numerous times about several issues related to the proposals.

We ask that a similar approach be adopted for the *Professional Reliance Review*. It is our understanding that the Ministry is consulting directly with some stakeholder groups this winter 2018. We would like to organize a meeting with Ministry staff to discuss the *Review*.

***Recommendation 5: Much more meaningful consultation is needed with stakeholders prior to any changes being introduced by the Government related to QEPs, and UDI would like to participate in direct consultations with the Ministry on the Professional Reliance Review – especially if that Review will impact brownfield projects, riparian areas or applications under the WSA.***

In conclusion, UDI has been a strong proponent of the Professional Reliance Model, as it assists the development review process while protecting B.C.'s environment. We would be concerned if substantial limitations were imposed on the role of QEPs in favour of an expanded role for Government. Ideally, we would like to see the Professional Reliance Model apply to other areas such as the *WSA*. If the Province decides to move forward with changes, we recommend there be a much more substantial consultation process that directly involves UDI and other key stakeholders. We look forward to working with you and your staff on this and other initiatives.

Yours sincerely,



Anne McMullin  
President and CEO

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