

**MINISTRY OF ATTORNEY GENERAL AND
MINISTRY RESPONSIBLE FOR HOUSING
OFFICE OF THE SUPERINTENDENT OF PROFESSIONAL GOVERNANCE
INFORMATION BRIEFING NOTE**

PURPOSE: For INFORMATION for David Eby, QC
Attorney General and
Minister Responsible for Housing

ISSUE:
Outcomes of the building and construction sector forum

SUMMARY:

- A series of four forum sessions hosted by the Office of the Superintendent of Professional Governance (OSPG) were held with key players from the building and construction sector in March of 2022.
- The forum sessions identified what areas are working well, challenges, and opportunities for a future state for professions operating under Part 3 and Part 9 of the BC Building Code, as well as in the building permitting process for First Nation communities and local governments.

BACKGROUND:

- The forums were intended to improve understanding of how different professionals within the building and construction sector are currently regulated, the reliance framework in the local authority permitting process, what is working and not working in the regulation of professionals in the sector, and what is desired as a future state.
- The scope of forums included the building permit process (the planning, design, and construction stages) for new construction and renovation.
- The first two sessions brought together groups operating under Part 3 and Part 9 of the BC Building Code to discuss roles and responsibilities for professionals, challenges, and possible future states.
- The third session brought together local governments, First Nations, and related associations to discuss building permitting processes, liability, and indemnity issues.
- A list of all participant groups can be found in Appendix A.
- The fourth session brought all three groups together in a plenary session to discuss opportunities for better relationships and processes.
- A 'What We Heard' report was produced to summarize the feedback received. It is attached in Appendix B.

DISCUSSION:

- The major themes identified in the forums include:
 - Aligning legislation and regulations such as the *Architects Act* and the BC Building Code
 - Providing for jointly delivered education to ensure consistency in the interpretation of legislation

- Hosting more forums and/or meetings to allow for collaboration and cooperation between professionals and government officials
- Offering additional guidance such as guidelines across the province, especially given increasingly “complex buildings”
- Enhancing public trust to promote professionalism and improve consumer confidence in the process
- Expanding recognition of professionals (i.e., building designers, energy advisors, interior designers, and out-of-province professionals)
- Addressing the shortage of qualified professionals in regions outside the Lower Mainland, especially in remote areas of the province
- Ensuring transparency and consistency in the permitting process and application of professional reliance.
- Many of the key themes can be actioned by the regulatory bodies and professional associations that attended the forums. Offers were made between attendees to follow up and explore opportunities for education delivery and collaboration on guidance.
- Participants from the session with local governments and First Nations identified misalignment of the BC Building Code and the *Architects Act* as one of the most pressing current challenges as it reduces clarity in the permitting process.
 - The Architectural Institute of BC (AIBC) has been engaging with various groups on an updated scope of reserved practice that will be defined in regulation as part of their transition to the *Professional Governance Act* (PGA). OSPG will be consulting with interested parties as part of the regulation development and transition process.
- Currently, letters of assurance are used almost exclusively in relation to Part 3 (complex) buildings and can be offered by architects and engineers. Some participants expressed the desire to add other types of professionals, such as building designers, energy advisors and interior designers to this list for assurances that are currently required and to expand when letters of assurance are required.
- The limited recognition of these other types of professionals in the BC Building Code was also raised as a public safety concern for Part 9 building construction (where use of certified professionals is not required), with participants expressing that lack of certification requirements and oversight in permit applications increases the likelihood that work is not being done to an acceptable level.
 - s.13

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- The noted shortage of qualified professionals in remote regions of BC is a complex matter and goes beyond professional governance.^{s.13}
s.13
- Many discussions focused on the challenge of inconsistent building permit practices and application of standards across the province.
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 - OSPG will pass on relevant information to other parts of government.

INDIGENOUS PEOPLES CONSIDERATIONS:

- As there is Indigenous representation within all aspects of the regulation of the design and construction of buildings, contemplated changes to this regulatory system should be informed by First Nation's views.
- The federal government requires either the national or provincial building codes to be implemented in First Nations communities, though there is not always enough capacity to enforce it.

OTHER MINISTRIES IMPACTED/CONSULTED:

- OHCS attended and assisted with the planning and organization of the forums. The 'What We Heard' report was shared with OHCS and they provided input to this note.
- Ministry of Municipal Affairs was briefed during the planning stages of the forums but did not participate. OSPG will provide them with a copy of the summary report and will follow up on areas of potential future collaboration.

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Attachments

Appendix A: Participant Groups
Appendix B: OSPG Building and Construction Forums What We Heard Summary Report – March 2022

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Appendix A: Participant Groups

1. Applied Science Technologists and Technicians of BC
2. Architectural Institute of BC
3. Association of Consulting Engineering Companies – BC
4. BC Association of Building Designers
5. BC Building Envelope Council
6. Building Officials Association of BC
7. Canadian Home Builders Association of BC
8. Capital Home Energy
9. Engineers and Geoscientists BC
10. Interior Designers Institute of BC
11. Structural Engineers Association of BC
12. Campbell River
13. Central Okanagan Regional District
14. City of North Vancouver
15. City of West Kelowna
16. Coquitlam
17. Creston
18. First Nations National Building Officials Association
19. Fort St. John
20. Fraser Valley Regional District
21. Langford
22. Langley
23. Nanaimo
24. Quesnel
25. Smithers
26. Technical Safety BC
27. Terrace
28. Tsawwassen First Nation
29. Westbank First Nation

Appendix B

OSPG Building and Construction Forums What We Heard Summary Report – March 2022



What We Heard Summary Report

OSPG Building and Construction Forums

March 2022

Prepared by:

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Executive Summary

The Office of the Superintendent of Professional Governance (OSPG) engaged MNP LLP (MNP) to act as a neutral facilitator in the delivery of a series of virtual forums with the following three groups:



Through advanced communications, the OSPG sought to ensure awareness of, and from this participation in, the forums among those with experiences along with interests in professional governance and reliance in the building and construction sectors. The guiding objectives for these forums, from the perspectives of the OSPG and the Office and Housing and Construction Standards (OHCS), were to:

- Improve the understanding of how different professionals within the building and construction sectors are currently regulated as well as the environment, health, and risks associated with the practice of the professions, and what is needed for public interest protection.
- Understand the reliance framework in the local authority permitting process, including the range of approaches taken by local authorities, and how liability and indemnity issues are addressed.
- Understand what is working and not working in the regulation of professionals in the building and construction sectors, and what is desired as a future state.

During the first three forums, participants were guided through focused conversations about the current and future state of professional

Participant Quote

"We've got a golden opportunity in the province to make changes, to make things better for our industry – let's make this a cooperative affair where we can all work together, respect one another, and bring some harmony to our professions."



governance and reliance in the building and construction sectors. Following this, a plenary session was held for all participants to reflect on what was heard during the first three forums, and together, to discuss opportunities going forward.

Over the course of the forums, the following major themes emerged as opportunities for a desired future state:

- Aligning legislation and regulations such as the Architects Act and the BC Building Code (BCBC).
- Providing for jointly delivered education to ensure consistency in the interpretation of legislation.
- Hosting more forums and/or meetings to allow for collaboration and cooperation between professionals and government officials.
- Offering additional guidance such as guidelines across the province, especially given increasingly "complex buildings."
- Enhancing public trust to promote professionalism and improve consumer confidence in the process.
- Expanding recognition of professionals (i.e., building designers, energy advisors, interior designers, building designers and out-of-province professionals).
- Addressing the shortage of qualified professionals in regions outside the Lower Mainland, especially in remote areas of the province.
- Ensuring transparency and consistency in the permitting process and application of professional reliance.

Participants shared that they appreciated the opportunity to participate in the forums and encouraged the OSPG to provide for more dialogues of this nature in the future for those in the building and construction sectors to share their experiences and engage with one another.



Acronym Reference Guide

Acronym	Term
AHJ	Authority Having Jurisdiction
AIBC	Architectural Institute of British Columbia
ASTTBC	Applied Science Technologists and Technicians of British Columbia
BCBC	BC Building Code
BOABC	Building Officials' Association of BC
CP	Certified Professional
CRP	Coordinated Registered Professional
EGBC	Engineers and Geoscientists BC
IDIBC	Interior Designers Institute of British Columbia
LOA	Letter of Assurance
OHCS	Office of Housing and Construction Standards
OSPG	Office of the Superintendent of Professional Governance
PGA	Professional Governance Act
RP	Registered Professional
RPR	Real Property Report



Background Information

OSPG Background

The OSPG is focused on the regulation of professions, links to professional reliance in the sectors, and the relationship of reserved practices to the permitting process.

The PGA sets out the authorities and requirements for professions overseen by the OSPG, with the related associations including:

- EGBC
- ASTTBC
- Association of BC Forest Professionals
- College of Applied Biologists
- BC Institute of Agrologists
- AIBC

Further guiding the OSPG in this mandate is its operating framework, which consists of the following elements.

OSPG Operating Framework





Building and Construction Sector Forums

Provincial Priorities - What led to the forums?

There are four priorities that provided an impetus for hosting these forums, namely:

- a) The fiscal 2017-2018 review of professional reliance in the natural resource sector, which is where the OSPG's expertise in regulation mainly comes from.
- b) The applicability of the PGA has become broader: engineers, geoscientists, technologists, and now also architects operate in the building and construction sectors.
- c) There is a gap in understanding the state of professional reliance in the building and construction sectors.
- d) There is an opportunity for learning, making connections, and starting a dialogue with stakeholders.

Professional Governance and Professional Reliance

The following definitions were provided to participants in the forums to ensure a common understanding of the difference between professional governance and professional reliance.

- *Professional governance* is oversight of a profession by a governing body. This includes setting requirements to enter the profession, standards of practice, pathways for complaints, and investigation along with discipline procedures.
- *Professional reliance* is how, and the extent to which, the regulatory framework and the public depend on professionals to exercise their duties and their discretion in the public interest.

Professional governance provides the foundation upon which professional reliance can be built.

Part 3 and Part 9

The BCBC regulates building in two main categories: simple buildings and complex buildings, commonly called Part 9 and Part 3 buildings. In general, a single-family home is a good example of a Part 9 building while a shopping mall is an example of a Part 3 building. Part 3 of the BCBC is intended to be used by RPs who are defined by the BCBC as engineers and architects.

LOAs are legal accountability documents required under the BCBC that are intended to clearly identify the responsibilities of key participants in a construction project. LOAs apply to all Part 3 buildings but not Part 9 buildings unless they or their components fall within the scope of Subsection 2.2.7. in Part 2 of Division, C. Owners are responsible for retaining an RP to coordinate all design work and field reviews in accordance with Subsection 2.2.7. of Division C of the BCBC.



Scope and Expectations of the Forums

Within the scope of this consultative undertaking was the building permit process, including the planning, design, and construction stages, both for new construction and renovation.

The development permit process, and the role of trades in the sectors, were outside the scope of the engagement.

As it pertains to guiding expectations, this was primarily an initiative to increase the OSPG's understanding of the sectors and to generate ideas, identify current challenges, find synergies, and seek opportunities for the future.

Forum Structure

The following regulators and associations from Part 3 and Part 9 participated in Forums 1 and 2:

- ASTTBC
- AIBC
- Association of Consulting Engineering Companies – British Columbia
- BC Association of Building Designers
- BC Building Envelope Council
- BOABC
- Canadian Home Builders Association of BC
- Capital Home Energy
- EGBC
- IDIBC
- Structural Engineers Association of BC

The following local governments and First Nations participated in Forum 3:

- BOABC
- Campbell River
- Central Okanagan Regional District
- City of North Vancouver
- City of West Kelowna
- Coquitlam
- Creston
- First Nations National Building Officials Association
- Fort St. John
- Fraser Valley Regional District
- Langford
- Langley
- Nanaimo
- Quesnel



- Smithers
- Technical Safety BC
- Terrace
- Tsawwassen First Nation
- Westbank First Nation

The final forum (the plenary session) was attended by many of the participants from the first three sessions.

The first two forums, with Part 3 and Part 9, had the participants utilize Mural (a virtual whiteboard) to share their comments and thoughts on topics of current challenges and future opportunities in the building and construction sectors. The related points for discussion included:

1. Professional governance and practical guidance (what is working well, challenges, and opportunities).
2. Professional reliance in the permitting process (what is working well, challenges, and opportunities).
3. Relationships with other organizations (what is working well, challenges, and opportunities).
4. Any recommendations and additional comments.

The third forum with local government and First Nations also had participants utilize Mural to share their comments and thoughts on topics around current and future states in the building permit process. The associated areas for discussion included:

1. How professionals are relied upon in the current building and construction permitting process, and what led to this.
2. The challenges associated with the reliance on professionals, concerns about liability and indemnity, and how these have been addressed up to now.
3. What has worked well when it comes to reliance on professionals, and what has contributed to these successes.
4. Opportunities for a future state regarding professional reliance in the permitting process, and who needs to be involved to get to that future state.
5. Any recommendations and additional comments.

In the final forum, MNP also shared a “What We Heard” presentation to the group, capturing high-level themes and comments from the first three sessions.

Limitations of the Report

The report is provided for information purposes only and should not be regarded as comprehensive. The themes from each Mural board were reflected ‘as is’ by MNP and it was acknowledged that some of the themes may seem out of place. We have relied on the commentary offered by participants in the forums, and the opinions expressed in the report are conditional upon the information underlying them, as sourced from forum participants.



What We Heard

Topics At A Glance

Feedback received during the forums on each of the consultation topics is organized as follows:

Major Themes	Key findings across all forums on future opportunities for the building and construction sectors	Page 10
Part 3 and Part 9	What we heard from Part 3 and Part 9 regulators and associations on professional governance and practice guidance, professional reliance in the permitting process, and relationships with professions and organizations	Page 11
Local Government and First Nations	What we heard from Local Government and First Nations on professional reliance in the permitting process	Page 22

The summary points within each section represent commonly expressed ideas from a variety of participants. These points have been synthesized based on commonalities and generalized to preserve anonymity.



Major Themes

The graphic below reflects the major themes as it relates to future opportunities and that the participants shared throughout the forums.

- **Alignment of Legislation**
Aligning legislation and regulations such as the Architects Act and the BCBC.
- **Joint Education Initiatives**
Providing for jointly delivered education to ensure consistency in the interpretation of legislation.
- **More Industry Forums**
Hosting more forums and/or meetings to allow for collaboration and cooperation between professionals and government officials.
- **Additional Guidance**
Offering additional guidance and guidelines across the province, especially given increasingly “complex buildings”.
- **Enhanced Public Trust**
Enhancing public trust to promote professionalism and improve consumer confidence in the process.
- **Expanded Recognition of Professionals**
Expanding recognition of professionals (i.e., building designers, energy advisors, interior designers, and out-of-province professionals).
- **Address Shortage of Professionals**
Addressing the shortage of qualified professionals in regions outside the Lower Mainland, especially in remote areas of the province.
- **Increased Transparency and Consistency**
Ensuring transparency and consistency in the permitting process and application of professional reliance.



What We Heard from Part 3 and Part 9

Professional Governance and Practice Guidance

The table below reflects what we heard from regulators and associations on professional governance and practice guidance in the building and construction sectors. Participants shared examples of what is working well, current challenges, and their thoughts on future opportunities for the sectors.

Professional Governance and Practice Guidance <i>Part 3 and Part 9</i>	
What is Working Well	<ul style="list-style-type: none">• Participants widely agreed that the practice guidelines for RPs were working well as they provide clear and comprehensive guidance within each profession along with:<ul style="list-style-type: none">◦ Clearly defined roles and expectations with a good level of individual practice guidance.◦ Formalized advice in the form of dedicated practice consultants, FAQs, and documented issues.◦ Communication between the government and RPs with a willingness to issue schedules before the initiation of the step-code.• There were commonly held views of alignment between professions and publicly available practical guidelines, that allows for:<ul style="list-style-type: none">◦ A common understanding of professional obligations, the role of regulators, and local governments in the process.◦ Cooperation between AIBC, EGBC, and BOABC to help develop common expectations for municipalities and builders.• Multiple participants said there was a good level of recognition and participation of professionals, with many competent practitioners and groups able to perform the construction and design of Part 9 buildings.• Participants noted that there is an emphasis on the public good and accompanying this is an appreciation of the need for in-depth code knowledge to protect the public.• Participants shared that involvement in professional governance allowed for an appropriate level of enhanced regulatory oversight and gave them the opportunity for independent concept reviews and continuing education of professionals:



<p>Current Challenges</p>	<ul style="list-style-type: none"> • Many of the participants felt that regulations posed challenges due to: <ul style="list-style-type: none"> ◦ Changes in requirements are demanding for practitioners, as there are many professional guidelines in place. ◦ The current system as it relates to the design industry is dated. ◦ Most of Part 9 does not require a qualified person to apply the BCBC. ◦ Practice guidance which can be reactive to emerging professions or areas of practice that are not regulated. • Participants noted a lack of consistency with data collection, as it is fragmented and inconsistent and the process can move too fast at times, which creates errors. • Complex building environment has apparently led to some municipalities treating Part 9 as Part 3. • Process challenges were identified in terms of the multiple checkpoints from overlapping and/or related professionals, with too much emphasis on forms and not enough on genuine oversight. • Some participants felt that there were too many restrictions on who can do certain types of work (e.g., energy advisors not being regulated in the BCBC, and building designers and interior designers being unable to provide schedules for Part 9 buildings). This was also seen to create roadblocks when certain schedules are required over and above what the BCBC stipulates. • Most of the participants shared that there is a misalignment between legislation and regulation coupled with a lack of harmony between the BCBC and the Architects Act. • Some noted that the process of Authorities Having Jurisdiction (AHJs) can be a challenge in terms of the alignment between AHJ policy and the permitting practice. In other words, there was a desire for a sustainable design and application of the BCBC. Many AHJs do not subscribe to the use of the Certified Professional (CP) Program, which can cause issues. • Lastly, participants agreed that perceptions and attitudes can also be challenging due to the territorial nature of some groups, with some participants feeling excluded.
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Future Opportunities	<ul style="list-style-type: none"> • Many participants agreed that there is an opportunity for additional guidance, specifically: <ul style="list-style-type: none"> ◦ More joint guidelines between AIBC, EGBC, and BOABC. ◦ Creating provincial standard forms and/or methods for consistency. ◦ Establishing standards for design packages to support the permitting process. • It was raised that there is an opportunity to establish objective means to measure quality of engineering submissions, as well as a move to performance-based codes and standards to rely more heavily on the professional reliance model and the use of professionals. • There is an opportunity to improve processes and develop clearer standards and guidelines for AHJs. • It was noted that additional education would help to address inconsistencies or gaps and that training provides for consistency across the building sectors in the province. • Most participants agreed that increased cooperation would improve working relationships and allow collaboration to develop practice guidance that is standardized (i.e., joint guidelines). • Some participants agreed that enhanced public trust and experience would help to promote professionalism and improve consumer confidence in the building and construction sectors. In addition, public trust and experience would be increased by setting clear guidelines of who does what and how the various professions are integrated into the process. • Many participants agreed that expanding the scope and recognition of professional reliance would allow for formal recognition of the range of qualified individuals who can assure work, and should include: <ul style="list-style-type: none"> ◦ Energy and HVAC for Part 9. ◦ ASTTBC-registered building designers and interior designers who would like to be recognized as professionals who can issue LOAs. • Some participants noted that EGBC is working with AIBC and BOABC to put out joint professional guidelines and updated guidance on LOAs along with a webinar for those working in the sector which should aid in the standardization and transparency of building permit requirements.
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Professional Reliance in the Permitting Process

The table below reflects what we heard from regulators and associations on professional reliance in the permitting process. Participants shared examples of what is working well, current challenges, and their thoughts on future opportunities for the permitting process.

Professional Reliance in the Permitting Process	
Part 3 and Part 9	
What is Working Well	<ul style="list-style-type: none"> Several participants noted that the LOA process is efficient, effective, and generally understood by RPs. Participants shared that the framework for LOAs is clearly defined in the BCBC and expressed appreciation for the provision of up-to-date guidance developed jointly by EGBC and AIBC. This was noted as important to enhancing credibility in the permitting process. In addition to the successful coordination of LOA guidance between EGBC and AIBC, participants noted several other instances of effective collaboration, including: <ul style="list-style-type: none"> Building designers working with Engineer and Geotech professionals. Pre-construction meetings with developers and RPs. Engineering teams collaborating. Increased dialogue before permit applications, which helps to address problems right at the start. The reliance on RPs when required in the permitting process was seen as a positive by participants. Many participants noted that the clarification of roles and expectations for RPs, as well more consistent approaches of professionals within the same group, are a success. Participants expressed support for mechanisms that ensure the accountability of professionals, such as the CP Program and Registered Building Designer designation and noted that several professionals working in Part 9 have avenues to professional registration and accountability.
Current Challenges	<ul style="list-style-type: none"> One of the main challenges noted by participants was a lack of consistency in the permitting process and the uneven application of standards across the province. Participants shared several examples of inconsistencies, including the following:



- Some jurisdictions do not allow electronic stamps/seals (although it was noted that it may be difficult for AHJs to accept them because the electronic stamp/seal software differs between professions).
- AHJs do not use the same standard design packages for permitting.
- Interpretations by plan checkers may vary.
- Some AHJs accept building permit applications from interior designers while others do not.
- Variations in requirements for oversight by other RPs and for CRPs on certain Part 9 buildings.
- Sometimes LOAs are asked for when they were not required by the BCBC.
- Some participants shared that the lack of consistency in the application of permitting may be due to a **limited understanding of the permitting process** and the role of LOAs in the permitting of Part 9 buildings. Participants noted that there is currently a lack of training on the permitting process and professional reliance more generally and that some people who use the permitting process are not competent to do so. Municipal building bylaws can also differ greatly, causing additional challenges for municipal staff as well as applicants. In addition, because of the unrestricted nature of Part 9, AHJs may not be confident that the people submitting permit applications have sufficient understanding of BCBC.
- Another area of challenge identified was a **lack of regulation for some professions**. In particular, the lack of recognition for interior design professionals was raised as an issue for both designers and the public. Because interior designers cannot stamp their own drawings they must use an RP, this may result in delays and additional costs for their clients. Other professions and areas which are not currently recognized include:
 - Building designers (including technologists).
 - Energy advisors (who also conduct airtightness testing for large buildings under Part 3).
- The lack of regulation of certain professions was also raised as a **public safety concern**. Participants noted that the lack of certification requirements for Part 9 designers and oversight in permit applications increases the likelihood that work is not being done to an acceptable level. This can have serious implications for public safety and trust in the system.



	<ul style="list-style-type: none"> • Another area of challenge identified by participants is the requirement for multiple approvals on professional decisions. Some participants raised that there is a lack of coordination among consultants during pre-permit issuance and a duplication of consultants required to achieve current requirements. In addition, the peer review framework was seen by some as redundant and in need of more clarity. One participant shared that this impacts professionals' ability to maintain housing affordability, as sign-off by engineers and architects (as required by the BCBC) adds additional costs to the permitting process.
Future Opportunities	<ul style="list-style-type: none"> • One of the opportunities identified was developing a standardized approach to the building permit process and building requirements across municipalities in British Columbia. There was an expressed need for consistency in how permits are administered, as well as greater clarity and transparency with permit applications so that professionals and the public have a better understanding of the process and requirements. Ideas suggested by participants to achieve this included: <ul style="list-style-type: none"> ○ Hiring more staff at AHJs to review submissions. ○ Using submission checklists. ○ Tracking and reporting on the progress of applications. ○ Creating a fast-track program for permitting. ○ Implementing staged or phased permitting. ○ Creating a checklist for professionals and AHJs to follow for building permit submissions for minor and major renovations • Participants identified expanded recognition of professionals as another area of opportunity. Participants asked for the recognition of energy advisors and interior designers by local government and building officials, as well as the acceptance of IDIBC as a registered profession under the PGA and recognition of Certified Building Designers with ASTTBC. • Related to expanded recognition of professionals was a desire for an enhanced LOA system, which is inclusive of all professions which are registered, qualified, and accountable. It was noted that there is a need for expanding the scope of those who can sign off on LOAs to account for increasingly complex buildings. • Several participants asked for better regulation of professionals through mandatory requirements and qualifications. This could include mandatory Certification or Proof of Competency for Part 9 building



designers, as well as requiring LOAs for non-regulated professionals. The aim of such an exercise would be to ensure that professionals are held accountable and that their qualifications match public and technical requirements.

- **Additional opportunities** included the following:
 - Broader use of the CP Program.
 - Conducting pre-submission consultation.
 - Making Part 9 buildings more resilient to climate change and natural hazards (such as earthquakes).
 - Harmonizing the scope of services for architects with the scope of Part 3 in the BCBC.
 - Conducting a parallel review of all departments using digital technology.
 - Expanding capacity through the parallel regulation of Part 9 qualified persons.
 - Providing assistance for projects that have site challenges that prevent the meeting of codes.
 - Including multiple high-level professionals in peer reviews.



Relationships with Professions and Organizations in the Sector

The table below reflects what we heard from regulators and associations on relationships with professions and organizations in the sector. Participants shared examples of what is working well, current challenges, and their thoughts on future opportunities for building and maintaining strong working relationships.

Relationships with Professions and Organizations in the Sector	
Part 3 and Part 9	
What is Working Well	<ul style="list-style-type: none">• Several participants noted that the collaboration and cooperation between AIBC, EGBC, and BOABC is a major success. They cited several examples of how they see this collaboration working well:<ul style="list-style-type: none">◦ AIBC/EGBC Joint Professional Guidelines are a helpful tool for understanding energy modeling regulations, the delegation of engineering activities in the design and field review of Part 9 building construction, and the role of professional engineers and architects in the building sector.◦ AIBC, EGBC, and BOABC cooperate to develop courses and BCBC education.◦ Architects and engineers work with BOABC on shared concerns regarding the management of practice issues.◦ AIBC and EGBC are aligned on principles, with their respective roles being clearly defined.• Some participants noted that relations between other professions and organizations have improved since the PGA came into effect. They shared that there is a willingness to build relationships between stakeholders and to collaborate on resource development such as joint practice guidance. Communication has improved between regulators and industry through professional associations. Other instances of successful collaboration include:<ul style="list-style-type: none">◦ Collaboration on areas where improvements can be made to ensure housing construction is supported in a streamlined way.◦ Coordination with engineering sub-consultants.◦ ASTTBC is willing to work with others to create professional development opportunities, continuing education, and guides.



	<ul style="list-style-type: none"> • Participants shared their appreciation for increased access to educational opportunities to enhance professional knowledge and competency. • Participants also identified a generally strong focus on the protection of public safety, rather than on private interests, as a positive.
Current Challenges	<ul style="list-style-type: none"> • Participants identified a lack of shared understanding about the roles and responsibilities of professions and organizations in the building sector. It was noted that different sectors may have varying understandings of their public protection role, especially as it relates to business interests. • Participants also noted that some associations and societies do not understand the requirements for RPs under the BCBC. Unregulated professions may have a limited understanding of necessary qualifications, professional accountability, and their responsibility to protect the public. As one participant noted, it is difficult to get all stakeholders to speak the same “public protection first” language. • Although collaboration among some professions and organizations had been identified as a success, several participants identified areas where a lack of cooperation poses ongoing challenges. Specific issues include: <ul style="list-style-type: none"> ◦ A lack of consultation with professions/organizations when creating guidelines. ◦ A disconnect between government, professionals, associations, and practitioners. ◦ Limited collaboration between organizations to deal with issues around practice complaints. ◦ Inconsistent expectations for professional practice due to uncoordinated practice guidance between professions; and ◦ AHJs are generally resistant to feedback and discussion with the industry. • Participants identified several challenges related to the scope of legislation that governs the building sector. <ul style="list-style-type: none"> ◦ While the BCBC allows for a larger scope of professionals working in Part 9, designers are prevented from working on certain Part 9 buildings due to restrictions under the Architects Act.



	<ul style="list-style-type: none"> ○ It was noted that Part 9 expectations regarding qualifications and professionalism trail behind public safety and technical requirements. ○ Participants from the interior design industry reiterated that they are unable to assume the role of CRP on design projects, and often feel like they are left “outside the room.” ○ The classification of architects and engineers as exempt professionals in relation to mandatory building official qualifications under the Building Act can create uncertainty regarding their level of BCBC knowledge. • Participants also noted that under the current regulatory framework, RPs may be required to be engaged, but end up assuming a redundant role to comply with Building Permit applications processes (LOAs). It was shared that this is confusing and that additional costs often fall on the public.
Future Opportunities	<ul style="list-style-type: none"> • The largest future opportunity identified by participants was that of increased collaboration and cooperation among professions and organizations. There was a strong commitment among all the groups for building cross-sector relationships to improve understanding of roles and challenges, with the goal of better serving the public. Suggestions to this end included: <ul style="list-style-type: none"> ○ Providing networking opportunities (especially to smaller and more Northern communities). ○ Working together to deal with common professional practice issues, especially in instances where complaints are made against professionals registered with other regulatory bodies. ○ Adopting a mindset that prioritizes inclusion rather than exclusion. • Increased cooperation with BOABC was highlighted by several participants as an opportunity. This could include working more closely with BOABC to ensure understanding of EGBC and AIBC’s professional guidance documents, cooperation between BOABC and all design players, and working with BOABC on the use of RPs for Part 9 buildings. • Several participants suggested joint education and training enhance consistency and standardize practices across all professions and organizations in the building sector. Suggestions included: <ul style="list-style-type: none"> ○ Cross-training between organizations.



	<ul style="list-style-type: none">○ Commonly developed applications and templates.○ Education on the roles and responsibilities of other professions and organizations.○ Joint professional development opportunities.○ Consultations with industry on AIBC/EGBC Joint Guidelines. <p>It was noted that education should be aligned across professions and organizations, as well as with AHJs, to ensure consistency in the built environment.</p> <ul style="list-style-type: none">● Another area of opportunity identified by participants was increasing the recognition of professionals. It was acknowledged that OSPG could provide an opportunity for the expansion of professional regulation, but that this needs to be consistent with its public mandate. Suggestions shared by participants for regulatory changes to enhance the building sector include:<ul style="list-style-type: none">○ Providing professional recognition to interior designers and ASTTBC Building Designers working in Part 9.○ Supporting members of the engineering team through the regulation of firms.
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What We Heard from Local Government and First Nations

The table below reflects what we heard from local government and First Nations' representatives on professional reliance in the current building and construction permitting process. Participants shared how professionals are currently relied upon, as well as feedback on what is working well, challenges, and future opportunities associated with reliance on professionals.

Professional Reliance in the Permitting Processes	
<i>Local Government and First Nations</i>	
How Professionals are Relied Upon	<p>Professionals in the construction and building permitting process are relied upon for their expertise and experience in the following areas:</p> <ul style="list-style-type: none">• Knowledge of Legislation (i.e., BCBC, Local Government Act, Community Charter, National Building Code of Canada, and Building Act). Most participants shared that they rely on professionals for their deep knowledge of and experience with fulfilling legislative requirements and authority – to approve design, construction, and undertake reviews within their specific area of expertise in the permitting processes.• Compliance with Legislation. Participants widely agreed that professionals help maintain compliance with relevant legislation (such as the BCBC, Local Government Act, Community Charter, National Building Code of Canada, Building Act, etc.) with the added responsibility of ensuring public safety. In the past, there was a risk originating from faulty design and inspection processes. To address and minimize these risks, professional reliance was introduced, and the permitting process was further streamlined and made transparent. Consulted professionals are now accountable for their work and responsible for ensuring public safety, as they are tasked with maintaining and declaring compliance and integrity throughout the permitting process.• Technical knowledge (i.e., architectural, and structural). Some participants mentioned that local government staff are relying on professionals who have the technical knowledge and certifications for specific functions, as local governments do not employ such technical experts. Professionals are also relied upon to train or provide insights



	<p>into these specialized functions to local government officials, as they are seen as experts in their field.</p> <ul style="list-style-type: none"> • Real Property Report (RPR). A RPR is a legal document that clearly illustrates the location of significant visible improvements relative to property boundaries. Professionals are relied upon to complete this report and to create designs for permit applications that comply with construction regulations for building construction projects. Professionals also conduct reviews through the process to verify that there is alignment with design and construction regulations. • LOAs and limiting liability for municipal governments. When professionals are consulted to provide design, LOAs identify the professionals who were consulted and who provide the assurance that the design submitted maintains compliance with all rules, regulations, and standards. Some participants mentioned that this process arose from the desire of municipal governments to limit liability, as they are not the subject matter experts in many cases.
What is Working Well	<ul style="list-style-type: none"> • Most participants noted that reliance on professionals, who have the necessary knowledge and expertise and are certified to perform the tasks asked of them, is a great support for local governments. The professionals can share their knowledge with the municipal staff and “speak the same language.” They can also bring creativity and understanding of new technologies and designs related to permitting and construction processes. Professionals also help local governments to address unsafe practices and help to make sure public safety is prioritized. Often, professionals are also tasked with reviewing illegal construction. • Participants widely agreed that the relationship and collaboration between professionals and local government officials are points of strength in most places. Some participants noted that they have developed good relationships with CRPs or RPs which helps in the communication and delivery of projects. Some others noted that they always take a collaborative approach in their work, which benefits both professionals and local government officials. It was also mentioned that due to the strong relationship between professionals and building officials, there is better permitting flow, and professional organizations are working together with stakeholders to certify people. • Communication between professionals and local government officials, including transparency on project costs, timelines, and expectations,



	<p>was identified by many participants as crucial for project success. It was mentioned that when professionals engage in informed decision-making, properly coordinate their work, and are collaborative in their approach, projects can be completed successfully and in a timely manner. Some participants mentioned that pre-application meetings during the permit and variance review process helps to ensure that everyone is on the same page, and that the process is transparent.</p>
Current Challenges	<ul style="list-style-type: none"> • Participants identified misalignment of different legislation and regulations as one of the most pressing current challenges. As an example, some participants noted that the Architects Act does not fully align with the BCBC, with regards to when an architect is required. Such inconsistencies create significant challenges and lack of clarity in the permitting process. It was also noted that there is a difference in interpreting the acts and regulations, and lack of a common understanding within the industry. As an example, some participants noted that it is unclear when professionals should be relied upon and when this is unnecessary. • Although communication between the professionals and local government officials can be great, some participants noted a lack of coordination and communication between different professionals. This can result in serious challenges and delays in project execution. As an example, some participants noted that the lack of coordination results in the submission of incomplete application materials in order to meet client demands. Some professionals rely on staff permit reviews to catch such errors. • Many local government participants, especially from regions other than the Lower Mainland and Greater Vancouver, highlighted the shortage of qualified professionals in their region as a key challenge. This is particularly acute in remote locations of the province, where it can be extremely difficult for the local government or First Nation to find a qualified professional. This shortage results in several challenges such as delays in the project permitting process, increased costs and sometimes a lack of professional expertise on a project. Moreover, some participants shared that although some professionals work remotely in an attempt to address the shortage of professionals in certain areas, this can itself present challenges. One example shared was an instance where there were issues with the sprinkler system in a community, and later it was found that the engineer who had signed



	<p>off on that project did not make sure it was complete. Situations such as this can present serious challenges to building officials.</p> <ul style="list-style-type: none"> Some participants expressed concerns regarding the qualifications and knowledge of some professionals. They noted that while the vast majority of professionals are qualified and well-informed, not everyone has the same level of knowledge and expertise, and some professionals struggle to demonstrate in-depth knowledge of construction regulations, which in turn increases the risk of errors. Some noted that there is a difference between a professional and an expert, which is not always clearly understood, and thus, professionals cannot always be relied upon as experts. One specific concern raised was that architects and engineers are exempted by the Building Act from the Building Officials qualification and registration process. This exemption sometimes results in some RPs not being fully versed in BCBC applications, which creates risks related to compliance. Another related concern expressed by some participants was that sometimes professionals may rely on sub-consultants who may not be certified and lack effective collaboration skills. These sub-consultants pose risks by submitting incomplete applications and/or not coordinating with other professionals. Many participants noted that the time and costs of relying on professionals are high and can be challenging. Generally, professional reliance adds time and cost to the permitting process and construction projects. In many cases, there are high upfront costs. One example noted was high legal costs for both municipalities and owners. Some participants also noted that sometimes it is a challenge to get professionals on site after permits are issued. This poses significant challenges for local governments. Participants also expressed concerns around risk management, related to liability and indemnity. Some participants raised that insurance coverage of professionals can leave municipalities left "holding the bag." Some noted that professionals may also actively avoid taking on responsibilities or tasks that may involve them taking liability and suggested that professionals should be encouraged to step into areas that involve liability as that is where their knowledge and experience are needed most.
Future Opportunities	<ul style="list-style-type: none"> Alignment of legislation and regulations was seen by participants as a key future opportunity. In particular, it was noted that the BCBC and



	<p>Architects Act can be better aligned. Many participants recommended streamlining building codes as concerns were expressed that current codes are overly complex for things such as secondary suites.</p> <ul style="list-style-type: none">• Many participants emphasized the opportunity to advance a better collective understanding of public safety and risk among all stakeholders in the sector and the public. There is a lack of clarity and consensus on issues such as what is meant by risk, how it is validated and assessed, and how it is defined in different regulations. Initiatives taken to educate the public and professionals within the sector would lead to a collective understanding that will be beneficial towards ensuring public safety and minimizing risks in building construction.• Participants widely agreed that there is a need for greater education to develop a common understanding of relevant regulations. Participants suggested hosting joint education workshops and training sessions. Currently, the interpretation of regulations varies among professionals and local government officials. Joint education seminars could serve as a forum for different professionals to network with each other, as well as gain a common understanding of regulations.• Permitting and other processes related to professional reliance could be more streamlined and efficient, according to most of the participants. One common recommendation was to investigate the practicality of having common (streamlined) processes across jurisdictions such as local governments. This would help address concerns about residential projects that are taking place without permits because homeowners are overwhelmed by the length and complexity of the permitting process. There is also an opportunity to learn from other jurisdictions (such as other provinces and what they do with professional reliance). Some participants also suggested that the process for dealing with code interpretations and complaints against RPs can be improved and streamlined.• Some participants suggested the advancement of the CP Program as a future opportunity for the province. The CP Program is an alternative to the conventional AHJ process for building permitting and monitoring of construction. The CP provides professional assurance to the AHJ that they will take all appropriate steps to ascertain that the design and construction of the project will comply with the fire and life safety, and accessibility aspects of the BCBC, other applicable safety enactments, and the related development permit.
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- Some participants suggested that there should be more streamlined processes for engaging out-of-province professionals within the reliance model.
- Most participants noted future opportunities in introducing improved insurance and safety coverage for local governments and First Nations. Some also suggested reducing or removing joint and several liability exposures of local governments.

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January 27, 2022

PRIVATE AND CONFIDENTIAL

Honourable David Eby, Q.C.
Attorney General
Parliament Buildings
Victoria, British Columbia V8V 1X4

Dear Attorney General Eby:

RE: Independent Investigations Office – Ongoing Budget and Recruitment Pressures

I write further to my letter to you of October 13, 2021, and our meeting of October 14, 2021.

You will of course recall that one of the topics discussed at the time was the IIO's difficulties in recruiting and maintaining quality investigators. I felt it appropriate to update you on our current situation.

I had previously explained that due to the legislative restrictions surrounding who can fill the position of IIO investigator, and the significant limitations we face with the current salary structure, we are extremely challenged when we try to fill investigator vacancies with quality candidates.

Our authorized strength for frontline investigators is 30. While we have never been fully staffed, we were able to reach 28 positions in February 2021.

While we were able to hire three new investigators in May of 2021, we have lost six investigators over the past year for the following reasons:

- 1) s.17; s.22
- 2)
- 3)

4) s.17; s.22

We held an investigator competition in the Fall of 2021, the first since the reinstatement of the “five-year rule” which prohibits the IIO from hiring any person who was a member of a British Columbia police force in the five years prior to hiring.

At the conclusion of that competition, we identified five successful candidates. Of that number, we have only been able to retain one, for these reasons:

- 1) s.17; s.22
- 2)
- 3)
- 4)
- 5)

With this one additional investigator, the IIO will still have six vacant investigator positions.

In an effort to broaden the pool of candidates in our competitions, we have reduced what is required to be meet the definition of “investigative experience”, a legislative requirement for any potential investigator. We have also taken steps to broaden the distribution of our advertisements, including distribution to individual Indigenous communities.


As is seen, we were initially able to attract several very good candidates. However, once again our lack of overtime pay, low salary levels due to the limitations of the current structure, and challenging work conditions, together with the high cost of housing in the lower mainland, all worked together to prohibit us from being competitive in today’s employment environment. As a result, we are at a stage where the IIO is unable to hire enough qualified staff to get the job done properly.

The IIO continues to face significant media and public attention. Our cases play a critical role in maintaining the public’s faith in policing and the rule of law. I am very concerned that without the ability to meet our staffing needs that crisis is inevitable.

I again reach out and urge action that will increase IIO resources and alter our salary structure to ensure the gains the IIO has made over the last several years are not lost.

I would be pleased to discuss further.

Yours very truly,



Ronald J. MacDonald, QC
Chief Civilian Director

May 9, 2022

PRIVATE AND CONFIDENTIAL

Honourable David Eby, Q.C.
Attorney General
Parliament Buildings
Victoria, British Columbia V8V 1X4

Dear Attorney General Eby:

RE: Independent Investigations Office – Increased Resourcing Pressures

I write further to your letter of March 3, 2022. s.22

s.22

I am forwarding this letter at this time given the significance of the situation.

In my previous letter of January 27, 2022, I outlined our ongoing challenges with recruitment and retention. From May 2021 to the date of my initial letter, we had lost six investigators and we were only able to recruit one new investigator. While we are currently in the process of recruiting for investigators and have yet to identify the potential number of successful candidates, we have lost an additional three investigators in the last month. We now have nine investigator vacancies to fill.

Our authorized strength for frontline investigators is 30, and we are currently sitting at 21. We have effectively lost an entire team.

Simply put, we are losing investigators at a higher rate than we can recruit them, and our cases are continuing to steadily rise. This reduced number of investigators are currently handling 70+ open files, the most since I arrived in October of 2017. This is due to the greatly increased numbers of files that I outlined in previous correspondence, combined with reduced staff numbers.

The past five weeks have only exacerbated the situation. Since April 1, there have been five fatal officer-involved shootings. Each required the deployment of six to eight investigators per incident. These numbers are stark when compared to the entirety of our last fiscal year, where we had a total of eight officer-involved shootings, only three of which were fatalities. As a further example of our file load, the numbers of both notifications and investigations in April 2022 were nearly 3.5 times higher than April 2017. Not only have our investigative resources not increased, they are decreasing as noted.

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The loss of current investigators is directly related to the pay structure we are burdened with under the PSA: our pay is uncompetitive, and we are unable to pay overtime. Low pay, no overtime and the impacts on work life balance are factors that have been consistently identified in exit interviews. The low salary and lack of overtime pay do not match the skill requirements of the role and the qualifications legislated by the *Police Act*.

Our pay structure results in an average investigator pay that is approximately \$20,000 per year less than comparative police positions, if not more, on top of the fact it does not pay overtime. Our inability to attract new investigators is directly related to the same failings. Without a change in our pay structure, and an increase in funding to increase compensation and pay overtime, and resources, this will only worsen.

As noted, I have written before about this situation. What I reluctantly predicted previously is now occurring. I have previously suggested the IIO was in crisis. The situation is now dire. Given the extreme stresses the increased file load and reduced numbers place on investigators, I have no doubt more will leave in the near future. I do not wish to sound hyperbolic, but I am truly concerned that the ongoing viability of the IIO is in question.

Simply put, the Statute mandates us to investigate serious harm and death cases. The current situation is making it almost impossible for us to meet that mandate. I fear that soon there will be cases where we are operationally unable to properly respond, resulting in cases only partially investigated, or worse.

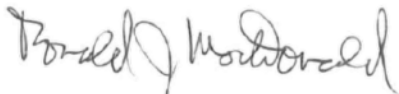
Waiting for the next available budget opportunity from the Treasury Board is not a viable solution to this critical situation. I am urging immediate action.

Fortunately, the needed change is possible in the short term: a new pay structure can be developed outside of the current PSA pay structure in the short term, and steps can be taken to develop that structure. Even the news of pending change would have a dramatic impact on the spirits of our investigative teams.

Should you wish to discuss further I can attempt to ^{s.22} . In the alternative, Sandra Hentzen, the IIO's Chief Operating Officer is more than able to speak to the situation.

Thank you for your time and consideration of this critical issue.

Yours very truly,



Ronald J. MacDonald, QC
Chief Civilian Director

**MINISTRY OF ATTORNEY GENERAL AND
MINISTRY RESPONSIBLE FOR HOUSING
JUSTICE SERVICES BRANCH
INFORMATION BRIEFING NOTE**

PURPOSE: For INFORMATION for David Eby, QC
Attorney General and
Minister Responsible for Housing

ISSUE:

On May 16, 2022, the Informal Trial Pilot (the Pilot) was implemented in the Kamloops Registry. A news article posted June 5, 2022, about the pilot (see Appendix A) has generated significant interest in the pilot from the family violence sector.

SUMMARY:

- The option of an informal trial is intended for all family court users. It is not specifically a family violence initiative and should not be promoted as such. The news article asserts that the pilot may be a promising solution for domestic violence victims.
- While our research shows that an informal trial process may be beneficial to cases with family violence, we do not know this for certain. Through the pilot evaluation, we will be able to learn about who is accessing the informal trial process and what the benefits to users may be.

BACKGROUND:

- The Informal Trial Pilot is enabled under the Provincial Court Family Rules. The Pilot Project Rules have been implemented in the Kamloops Registry effective May 16, 2022.
- The Rules introduce a consent-based alternative trial process in which the trial judge is able to take a facilitative role to direct, control and manage the conduct of the trial. Each party must agree and file a written consent form if they want an informal trial. The trial judge must also agree that the informal trial is appropriate.
- The informal trial process is designed to have more relaxed court protocols and rules of evidence and be more flexible to better meet the needs of the parties. The judge presiding over an informal trial has control of how and what information is put before the court to focus the parties on the issues and facts that are relevant in the dispute. The judge will usually be the only person asking questions to the parties and other witnesses.
- The pilot project will enable a small-scale model to be tested and evaluated to better understand how it operates, and the resourcing required to support it to inform future policy decisions.
- Other jurisdictions with a similar trial process were researched extensively, especially Alaska and Newfoundland. Both jurisdictions noted that this approach was very helpful in cases with power imbalances and family violence.

- The pilot was developed using a service design approach. User research, engagement and implementation information sessions were held with core Public Legal Education and Information (PLEI) providers, the private bar, duty counsel, judiciary and community service providers, including Elizabeth Fry Society and YWCA in Kamloops. Because this is not a family violence initiative, the Ministry did not target the anti-violence sector specifically, but discussed family violence scenarios at various stages of our research and planning.

DISCUSSION:

- A meeting was held on June 1, 2022 to discuss the early resolution and case management model and evaluation with staff from Family Justice Services Division (FJSD) and Family Policy, Legislation and Transformation Division (FPLTD) as well as representatives from BC Society of Transition Houses, YWCA Metro-Vancouver, RISE Women's Legal Centre, Battered Women's Services Society (BWSS) and Cridge Centre for the Family.
- At the meeting there was concern expressed, particularly by representatives from BC Society of Transition Houses and BWSS, that this group had not been included in consultation or otherwise made aware of the informal trial pilot project launched in Kamloops provincial court registry in May 2022. These two representatives first heard about the pilot from a reporter seeking their comment on the process with respect to parties who had experienced family violence. One representative felt the lack of communication demonstrated a lack of transparency and good faith on the part of the ministry.
- Staff responded by clarifying that although implementation of the pilot was one year later than the rest of the Provincial Court Family Rules (PCFR) to allow sufficient time for planning and preparation, the rules pertaining to the pilot project were included with the rest of the rules package that was approved by Cabinet in June 2020. The pilot project was included in the public consultation paper issued in 2019 and in consultation materials and information sessions held prior to implementation of the rules.
- A recent information session was held specific to the pilot, which some representatives from RISE, who were also at the June 1st meeting, had attended and found informative. Invitations to the information session were extended to Kamloops area service providers and organizations serving Kamloops area clients remotely. Representatives from both the YMCA-YWCA Violence Against Women Support and Intervention Services and Elizabeth Fry Society – Legal Clinic in Kamloops were in attendance at the information session and had also participated in the research and prototype phases of the project.
- There were suggestions made that the pilot should specifically study how those who have survived family violence experience the informal trial process, including whether they experience better outcomes and feel safer. ^{s.13}

s.13

- Another representative wanted women-serving organizations to be more involved when government is making decisions about which pilot projects to develop.
s.13

- The pilot is not a family violence initiative. It is a consent-based model s.13

- FPLTD received federal funding as part of the Justice Partnership and Innovation Program to prototype ways to improve the family justice system for families who have experienced family violence.

- s.13

- s.13

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INDIGENOUS PEOPLES CONSIDERATIONS: N/A

OTHER MINISTRIES IMPACTED/CONSULTED:

- This note can be shared with Parliamentary Secretary Lore as specific interests of some of the family violence sector have been raised.
-

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Attachment(s)

Appendix A: Canadian Press Article

This document may contain information that is protected by solicitor client privilege. Prior to any disclosure of this document outside of government, including in response to a request under the Freedom of Information and Protection of Privacy Act, the Ministry in possession of this document must consult with the lawyer responsible for the matter to determine whether information contained in this document is subject to solicitor client privilege.

Appendix A:

BC informal family court promising for domestic violence victims: advocates

CP News

Sunday, June 05, 2022

By Brieanna Charlebois

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