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Jennifer Anthony
Assistant Deputy Minister
Permitting Transformation Division
Ministry of Water, Land and Resource Stewardship
Government of British Columbia
PO Box 9012 STN PROV GOVT
Victoria, BC V8W9L6

Dear Ms. Anthony:

Re: Natural Resource Permitting Improvements Engagement

Thank you for the opportunity to comment on the Ministry's proposed improvements to natural resource permits. As you know, substantial delays in provincial approvals for housing projects is a critical problem for our members. We are pleased that this is a priority issue for the Government, and that they have created the Permitting Transformation Division that you are leading. This is needed if the Government is going to achieve its goal to substantially increase the delivery of needed new homes for British Columbians.

The Urban Development Institute (UDI) has had the opportunity to review the first set of initiatives under the Natural Resource Permitting Improvements Engagement process, and are generally very supportive of the changes. However, more information is needed on critical details, which could undermine the benefits of the proposed improvements and lead to unintended consequences. UDI has an Environment Committee that includes builders, legal advisors and environmental consultants, including Qualified Environmental Professionals (QEPs). We would like to discuss the questions and issues noted below with your team before the proposals are implemented.

Exemption for Construction Dewatering

UDI is very pleased that the Ministry is proposing to provide an exemption for *Water Sustainability Act* (*WSA*) authorizations when construction sites need to be drained. This is a routine activity that occurs for most Part 3 projects, and as noted on the Ministry's Engagement website, "*Proper drainage of … water allows construction workers to conduct their work safely and effectively*."

We want to ensure that the exemptions written in the regulation include Perimeter drainage works to route surface runoff and groundwater away from building foundations, as well as dewatering during the excavation process – including with gravity or pumping systems.

This proposal would save home builders, who need to dewater their constructions sites, months of delays if they no longer need Provincial approvals. It will also help other *WSA* applicants, because "*Provincial staff capacity could increase for processing higher risk applications*," rather than being allocated to unnecessarily reviewing up to hundreds of applications a year for what is an essential and routine construction activity.

UDI, however, wants to ensure that the implementation of this initiative does not undermine the progress that could be achieved. For example, the Ministry would like to identify "… *low, medium and high-risk construction dewatering activities* …". This could potentially lead to Provincial approvals, if the Ministry must decide what risk level there is for dewatering a construction site, which would be antithetical to the point of the proposed change. ***We recommend that QEPs be allowed to make these decisions and provide notification to the Ministry.***

We are also pleased that the Ministry reviewing "… *how risk levels for construction dewatering projects might be determined, and how to ensure that risk level thresholds are user-friendly and accessible …"*. This approach would make it easier for QEPs to determine the risk level, which needs to be clearly defined. ***Ideally, there would be no requirement for QEPs to provide test results or extensive reporting if the process to determine risk levels is to be "… user-friendly and easy for applicants to understand***." We would also want to avoid having to do case-by-case risk assessments of individual dewaterings.

UDI would also want to ensure that however risk levels are defined, high risk sites should be a rarity, especially since "*Any project over a recommended high-risk threshold would have to meet the terms and conditions of their approval*," which have yet to be defined. Regarding those terms and conditions, UDI would like to discuss them further with the Ministry before they are implemented. Again, it would be ideal that the terms and conditions do not result in Ministry approvals, testing regimes, or extensive reporting.

It is also not clear if there would be new terms and conditions for medium and lower risk sites. The Ministry states, "*Whether a project is low or high risk construction operators would still need to comply with any <u>additional</u> requirements under the Groundwater Protection Regulation. If an operator is using a well to divert groundwater, there may be <u>additional</u> requirements for well drilling and reporting*." If the Ministry is planning to introduce <u>additional</u> requirements under the *Groundwater Protection Regulation* or the *Dewatering and Drainage Wells Water Policy Bulletin*, further consultation would be needed.

The Ministry also states that "… *during construction dewatering, the diverted water must not be used for any purpose outlined in the WSA*." This is the current practice at construction sites. We would want to ensure that builders and their QEPs are not mandated to provide extensive information to prove that water is not being used for other purposes – or worse –

having to wait for the Province to sign-off on the information provided by the QEPs before dewatering can occur.

Expanding Eligibility for Stream Restoration Activities

It would also be a positive step forward if "… *parties or individuals who want to carry out fish habitat or channel restoration or maintenance work …,"* no longer "… *must apply for and receive a change approval,"* and would instead just have to *"… submit a notification before beginning the work*." Again, not only would this directly save proponents time, but it would also allow the valuable Ministry staff resources to be reallocated to other more pressing *WSA* authorizations. There should also be minimal risk as QEPs should be familiar with this approach because this process is already "… *available to provincial, federal, and local governments* …".

However, there will also be terms and conditions, which have not been determined. UDI would like to discuss this further with the Ministry before any are implemented and Ministry Guidance is provided to the proponents. ***As with the construction dewatering proposals, we would recommend against having terms and conditions that lead to Ministry approvals, testing regimes or extensive reporting.*** For example, the proposals to ensure "*… long-term environmental protection with ongoing monitoring and reporting*," should be no more than what is required under the current regulatory framework.

Another example, is the proposed requirement that "*Projects would have to maintain or restore the natural stream flow to support healthy ecosystems, including the protection and enhancement of fish habitat*." It is not clear how this would work for a highly urbanized stream like Still Creek in the City of Burnaby, and how proponents would prove that they are restoring the natural stream flow.

It is also not clear about what is meant by the Ministry's question regarding what "… *local knowledge should be required for those designing or implementing stream restoration activities*." If this is potentially referring to First Nations (or Streamkeepers), much further consultation and discussion will be needed, as there are there are several issues that would need to be addressed. We would be concerned if requiring local knowledge could lead to a decision-making role for First Nations. In additions, there are capacity issues. This could lead to approval and/or project delays. We and others have raised similar concerns with the recent *Heritage Conservation Act* consultation.

Administrative Penalties Timelines

Aligning *"… the timelines and processes for administrative penalties under the WSA with the administrative penalty frameworks under other natural resource sector statutes like the Forest and Range Practices Act*," could be a positive step as well - especially if it reduces "… *the volume of applications required* …".

However, the proposal would be counterproductive if the administrative penalty regimes that are less complicated and have better timelines become worse, so they match more complex administrative penalty regimes in other natural resource sector statutes.

***Riparian Areas Protection Regulation* (*RAPR*) Enhancements**

UDI is generally supportive of all the proposals. We are especially pleased with the exemption for cleanup activities that "… *comply with the Contaminated Sites Regulation (CSR) of the Environmental Management Act (EMA)*." Not requiring a *RAPR* submission when polluted sites are being cleaned near streams reduces regulatory duplication and will encourage the cleanup riparian areas – which is the objective of *Riparian Areas Protection Regulation* (as well as the *CSR* and *EMA*).

UDI also supports providing more certainty to proponents and QEPs by clarifying and strengthening the legal definitions in the *Riparian Area Protection Act* and its *RAPR*. However, no information has been provided regarding how the legal definitions will be further defined, or what the implications of those changes will be. To ensure that there are no unintended consequences, we recommend further discussion with stakeholders – including our Environmental Committee.

UDI supports your Division's efforts to improve Provincial permitting so more new homes can be built for British Columbians more efficiently and cost effectively. We are pleased with the first tranche of proposals, but we would like to discuss the details of them further with Ministry staff before they are implemented. We look forward to working with you and your staff on this important initiative.

Yours sincerely,

Anne McMullin
President & CEO, Urban Development Institute