

Backgrounder

Report on Renovating the Public Hearing

31 March 2025

The subject of the report

This report is about how local governments engage the public on the regulation of land use. The report's impetus is found in concerns about the one mode of engagement required by legislation: the public hearing. The report examines a range of options from improving the public hearing to replacing it with other forms of public engagement and sets out eight recommendations for reforming the law.

In British Columbia, local governments are empowered to regulate land use, which they mainly do by adopting or changing a land-use bylaw. But local governments must operate within a legislative framework set up by the province of British Columbia. An important part of this framework is the requirement to hold a public hearing.

Public hearings are designed to give people a forum in which to express their views directly to the local government on a proposed land-use bylaw. The requirement to hold a public hearing has been a feature of BC legislation for about 100 years. For most of this time, public hearings have been seen to enhance local democracy and improve local governments' decision making.

But lately, public hearings have attracted some pointed criticism. Critics have questioned whether BC's legislation on public hearings is really advancing public engagement and democratic participation. They've pointed to studies and surveys that indicate widespread dissatisfaction with the process. Public-hearing requirements, critics say, result in costs, wasted time, low satisfaction, and sometimes trauma for those involved.

These criticisms were given added force in late 2023, when BC enacted legislation restricting local governments from holding public hearings. While the legislation didn't eliminate the public hearing entirely, it did prohibit local governments from holding a public hearing on certain types of bylaws (primarily those consistent with a broader land-use plan or with legislative goals regarding new residential housing).

While the 2023 legislation gave a practical but limited answer to concerns about public hearings in some cases, it left open fundamental questions about the role public engagement should play in the process of adopting a land-use bylaw. Can the

Renovate the Public Hearing Project:
Pre-Development Public Engagement
& Legal Reforms to Support Housing
Supply

in collaboration with:

SFU Wosk Centre for Dialogue

supported by:



public hearing be reformed to provide a more effective forum for public input? Should local governments be allowed more flexibility to choose the types and timing of public engagement? What is the best way to engage the public on land-use by-laws? This report charts a path for government in answering these and related questions.

Ultimately, the recommendations set out in this report do not favour significant legislative reforms to the provisions related to public hearings themselves. However, opportunities for reform at earlier stages of local-government decision making are identified, particularly with a view to strengthening relationships with First Nations. In addition, the report identifies some opportunities for non-legislative guidance and resources for local governments to support public engagement.

About the Renovate the Public Hearing Project

BCLI began its Renovate the Public Hearing Project in late 2022, seeking a better way to engage the public and reduce pre-development risk and barriers to housing.

The project's goal was to recommend reforms to the public-hearing provisions in the *Local Government Act* and the *Vancouver Charter*. These recommendations—found in this report—have been informed by comparative research and public consultation.

A major component of this project involved considering reforms to the law that may advance alignment with Indigenous governance, as called for under BC's *Declaration on the Rights of Indigenous Peoples Act*. The project identified ways to integrate Indigenous considerations into law-reform approaches for public hearings so that any recommended legislative changes can function in a legally plural context. The project was designed to support a Reconciliation and Community Listening Exploration Series, which allowed BCLI to engage with these issues directly and to provide input from that engagement to the project committee.

The project committee and the project's supporters

As part of the project, BCLI formed the Renovate the Public Hearing Project Committee. The committee's primary task was to assist BCLI in developing recommendations for reform of the law. It was made up of experts in local-government law, land use and planning, and public engagement.

BCLI carried out this project in conjunction with the Simon Fraser University Morris J. Wosk Centre for Dialogue. Over the course of the project, the SFU Wosk Centre engaged with impacted groups in a variety of ways, including through interviews, workshops, and events. The committee took findings from the SFU Wosk Centre's project into account in developing recommendations.

This project was made possible by funding from the Canada Mortgage and Housing Corporation's Housing Supply Challenge.

Content of the report

The organization of the report

The majority of the report's chapters have a consistent design. They begin by discussing the current law, move on to reviewing criticisms of the law and legal issues related to it, proceed to examine a range of options for reform to address these issues, and conclude with a recommendation for reform.

The report opens with four chapters setting out introductory and foundational information for the chapters that follow.

Introduction and report overview

The introductory chapter explains why BCLI has tackled this subject, sets out a distinction between the broad and diverse category of public engagement and the particular instance within it that is the public hearing, and describes the Renovate the Public Hearing Project. It also discusses the structure of the report.

What we heard in the public consultation

In December 2023, BCLI published the *Consultation Paper on Renovating the Public Hearing*, which initiated a public-consultation period that ran until 31 March 2024. This chapter describes events and activities during the consultation period. It also examines the responses that BCLI received to its consultation paper.

The UN Declaration on the Rights of Indigenous Peoples and the framework for recommendations for reform

This chapter provides some background information on the coexisting rights and interests in relation to land and governance in BC to help contextualize some of the options for reform that follow. It situates the land and self-determination rights articulated in the UN Declaration on the Rights of Indigenous Peoples within the context of BC. It also considers the legal foundation on which individual rights relating to public hearings are based. In particular, it focuses on the source of these rights as they derive from English property-law principles as imported into BC. It then discusses the distinction between Aboriginal title and land rights deriving from Canadian constitutional law and inherent Indigenous rights and title as affirmed in the UN Declaration on the Rights of Indigenous Peoples.

The legislative requirement to hold a public hearing

This chapter provides an overview of BC's legislation on holding a public hearing. It briefly describes the development of the legislation from its beginnings to the recent changes enacted in 2023.

Should BC legislation on local regulation of land use continue to require a public hearing?

The report's fifth chapter marks a shift from providing background information to tackling issues for reform. It considers the fundamental issue of whether the public

hearing should continue to be required when a local government adopts a land-use bylaw.

The project committee addressed this issue by examining three questions about the scope of the legislative requirement. The committee unanimously agreed that legislation shouldn't be adopted to require a public hearing on *all* land-use bylaws. But it was divided on the next two questions, which probed how to define the remaining scope of the legislation.

A majority of the committee recommended that legislation continue to require public hearings and that it not prohibit local governments from choosing to hold a public hearing. A minority of committee members were open to removing the legislative requirement and to prohibiting public hearings in certain, defined circumstances.

Forms of public engagement other than the public hearing

There are many ways for local governments to engage the public over land use. This chapter describes some of these public-engagement tools. It concludes by considering whether any specific forms of public engagement should be given express recognition in BC legislation. The committee recommended not introducing any new legislative requirements for public engagement.

Principles of public engagement and principles-based guidance

This chapter examines issues related to provincial oversight of local governments' regulation of land use. Currently, BC legislation takes a highly directive approach, mandating when and how a specific type of public engagement (the public hearing) is used. This chapter considers whether a shift to principles-based regulation would be a better approach to public engagement on land-use bylaws and, if so, what principles should be used.

The committee recommended that the provincial government draw on the concept of principles-based regulation in formulating policies and guidance for local governments on how to engage with the public on land-use bylaws under the new legislative framework for public hearings adopted in 2023.

Timing of public hearings

This chapter considers the narrow issue of when the public hearing on a land-use bylaw should take place. BC's current legislation strictly regulates when a public hearing may be held, which has led to concerns that it occurs too late in the process, after all the substantive decisions have been made. This chapter presents a range of options, which the committee considered but ultimately recommended no legislative change to the timing of public hearings.

Procedural issues for public hearings

This chapter discusses the current context within which the procedures for public hearings and public engagement are determined. It explains some of the criticisms of the procedures for public hearings and areas for flexibility within the current framework. It then goes on to explore options for making public hearings more

inclusive and asks readers to consider options for the inclusion of First Nations in developing approaches to public hearings and engagement.

The committee considered these options but decided not to recommend that new legislation be enacted to implement additional procedural requirements for public hearings.

Conclusion

The report ends with a brief concluding chapter, which sums up the report's discussion of issues and options, and reviews its recommendations for reform.