Caroline Elliott: The end of Canada is coming and B.C.'s NDP is leading the charge

David Eby's government is giving First Nations a veto over large swaths of the province

Author of the article:

By **Caroline Elliott,** Special to National Post

Published Jul 23, 2025

The shíshálh Foundation Agreement gives the First Nation varying degrees of decision-making power over 1.2 million acres of public land on B.C.'s Sunshine Coast.

The federal government's new law designed to fast-track major projects has put the true meaning of UNDRIP's "free, prior and informed consent" provisions under the spotlight. At the core of the issue is a simple question: does "consent" mean an Indigenous veto over projects, even those in the public interest?

While the prime minister and his justice minister have tried to walk a delicate line to avoid making that commitment, British Columbia has gone all-in on the veto approach.

Under the auspices of B.C.'s Declaration on the Rights of Indigenous People's Act, Premier David Eby has admitted that provincially significant projects on Crown land will not be expedited under its own fast-track law without the consent of Indigenous groups. At the same time, an effective veto is already being written into a growing number of agreements with Indigenous groups covering vast swaths of the province.

One example is the shíshálh Foundation Agreement, which gives varying degrees of decision-making power over 1.2 million acres of public land on B.C.'s Sunshine Coast to an Indigenous government representing just 1,700 people. Under the agreement, all applications for all Land Act decisions in the region will now go through a shared, consent-based or even exclusive shíshálh decision-making process.

This agreement is rightly seen as a precursor to more deals across the province, despite the fact that its consent-based arrangements are exactly what forced the government to pause its contentious Land Act amendments last year after significant public blowback.

Government documents state that "consent" means that "both the Province and a First Nation must approve an authorization before it can be issued." It is difficult to see how consent, in this case, amounts to anything other than veto, despite official denials in this regard.

In the shíshálh case, the consent provisions "require shíshálh Nation and B.C. to agree to the proposed activity before a provincial decision authorizing the activity." In other words, even if a proposed activity is in the broader public interest, authorizations will not be issued without shíshálh Nation's approval.

The agreement goes even further, with a commitment "to explore an exclusive decision-making agreement." This "would recognize the 'jurisdiction' of shíshálh to make decisions in relation to specified matters, with the Province stepping back from decision-making on those matters."

There is no legal basis in Canadian law for exclusive Indigenous decision-making over public lands, yet the province admits it would not be at the decision table at all — leaving the public interest totally unrepresented.

Even so, the government maintains its implausible position that this is "not about a veto" but rather reflects the (democratically and legally-flawed) DRIPA principle that "both governments have authority to decide whether a particular authorization should be issued."

From a democratic standpoint, shíshálh Nation's constitution is clear: only members can vote in shíshálh elections, and membership is based strictly on ancestry. This means that tens of thousands of citizens living in the large region covered by the agreement will have no democratic voice in consequential land-use decisions that directly affect their interests, a fact that has already led to an important constitutional challenge by one community group on the Sunshine Coast.

And this is just one of many similar arrangements being implemented across B.C.

Last month, the Province announced a joint land use planning process with five Indigenous groups covering an area larger than England in B.C.'s mineral-rich Northwest. Consent-based agreements are again touted as part of the process.

This means Indigenous groups representing a combined population of less than 15,000 will be able to exercise decision-making power over a massive, economically crucial region impacting over five million British Columbians with whom they have no democratic relationship.

Another recent agreement "requires the consent of the Tŝilhqot'in Nation for any mine in the Teẑtan Area that is a reviewable project under the Environmental Assessment Act to proceed." Most, if not all, of the 740,000 acres covered by the new agreement is outside of the Tŝilhqot'in Aboriginal title area recognized by the Supreme Court of Canada, and remains public land.

Once again, the B.C. government has agreed to an effective veto over an area of public land for a governing body that non-Indigenous British Columbians cannot vote for. And once again, they've failed to preserve their own basic responsibility to make decisions in the broader public interest.

Over the years, Canadian courts have consistently called for a balancing of the public interest with the unique interests of individual Indigenous groups. Finding that balance is supposed to be the difficult but critically important task of the governments we elect.

Instead, under DRIPA, the B.C. government is increasingly abdicating its responsibility to protect the public interest, and eroding the foundational principles underpinning our democracy. Time will tell whether the federal government follows suit.

Caroline Elliott, PhD, is a Senior Fellow with the Aristotle Foundation for Public Policy and sits on the board of B.C.'s Public Land Use Society (publiclanduse.ca).