

HERITAGE CONSERVATION ACT TRANSFORMATION PROJECT

SUGGESTED ANSWERS TO PUBLIC ENGAGEMENT SURVEY:

- First, indicate:
 - Role or interest in Transformation Project
 - Familiarity with HCA
 - Prior interaction with HCA, heritage/archaeological permitting processes
 - Familiarity with UNDRIP and DRIPA
- Next, review the 5 main project outcomes:
 - Provide input on “All of the above”
 - Answers are limited to 500 characters

Questions:

1. Currently, development can require up to three separate permits, leading to long delays and high costs. The proposed changes would replace this with one project-based permit that maintains consultation with First Nations at key stages and, in many cases, would proceed through HCA processes twice as fast. Do you support this change?
 - Yes, with reservations
 - I support this change as long as the extent and quality of consultation required is developed with Nations and should include an option for co-development with interested Nations. No permit should be approved without the free, prior and informed consent of Nations, in line with article 32 of UNDRIP
2. Currently, the HCA does not allow much flexibility to vary permit requirements in certain circumstances. The proposed changes would establish a regulatory authority with the power to create modified permitting requirements for specific situations. Modified permitting requirements could look like reduced archaeological requirements under a permit (reducing costs and timelines) for low-impact activities like building on top of imported fill, small-scale developments, rebuilding projects that stay within existing footprints, or cases where First Nations request alternative permitting processes. It would only be utilized in circumstances where damage or the risk of damage to heritage sites is minimal. Do you support this change?
 - Yes, with reservations
 - I support this change as long as the regulatory authority's discretion is exercised in consultation with Nations. The extent and quality of that consultation should be developed with Nations and should include an option for co-development with interested Nations. No permit should be approved without the free, prior and informed consent of Nations, in line with article 32 of UNDRIP
3. The proposed changes create a requirement for a record of engagement to be included with permit applications (even if no engagement has taken place). Many proponents (e.g. permit applicants and developers) engage with First Nations prior to submitting an application and may agree on measures or accommodations to reduce impacts to First Nations interests in relation to heritage. This might include revising development location or building methods to minimize impacts to heritage or agreeing on the scope of archaeological work or involvement of First Nations in the project. This new step for proponents in the application process encourages developers to conduct and document early engagement with First Nations, which

may streamline the Province's consultation process and lead to quicker HCA permit decisions. Do you support this change?

- Yes, with reservations
 - I support this change as long as the Province will provide clear guidelines to proponents about the extent and quality of engagement required at various stages in the permitting process, as developed with Nations. This will ensure there is an adequate standard by which the proponent can plan its engagement with First Nations. This will also allow permitting decision-makers to evaluate whether the proponent's engagement met statutory standards
4. Currently, communities affected by disasters, like wildfires, sometimes face lengthy processes under the HCA for rebuilding. Currently, the HCA does not allow much flexibility to vary permit requirements in certain circumstances. The proposed changes would streamline HCA permitting for disaster recovery and increase flexibility to adapt to the needs of each disaster or emergency scenario, including allowing certain urgent emergency work to take place without a permit (to address imminent threat to life or public health). In some situations, this may lead to reduced heritage protection and/or archaeological work. Do you support this change?
- Yes, with reservations
 - I support this change as long as the Province amends the HCA and other relevant regulations to expand the sphere of Indigenous decision-making under s. 4 of the HCA, including shared decision making on permits, including where a decision is made for urgent or emergency work would take place without a permit
5. When communities are rebuilding after disasters like wildfires or floods, how should heritage protection and HCA requirements be considered in this context? [multiple choice, no option for additional comment]
- Maintain full HCA requirements: Disaster recovery should have the same HCA requirements as any other development
6. Currently, enforcement of heritage site protections is limited to compliance notices (written warnings), stop work orders and formal court prosecution, which can be costly and time-consuming. The proposed changes would add new compliance tools, including violation tickets and administrative penalties that would provide alternate tools to better address the severity and variety of offences. Do you support this change?
- Yes, with reservations
 - I support this change as long as the new compliance tools include enabling Indigenous Guardians to enforce the HCA on their traditional territories, including ticketing violators of the Act. Nations should also have the opportunity to be fully involved in any investigations and any decisions about whether to lay charges
7. The proposed changes include a requirement for individuals to report newly discovered or suspected heritage sites and objects. This new requirement would improve the Provincial

record of heritage sites and inform development planning and other land use decisions, reducing surprises. Do you support this change?

- Yes, with reservations
- I am supportive of this change as long as the Province also launches a broad educational campaign to ensure that all British Columbians are aware of the duty to report discoveries. The Province should work hand-in-hand with Nations to ensure Nations are involved in the reporting process - including a requirement that the Nation must be contacted when someone makes an alleged discovery in their traditional territory

8. Currently, heritage decisions on Crown land under the HCA are made by the Province. The proposed change would allow for a range of agreements to be negotiated between the Province and a First Nation on heritage matters. Agreements could include the ability to:
- a) Enable First Nations to influence operational decisions, such as how heritage information is shared between the Province and the First Nation (for example, which cultural protocols must be followed for heritage sites in the agreement area, or which requirements archaeologists must follow when working on heritage sites in the agreement area)
 - b) Share heritage decisions on Crown land only in a defined area of a Nation's territory (for example, decisions on how ancestral remains are respectfully treated within the agreement area, or a First Nation taking on more of a compliance and enforcement role in the identified area, such as through the Guardian program)
 - c) Enable First Nations to apply their own cultural heritage laws on Crown land in a defined area of that First Nation's territory (for example, this could include applying for a First Nations heritage permit instead of the HCA in these defined areas)
 - d) Prior to entering into any agreement, the Province would be required to assess and consider any implications of the agreement on affected parties.

Do you support this change?

- Yes, with reservations
- I generally support this change, but the agreements suggested above are too limited. I support a change that would allow Nations to negotiate agreements establishing shared decision making on permits sought by landowners, proponents and others, articulating definitions of cultural heritage resources to reflect Indigenous worldviews, investigations into potential violations of the HCA, and the ability to change the schedule of protected resources

9. The proposed changes would require certain parties, such as realtors and local governments, to check for the presence or absence of recorded protected heritage sites prior to property transaction or the issuance of a building and/or development related permits. This would limit unintended contraventions of the HCA and associated penalties and reduce the risk of project delays due to a surprise discovery during development. While this requirement may add an extra step in the process, the information to complete these checks can be obtained for free from the Archaeology Branch. Do you support this change?

- Yes, with reservations
 - I support this change as long as the Province works with Nations to frequently update the Remote Access to Archaeological Data. The Province should also make reforms to the Archaeology Branch such as relocating the Branch out of the Ministry of Forests and into the Ministry of Indigenous Relations and Reconciliation, decentralizing the Branch and establishing regional offices, or the Branch could be restructured and better resourced
10. The proposed changes will clarify in legislation how heritage site boundaries are recorded with the Province. This will improve transparency by making it clearer how these boundaries inform HCA permitting requirements. Do you support this change?
- Yes, I am fully supportive
11. When decisions are made by statutory decision makers on permits under the HCA, it is not always clear to applicants how these decisions are made. The proposed changes will clearly define this decision-making process. Considerations will include:
- a) Impacts to heritage sites
 - b) Public interest
 - c) Assessments of heritage value
 - d) Information provided by First Nations
- Do you support these changes?
- i. Yes, with reservations
 - ii. I support these changes as long as the considerations establish and make clear to applicants that they must consult with Nations during the permitting process, and that no permit will be approved without the free, prior and informed consent of Nations, in line with article 32 of UNDRIP
12. How would you rank the level of importance that each of the five outcomes would have on improving the HCA for British Columbians?
- 1) Strengthened First Nations role
 - 2) Enhanced heritage protection
 - 3) Improved transparency and access
 - 4) Faster disaster recovery
 - 5) Faster and easier permitting
13. When it comes to the successful implementation of these changes to the HCA, do you have any suggestions or concerns you would like to share?
- I am concerned that misinformation regarding the changes to the HCA may undermine the Province's efforts to enact pragmatic legislative amendments that help align provincial law with UNDRIP, as required by s. 3 of DRIPA. Fundamental to the Transformation Project is that it ensures meaningfully enhanced Indigenous authority in the protection of cultural heritage

14. Are there any suggestions, concerns or comments you would like to make about the proposed changes to the HCA that have not been covered elsewhere in this survey?

- I am concerned about the public discourse advocating that the Province take away protections and process for archaeological sites on private land, and to diminish Indigenous peoples' role in decision-making. Section 3 of DRIPA requires that the Province align the HCA with UNDRIP. Limiting the protections of the HCA on private land and diminishing Indigenous authority in decision-making will fail to meet this requirement