

Submission to the Ministry of Forests on Proposed Changes to the *Heritage Conservation Act*

UNION OF BC MUNICIPALITIES

November 13, 2025



Executive Summary

This report consolidates feedback from engagement with UBCM member local governments and First Nations regarding proposed changes to the *Heritage Conservation Act*. The member engagement process incorporated:

- A survey and outreach strategy to CAOs or designated technical staff, and
- Webinars for elected officials and senior or technical staff, presenting the preliminary findings from the survey and inviting additional feedback.

The survey asked senior and technical staff to consider 50+ changes to the *Heritage Conservation Act* (HCA) as proposed by the provincial Ministry of Forests. For each proposed change, respondents assessed its potential impacts on local government and First Nation administration and operations, as well as broader implications on infrastructure projects, housing and other development, residents and the business community.

Survey respondents expressed broad conceptual support for reconciliation, the involvement of Indigenous leadership in the development process and modernization of the Act.

Specifically, the results show strong support for:

- Faster and potentially simplified permitting process,
- Specific policies and flexibility in addressing disaster recovery situations,
- Stronger role for First Nations in heritage protection and enforcement, and
- Broadening the effort to protect heritage resources.

However, there is near unanimous concern that the proposed changes are rushed, policies are underdeveloped, and future implementation processes potentially unfunded. The overwhelming majority of UBCM members responding did not support the Province moving forward with the proposed changes based on their current level of understanding of those changes. Local governments expressed deep concerns about financial burdens, private and public project delays, and the potential for negative public reactions regarding the impacts of the proposed changes on private property rights. They also identified risks of increased costs, administrative burdens, legal uncertainty and inconsistent regional implementation.

CAOs and technical staff overwhelmingly support a “pause” to allow for a broad based and meaningful planning process. This would make possible:

- Co-development of policies that take into consideration the realities of local governments and First Nation governments operating side by side,
- Adequate resourcing for local and First Nation governments, and

- A strategy for a phased implementation.

Overall, participants at the webinars supported the Preliminary Findings Report and the general intent of the proposed HCA changes.

It is important to note that First Nations members expressed deep concern that UBCM member engagement on proposed changes to the HCA could come across as broad opposition and derail progress towards modernizing the HCA.

In their comments on the survey, CAOs and technical staff suggested that the provincial government take the following actions:

- Co-design reforms with First Nations, local governments and archaeology professionals.
- Fund and staff implementation at all levels, both within the provincial government and through the provision of funding to First Nations and local governments.
- Clarify legal and procedural questions before legislating.
- Pilot new mechanisms – such as Heritage Management Plans and enforcement models – before full rollout.

Elected officials who participated in the webinars affirmed their support for these suggested actions.

Without these measures, respondents warn the reforms could increase confusion, delay projects and erode trust, undermining both reconciliation and effective heritage stewardship.

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Background

The *Heritage Conservation Act*, which encourages and facilitates the conservation of heritage in BC, has not been substantively amended since 1996. In 2019, the legislature unanimously adopted the *Declaration on the Rights of Indigenous Peoples Act* (DRIPA, or the *Declaration Act*). This made BC the first jurisdiction in Canada to adopt the United Nations *Declaration on the Rights of Indigenous Peoples* (UN Declaration) as a framework for reconciliation. Section 3 of the *Declaration Act* in part mandates the Province to bring all provincial legislation into alignment with the principles of the UN Declaration.

First Nations, local governments and key stakeholder groups have raised concerns about the current HCA legislation. In response, the Province undertook an [initiative](#) to update the HCA in 2021.

The first two phases of the Heritage Conservation Act Transformation Project (HCATP) involved engagement with local governments, First Nations and industry on areas of the HCA that needed improvement or change. Phase 1 took place in summer and fall 2022, and Phase 2 in fall 2023. Following Phases 1 and 2, the Province formed a Joint Working Group on First Nations Heritage Conservation, which included members appointed by the First Nations Leadership Council working alongside provincial staff. This group worked to identify potential changes to be incorporated in legislative amendments to the current HCA.

Initially, the Province shared a Primer on proposed changes to the HCA with local governments in August 2025, offering a webinar for local governments on August 8, 2025, with a deadline of October 1, 2025 for final comments from local governments, industry and the public. In September 2025 during the UBCM Annual Convention, the Province extended the deadline to November 14 to allow for more comprehensive engagement with UBCM members.

UBCM Member Engagement

The process to obtain more comprehensive input from UBCM members included a confidential survey of CAOs from local governments and UBCM member First Nations; a webinar for elected officials from First Nations members; and a separate webinar for all UBCM members, both local government and First Nations. Consultant Randy Diehl conducted outreach to encourage CAOs to complete the survey and seek in-depth feedback via targeted interviews with CAOs.

UBCM has incorporated the feedback from all components of the member engagement process – survey responses, CAO interviews, webinar comments and discussion, and

written submissions from members – into this official submission to the Province on behalf of UBCM members.

UBCM is comprised of 189 local government members and 13 First Nation members.

Survey Response

The survey received responses from 66 local governments (35%) and two First Nations (15%).

Outreach Program

The outreach program connected via email with 150 CAOs, augmented by follow-up phone calls as needed. As part of the outreach, the consultant conducted 15 in-depth interviews with CAOs. The consultant indicated that written submissions would be welcomed in addition to, or in place of survey responses; several were received.

Webinars

Elected officials and staff from one First Nation member (8%) and 77 local government members (41%) attended the webinars, for a total of 135 participants. The webinar content was presented by the UBCM consultant and staff. Provincial staff from the Ministry of Forests attended the webinars to answer technical questions.

Overall Engagement

The survey response rate and webinar participation as a percentage of total local government members reflects good regional representation from both senior staff and elected officials. Engagement from First Nation members was significantly lower, with some First Nation members indicating that they had already engaged fully through the Ministry of Forests. Others expressed challenges accessing the UBCM member engagement process, particularly the survey.

Current Legislative Framework

The Primer released by the Ministry of Forests, as well as comments from CAOs and technical staff responding to the survey, identifies a range of challenges with the current HCA legislative framework.

- The permitting process requires three permits from the Province, the process of which is time-consuming and costly for provincial staff, First Nations, and proponents.
- There is currently an inconsistent awareness of the HCA amongst local governments and no requirement for local governments to play a role to ensure

developers are complying with the HCA requirements prior to issuing a building permit or approving a subdivision.

- There are no requirements for local government to prepare Heritage Conservation Plans which would proactively identify critical heritage values within the community.
- There is a lack of clarity on what constitutes a low impact site versus a high impact site. Consequently, there can be wasted resources studying situations that have little or no value.
- There are no emergency provisions to override the HCA quickly and effectively for areas that have been severely impacted by catastrophic events.
- There is no clear policy direction on what constitutes a large versus a small project, and consequently, how to mitigate the site for heritage protection.
- Local governments report experiencing significant costs and delays in the issuance of permits for infrastructure projects and housing.
- The HCA provides no guidance on qualifications for archaeologists, nor does it attempt to regulate the profession. It also makes no provision for Indigenous knowledge keepers to be involved in archaeological assessment processes.
- The process to identify and quantify intangible sites is ambiguous and requires clear direction.
- Currently, there is no ability to issue violation tickets or administer monetary penalties outside of court processes for contravening the HCA. As such, the legislation has very little deterrent effect.
- First Nations have limited authority in managing and protecting heritage resources.
- The Act is confusing due to unclear overlaps between local, provincial and Indigenous responsibilities.
- The legislation is inequitable, with smaller or rural municipalities bearing disproportionate burdens.
- There is a lack of communication from the Archaeology Branch.
- There is poor data sharing and accountability among consultants.

Key Findings from UBCM Member Survey

1. General Support for Modernization and Reconciliation

Respondents widely agree that the current HCA is outdated and fails to reflect Indigenous values or provide consistent protection. The proposed reforms are seen as a

positive opportunity to embed reconciliation, modern governance and proactive planning. Supportive feedback emphasizes:

- Recognition of First Nations' cultural authority and rights to protect heritage,
- Alignment of the HCA with UN Declaration and DRIPA principles, and
- The need for shared decision-making frameworks that respect Indigenous law.

However, even those supportive of reform stress that support is conditional on:

- Adequate funding and staff capacity for implementation,
- Clear legal definitions and consistent procedures, and
- Co-designed processes developed with both First Nations and local governments.

2. Intangible Heritage Values

The protection of intangible heritage values is embodied in the general language of the current HCA, however, it is not widely understood or utilized. Proposed changes seek to elevate the importance of this heritage value but there is a lack of clarity regarding how this will be done. The proposed changes stipulate that recognition of intangible heritage values will not impact development projects, but there is no clear path on how this will be so. Many respondents advocate either that it be struck in its entirety or more clearly defined.

3. Competing Societal Values

Except in the case of disaster relief, other competing societal needs are not considered. Specifically, heritage values versus infrastructure maintenance, building affordable housing – or meeting provincially mandated housing targets. In many cases under the current HCA, local governments experienced significant and costly delays for sites that in the final determination did not contain heritage artifacts.

4. Unfair Application of Regulations

Federal and reserve lands are not subject to the same requirements under the HCA as provincial Crown and privately held land. This is viewed as being unfair and not conducive to a goal of protecting heritage values on all lands in BC.

5. Concerns with the Provincial Consultation Process

Most submissions describe the provincial consultation process as vague, rushed and overly complex. They report being unable to give informed input due to:

- Limited information about specific legislative changes,
- Lack of plain-language explanations and real-world examples, and

- Over 50 proposed amendments presented without clear prioritization.

Respondents urge the Province to pause the legislative timeline, provide draft language for review and hold direct region by region engagement sessions with local governments, First Nations and industry before drafting new legislation.

6. Roles, Jurisdiction and Governance

Unclear Division of Responsibilities

The most consistent concern noted in the survey is ambiguity over roles between the Province, First Nations and local governments. Local government respondents emphasize:

- They have no constitutional authority to consult or accommodate under Section 35 of the *Constitution Act*,
- They must not be placed “in the middle” of Crown-First Nation relationships, and
- The Province must remain the primary regulatory authority and fund consultation processes.

Shared Decision Making and Indigenous Authority

Respondents are divided:

- Many support shared governance and Indigenous-led protection frameworks.
- Others worry that expanding First Nations’ authority, particularly over private or local government lands, could lead to jurisdictional conflict, legal challenges or duplicated permitting.

Stakeholders recommend that shared decision-making should initially apply only to Crown lands, and evolve over time through co-developed agreements and pilot projects.

Overlapping Territorial Claims

There is no guidance on addressing overlapping territorial claims, which introduces the risk of regulatory fragmentation and uncertainty. Local governments, developers and private property owners should not be responsible for resolving jurisdictional differences between First Nations. The Act should set out conflict resolution protocols for overlapping claims.

7. Capacity, Resourcing and Staffing

All groups identify capacity constraints as a major barrier to successful reform.

- Provincial staff shortages within the Archaeology Branch have already caused severe backlogs.

- There are too few qualified archaeologists, which causes escalating costs and long delays of 9 months to 2 years.
- First Nations and local governments lack funding and expertise to manage new responsibilities.

Respondents call for dedicated provincial funding, training programs and shared data systems to support local and Indigenous participation. Without this, they warn that the new system will fail operationally and there will be an increase in costs and more processing delays.

8. Costs, Delays and Economic Impacts

Respondents stress that the current HCA system already causes major project delays and financial strain, particularly for housing, infrastructure and emergency repairs. They warn that reforms could worsen bottlenecks without major investment in staff and process streamlining. Key concerns include:

- Longer permitting times due to added consultation steps,
- Higher costs from mandatory archaeological studies, and
- Potential impacts on housing affordability and infrastructure delivery.

Many local government respondents propose target timelines for permit modifications (e.g., 30 days) and emergency exemptions to avoid project paralysis.

9. Heritage Management Tools

Remote Access Archaeological Data (RAAD)

RAAD mapping was initiated between 1940 and 1970 and has not been significantly updated since then. Reliance on the mapping may negatively impact private property values and local government land even though there may not be any inherent heritage value on the land. The RAAD mapping system needs substantial updating.

Heritage Management Plans (HMPs)

Respondents see value in HMPs as proactive, co-designed tools for protecting heritage and improving predictability. However, they caution that the proposal is conceptually sound, but its implementation is not clearly set out. Key concerns include:

- Undefined scope (project vs. area-based; Crown vs. private land),
- Unclear legal status (guidance vs. binding authority),
- Cost and capacity impacts on smaller local governments and First Nations, and
- Need for a template to ensure province-wide consistency.

Respondents recommend pilot projects, provincial funding and integrated planning guidance to test the approach before mandating HMPs.

Heritage Management Zones

Support exists for integrating Indigenous cultural landscapes into planning, but respondents recommend that zones:

- Be co-developed, not imposed,
- Align with existing planning frameworks (e.g., Official Community Plans),
- Include clear criteria and funding to prevent duplication or conflict, and
- Include funding to update heritage mapping.

10. Compliance and Enforcement

First Nations' Role in Enforcement

There is general agreement that First Nations should have a stronger role in heritage monitoring, compliance and enforcement, recognizing their cultural authority and land-based presence. However, respondents wonder whether there could be legal and practical risks:

- Would there be a conflict of interest if First Nations enforce HCA requirements on their own cultural heritage sites?
- The proposed changes do not outline mechanisms to ensure neutrality and consistency across jurisdictions.
- Powers are unclear, such as entry rights or authority over private land.

Respondents support a model where the Province retains oversight and delegates enforcement selectively through formal agreements with trained First Nations that have developed compliance and enforcement capacity within their organizations.

Fines and Monetary Penalties

Respondents support higher penalties to deter violations as an alternative to the current court order process, but warn of:

- Inconsistency and potential bias if fines are locally administered and become a local revenue source, and
- Unclear collection and appeals processes.

Recommendations from respondents include a provincially managed penalty framework, standardized training and transparent appeals procedures.

11. Education, Communication and Transparency

Respondents emphasize the need for:

- Public education on heritage responsibilities,
- Training for local and Indigenous governments on new processes, and
- Accessible data and transparent permitting systems (e.g., integrated with Land Title and Survey Authority or registry tools).

Better communication is seen as essential to reduce misunderstandings, improve compliance and support reconciliation. Some members were not aware of the provincial website with information on navigating the requirements for heritage protection.

Summary of Respondent Recommendations

Theme	Key Recommendations
Consultation & Process	– Pause legislative drafting – Co-develop detailed materials – Provide draft text for review – Hold regional engagement sessions
Resourcing & Capacity	– Fund provincial and local staff – Create Indigenous and municipal training programs – Expand archaeologist workforce – Address conflict of interest in contract awarding
Governance Clarity	– Retain provincial oversight – Define roles clearly – Formalize shared decision-making through agreements
Permitting & Efficiency	– Streamline and digitize processes – Enforce target timelines – Enable emergency exemptions
Heritage Management Plans	– Pilot co-developed plans – Integrate with land-use frameworks – Provide financial support – Update heritage mapping
Compliance & Enforcement	– Establish standardized procedures, appeals and training – Avoid financial conflicts – Maintain provincial consistency – Apply regulations to federal and reserve lands
Public Communication	– Launch awareness campaigns – Publish plain-language resources – Improve data transparency
Integration & Alignment	– Align HCA with the Local Government, Emergency Management and Housing Acts – Clarify legal definitions and responsibilities – Consider trade-offs with other critical societal values (e.g., housing & infrastructure)

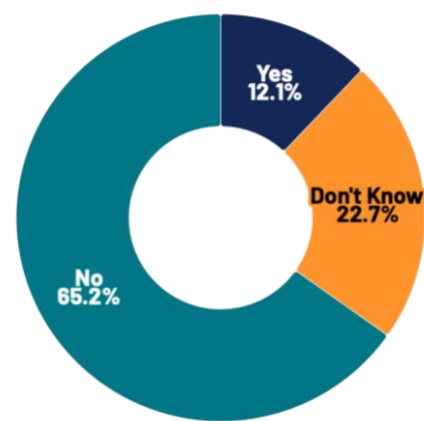
Appendix – Summary of Survey Data

The survey to UBCM members asked for qualitative responses on how proposed changes to the *Heritage Conservation Act* would impact their local government. Written responses have been collated into the above report.

The last question asked respondents:

Do you support the Province moving forward with these proposed changes to the HCA in the spring of 2026 based on the current level of understanding of those changes in your local government or First Nation?

- 65.2% answered, No
- 22.7% answered, Don't Know
- 12.1% answered, Yes



The survey also asked respondents to mark whether they expected the impact to be positive, neutral, negative, or if they needed more information. The 50+ proposed legislative changes are categorized below based on those responses.

Negative impact expected	Positive impact expected	Neutral impact expected	Need more information
3 proposed changes	26 proposed changes	5 proposed changes	24 proposed changes

Respondents said three proposed changes will have a negative impact:

- Legislative requirement for local governments to seek proof of archaeological data check from all development proponents
- Legislative requirement for subdivision approval authorities to seek proof of archaeological data check from all subdivision proponents

- New regulatory authority to mandate archaeological data checks for prescribed circumstances (e.g. property sale) or entities (e.g. Crown corporations, critical infrastructure operators)

Respondents said 24 proposed changes are unclear, and therefore cannot be assessed for potential impact:

- Proposed new permit types designed for:
 - Conservation and research
 - Multi-assessment (with enhanced notice of intent process)
- The following detailed decision-making criteria for permits, to allow for First Nations influence in the permitting process:
 - First Nations information, knowledge, policies and laws
 - Whether principles of site avoidance/non-disturbance/minimizing disturbance of cultural heritage have been followed
 - Cumulative impacts to affected sites
 - Whether affected First Nations have provided consent
 - Negotiated mitigations or accommodations
 - Existing agreements or heritage management plans
 - Public interest
 - Proponent performance history
- Legislative requirement for proponents to provide record of engagement with First Nations
- New provincial ability to set terms and conditions for compensatory conservation work (e.g., enhanced site recording, sampling and analysis, monitoring, other measures to address loss of heritage)
- Enabling the charging of fees for registered archaeologists
- Including in the HCA certain rights and principles related to First Nations self-determination:
 - First Nations' inherent right to self-determination, including self-government under s. 35 of the *Constitution Act* and UNDRIP, encompassing jurisdiction, law-making authority, and the responsibility for protection, management and development of heritage
 - Principles related to First Nations data sovereignty, place names, repatriation/rematriation, avoidance, non-disturbance or minimizing disturbance of cultural heritage

(continued)... 24 proposed changes are unclear:

- The following circumstance under which Indigenous knowledge and heritage data may be disclosed:

- Exercising a power or duty under the HCA for which information is required
- Joint or consent-based decision-making (*Declaration Act*) agreements between the Province and First Nations for Crown land, to support First Nation involvement in a range of cultural heritage decisions:
 - Delegation of HCA compliance and enforcement powers to First Nations
 - Delegation of HCA permitting decisions to First Nations
 - Cabinet mandate required to negotiate a *Declaration Act* agreement with a First Nation
- Jurisdictional agreements between the Province and First Nations for Crown land, such that in certain circumstances, First Nations cultural law could vary the application of the HCA:
 - New regulation would prescribe the circumstances where First Nations cultural law could vary application of the HCA
 - Cabinet mandate required to negotiate a jurisdictional agreement with a First Nation
- Proposed scope expansion of existing operational agreements with First Nations for Crown or private land, under s.4 of the HCA, covering operational matters related to First Nations heritage:
 - Decision-making criteria
 - Information sharing protocols
 - Cultural protocols
 - Provisions for collection, care, and management of heritage objects and ancestral remains
 - Archaeological methods for identifying and recording sites
 - Continued use of sites
 - Aspects of heritage management plans
 - Public engagement agreements
- Changing the approval level for operational agreements with First Nations for Crown or private land:
 - Operational agreements: approval level would change from Cabinet to Minister
 - Agreement extensions: approval level would change from Cabinet to Minister
- Province exploring pre-conditions for entering into s.6 and s.7 agreements with First Nations under DRIPA

(continued)... 24 proposed changes are unclear:

- Including the following in the range of heritage values:
 - Cultural landscapes,
 - Intangible cultural heritage

- Objects and places within an Indigenous worldview (oral histories, place names, language, knowledge)
- New regulation to enable flexible protection criteria and permitting requirements, based on heritage value and conservation goals, in consultation and cooperation with First Nations
- Including fossils in the definition of heritage object
- Clarifying that fossils and fossil sites can be designated as a protected site and can be included in the duty to report
- Enabling establishment of "heritage management zones" within Provincial Heritage Register; such zones could include areas reported to contain heritage value but not yet verified
- Prescribing additional requirements for heritage management zones (e.g. archaeological data checks, additional archaeological work)
- Legislative provision for heritage management plans, developed with multiple parties (e.g. First Nations, local governments, Province, development proponents)
- New regulation to prescribe details of heritage management plans
- Provincial agreements with First Nations to undertake compliance and enforcement under the HCA
- New regulation to prescribe details of administrative monetary penalties (AMPs) and specific penalty amounts
- Enabling the Minister, in consultation and cooperation with affected First Nations, to order compensatory conservation work for loss of heritage value and harms
- Enhancing civil remedy orders to include requirements to consult and cooperate with First Nations, without interfering with prosecutorial independence

Respondents said 26 proposed changes will have a positive impact:

- Move to a single project-based permit system
- Proposed new permit type designed for disaster response and recovery

(continued)... 26 proposed changes are positive:

- "Statements of site significance and heritage value" as one of the detailed decision-making criteria for permits, to allow for First Nations influence in the permitting process
- New provincial authority to modify permit requirements for low impact activities

- New provincial authority to regulate the archaeology sector (A significant number of respondents also identified this proposal as unclear, and therefore were unable to assess impact.)
- Ministerial authority to make permit exemptions for urgent emergency or disaster response and recovery
- New opt-in process for First Nations to be decision-makers regarding where collected ancestors and heritage belongings are held and cared for
- The following circumstances under which Indigenous knowledge and heritage data may be disclosed:
 - Information already publicly available
 - Written consent of First Nation
 - Investigation of a contravention
 - To obtain legal advice
- HCA amendments to clarify that certain heritage related First Nations activities on Crown land do not constitute an offence or require a permit:
 - Clam garden maintenance (A significant number of respondents also assessed that this proposal could have a neutral impact.)
 - Heritage trail maintenance
 - Collection of objects at imminent risk of loss or destruction
- Inclusion of mortuary landscapes and fossils in the range of heritage values
- Reorganizing the HCA to clarify what is recognized or protected, the pathways for protection, and what actions are prohibited without authorization
- Retaining and clarifying automatic protections for ancestral remains, burial places and rock art, regardless of age
- Clarifying automatic protections for culturally modified trees and heritage wrecks with identified heritage value or human remains
- Clarifying criteria, process, procedures, and procedural requirements for designations of sites identified by First Nations (including intangible heritage) or other groups with post-1846 heritage
- Reducing provincial approval levels (from Cabinet to Minister) for seeking a heritage designation (A significant number of respondents also identified this proposal as unclear, and therefore were unable to assess impact.)

(continued)... 26 proposed changes are positive:

- Modernizing HCA s.18 "Promotion of heritage value" to move beyond certificates and plaques with new ways of recognizing and celebrating heritage
- Signs for heritage recognition will require consultation and cooperation with First Nations

- Clarifying that heritage recognition and promotion include intangible cultural heritage, such as songs, ceremonies, foods and traditions
- In the context of heritage management zones, clarifying administrative site boundary criteria for entry into the Provincial Heritage Register
- Creation of a new, limited data layer that can be checked plot-by-plot in advance of property sales or ground disturbance (this would comprise an archaeological data check)
- Clarifying the circumstances in which Province can order additional archaeological work
- New legal "duty to report" for archaeological and significant heritage finds
- Prohibition of possession, sale and trade of heritage objects
- New guidance on collection, treatment, care or disposition of heritage objects (to a repository or to descendant communities)
- Clarify rules for issuance and extension of stop work orders
- Clarify authority to publicly disclose HCA contraveners and offenders

Respondents said five proposed changes will have a neutral impact:

- “Court order” as a circumstance under which Indigenous knowledge and heritage data may be disclosed. (A significant number of respondents also assessed that this proposal could have a positive impact.)
- Retaining 1846 as the baseline for age-based automatic protections for all site types that are not ancestral remains, burial places or rock art
- Enabling daily violation tickets for minor HCA contraventions, with fines up to \$1,000/day
- Enabling administrative monetary penalties (AMPs) for more severe contraventions, max. \$100,000 per person or \$1 million per corporation
- Exploring opportunities to direct fine and AMP revenue to support heritage site remediation, including through First Nations