

HERITAGE CONSERVATION ACT TRANSFORMATION PROJECT: BACKGROUND

June 30, 2022



Transformative Connections: Granddaughter of Today's Name Carrier T'xwelátse
with Transformed Ancestor of the Ts'elxwéyeqw Tribe - Stone T'xwelátse. (Photo: David Campion, 2005)

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INTRODUCTION

The [*Declaration on the Rights of Indigenous Peoples Act*](#) (Declaration Act) requires that the Province in “consultation and cooperation with Indigenous peoples” take “all measures necessary”¹ to ensure consistency between the United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) and the laws of British Columbia (BC).

The regulation of cultural heritage resources in BC through the [*Heritage Conservation Act*](#) (HCA) has been identified as one immediate priority for change to achieve consistency between provincial laws and the UN Declaration. [*The Declaration Act Action Plan*](#) commits the Province to “Work with First Nations to reform the HCA to align with the UN Declaration, including shared decision-making and the protection of First Nations cultural, spiritual, and heritage sites and objects.”

The **Heritage Conservation Act Transformation Project (HCATP)** has therefore been launched to reform the HCA and ensure it is consistent with the UN Declaration.

The purpose of this Backgrounder is to support the process of consultation and cooperation with First Nations in the HCATP. This Backgrounder has been developed by the Joint Working Group on First Nations Heritage Conservation (JWGFNHC). The JWGFNHC was formed in 2007 through resolutions of the BC Assembly of First Nations, First Nations Summit, and Union of BC Indian Chiefs, and includes members appointed by the First Nations Leadership Council (FNLC) and the Province. The mandate of the JWGFNHC is to “explore options and provide recommendations to improve the protection, management and conservation of First Nations cultural and heritage sites”.

This Backgrounder is in three parts:

1. **How we got here:** The context of the inextricable connection of First Nations to their cultural heritage resources; the impacts of colonialism on First Nations’ relationships with these resources; and the calls for change that First Nations and stakeholders have long advanced, leading to the HCATP.
2. **Proposed HCATP process:** How consultation and cooperation will occur in the HCATP to achieve consistency between the HCA and the UN Declaration while improving the HCA for future generations.
3. **Transforming the HCA:** Preliminary ideas and discussion questions about transforming the HCA and achieving consistency with the UN Declaration summarized into priority areas for change.

Declaration on the Rights of Indigenous Peoples Act

The Declaration Act establishes the UN Declaration as the Province’s framework for reconciliation. It aims to create a path forward that respects the human rights of Indigenous Peoples while introducing better transparency and predictability in the work we do together.

There are four key areas of the legislation: 1) Section 3 requires the Province to take all measures necessary to achieve consistency between its laws and the UN Declaration, 2) Section 4 requires the Province to develop and implement an action plan, in consultation and cooperation with Indigenous Peoples, to meet the objectives of the UN Declaration, 3) Section 5 requires regular reporting to the provincial legislature to monitor progress on the alignment of laws and implementation of the action plan, including tabling annual reports by June 30th of each year, and 4) Sections 6 and 7 enable forms of agreements with Indigenous governing bodies, including to implement free, prior, and informed consent.

Heritage Conservation Act

To encourage and facilitate the protection and conservation of heritage within BC. The HCA provides for tools and mechanisms to establish and maintaining the heritage register for the currently known heritage sites (approx. 60,000) as well as authorizing inspections and alterations of heritage sites. The HCA also contains provisions that authorize various compliance and enforcement actions that may be taken against persons who damage or alter sites or objects without authorization.

The Act provides the authority for the Minister, under prescribed conditions, to enter into agreements with Nations (i.e., s. 4 and s. 20).

¹ <https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/19044>

These areas are based on input by First Nations and stakeholders, and include five priority themes to shape the proposed engagement on the HCATP:

- Indigenous Values and Rights Recognition
- Decision-Making
- Protections
- Resourcing to Support Heritage Conservation
- Compliance and Enforcement

HOW WE GOT HERE

For countless generations, First Nations have governed and stewarded their cultural heritage resources. From the remains of those who have passed, to the expressions and manifestations of their ways of life, First Nations, through their laws and traditions, have maintained the inextricable connection to their past, and do so to support the countless generations to come.

Part of the legacy of colonialism in BC has been the institution of laws, policies, and practices that did not properly recognize, respect, or protect First Nations cultural heritage resources. Additionally, the role of First Nations' governments and laws in the protection and management of First Nations' cultural heritage resources has been extremely limited.

Over time, and for many reasons, cultural heritage resources, including ancestral remains, have been disturbed or destroyed. The ability of First Nations to engage in traditional protocols, ceremonies, and practices has been impacted and resulted in the loss of opportunities for knowledge transmission. This has cumulatively heightened the complexity of, and conflict over, economic development and led to spiritual, cultural, social, and economic impacts on First Nations.

First Nations have advocated for change – protecting their heritage on the ground, revitalizing their laws and policies, strengthening relationships and protocols with the Province, and calling for transformation of B.C.'s heritage conservation laws and policies. Simultaneously, stakeholders, who interact with the HCA (e.g., industry, landowners and developers, archaeologists), have also raised concerns with the current heritage management framework and requested its modernization.

The Province has legislated the oversight and protection of certain archaeological sites since 1925, though protections at that time were limited. It was not until 1977 with the passage of the HCA that protection was extended to certain archaeological sites on Crown and private land, regardless of whether sites were known or as-yet unrecorded. Significant amendments to the HCA were introduced in 1994 and 1996. These amendments expanded what was subject to automatic protection under the HCA and provided greater administrative flexibility and tools to support site protections. These amendments also included provisions to ensure impacts to sites only occurred under the authority of an HCA permit that is subject to certain terms and conditions such as; sufficient site recording, assessment and mitigation methods, and for the results and recommendations of work to be summarised in a report subject to provincial oversight and approval. The HCA has not been substantially changed since 1996. Recent amendments in 2019 were administrative in nature and served primarily to add new compliance and enforcement tools and were not subject to comprehensive engagement with First Nations or stakeholders.

While there have been a number of initiatives undertaken over the years to improve and/or identify prospective improvements to the heritage conservation framework in B.C., there continue to be challenges with the HCA and its administration. The formation of the JWGFNHC in 2007 added a structure for collaborative efforts between the Province and First Nations to address challenges and achieve transformative change. In 2011, the FNLC developed the First Nations Heritage Conservation Action Plan to inform these efforts. The first goal of the Action Plan is: *Assertion of First Nation laws, Title and Rights and international human rights standards, in relation to heritage property, sites and values, including sacred and spiritual sites and ensure that Federal and Provincial governments recognize them.* The importance of this work has been recently reinforced via the commitment in the [Declaration Act Action Plan \(Action 4.35\)](#) that states the Province will “Work with First Nations to reform the *Heritage*

Conservation Act to align with the UN Declaration, including shared decision-making and the protection of First Nations cultural, spiritual, and heritage sites and objects.

In addition to these documents and processes, there are a number of other key public-facing policy and engagement initiatives or papers available to inform this work:

- [First Nations Heritage Conservation Action Plan](#) (First Nations Leadership Council 2012)
- [The 2016 BC Archaeological Survey](#) (Hammond 2016)
- [Key Findings of the Indigenous Perspectives on Repatriation Symposium](#) (Royal BC Museum 2017)
- Research from Around the Globe Regarding Mechanisms for Protecting Sacred Sites, Areas and Landscape and Burial Sites of Indigenous Nations (JWGFNHC 2018)
- [Ancestral Remains Policy Review – Summary of Engagement Feedback](#) (Archaeology Branch 2019)
- [Recognizing and Including Indigenous Cultural Heritage in B.C.](#) (First Peoples’ Cultural Council 2019)
- [Recommendations for Decolonizing British Columbia’s Heritage-Related Processes and Legislation](#) (First Peoples’ Cultural Council 2020)
- [A Selected Review of Federal and Provincial Legislation Implicating Indigenous Heritage in British Columbia](#) (First Peoples’ Cultural Council 2022)

These and other numerous policy, engagement, research, and continuous improvement initiatives, along with the significant breadth of input received to date from First Nations and stakeholders, form the basis of the HCATP. The JWGFNHC has summarized this input into these five priority areas for change:

- Indigenous Values and Rights Recognition
- Decision-Making
- Protections
- Resourcing to Support Heritage Conservation
- Compliance and Enforcement

These priority areas are further described below in the section “*Achieving Consistency Between the UN Declaration and the HCA and Transforming the HCA in the Protection and Governance of Culture and Heritage in the Province*” (Page 8) and Appendices A and B, and serve as a foundation to support this initial phase of engagement discussions.

HERITAGE CONSERVATION ACT TRANSFORMATION PROJECT PROCESS

Consultation and cooperation with First Nations and Modern Treaty Nations is foundational to the HCATP and a requirement of the Province under the Declaration Act. As well, the Province acknowledges its distinct relationship with, and obligations to, Modern Treaty Nations. The JWGFNHC has developed a proposed process for consultation and cooperation that includes principles, goals, phases, and mechanisms. Feedback from First Nations and Modern Treaty Nations on this proposed process will inform future phases.

As part of the HCATP, the Province will also engage with key stakeholders about the HCA and its administration. That engagement will take place in the coming months and will focus on interests of these stakeholder groups associated with HCA reform and improvement.

Principles of Consultation and Cooperation

The consultation and cooperation process with First Nations has been developed to reflect the following principles:

- **Rights-based:** A primary objective of the HCATP is to achieve consistency between the UN Declaration and the Province's laws regarding cultural heritage resources. The process through which we achieve that goal must also be consistent with the UN Declaration.
- **Comprehensive:** Consultation and cooperation with First Nations must be throughout the entire HCATP process – from beginning to end.
- **Accessible:** Consultation and cooperation must provide multiple opportunities and avenues for First Nations to participate.
- **Inclusive:** Consultation and cooperation is with all First Nations and their governments. None are excluded.
- **Transparent:** All phases of the HCATP must be transparent, with information being shared early.

Goals of Consultation and Cooperation Process

To support the transformation of the HCA and achieve consistency with the UN Declaration, the goals of the consultation and cooperation process include:

- Identifying how the standards of the UN Declaration are expressed in the context of cultural heritage
- Identifying alignment issues between the standards of the UN Declaration and the HCA

Core understandings about the UN Declaration on the Rights of Indigenous Peoples

The UN Declaration constitutes a principled framework for justice, reconciliation, healing and peace.

The UN Declaration affirms collective rights of Indigenous Nations or Peoples and the individual rights of Indigenous persons. All governments have a responsibility to respect, protect and fulfill these rights.

The UN Declaration must be read as a whole – its articles are interrelated and interdependent. All rights in the UN Declaration are inherent: governments cannot give or take away these rights.

When interpreting the UN Declaration, it is necessary to consider the "Preamble" which identifies the intent and vision of the UN Declaration. The preamble includes many guiding statements including those related to self-determination and the connection of Indigenous peoples to lands and territories.

As article 45 of the UN Declaration states: "Nothing in this Declaration may be construed as diminishing or extinguishing the rights indigenous peoples have now or may acquire in the future."

Partially drawn from:

<https://www.declarationcoalition.com/the-un-declaration>

- Collaborating with First Nations on identifying a range of different options and solutions for addressing alignment as well as overall HCA transformation
- Analyzing the challenges and opportunities different options and solutions may pose
- Cooperatively determining which options and solutions can achieve greater consistency and HCA improvement
- Guiding the development of an implementation plan and approach

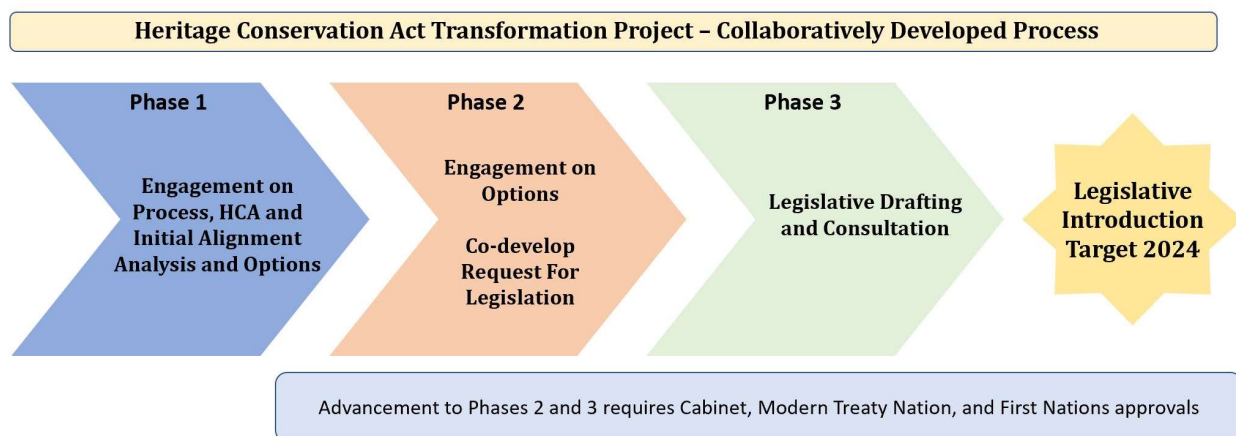
Provincial Consultation and Cooperation with Modern Treaty Nations

The Province recognizes that it must meet any section 35(1) Aboriginal and Treaty rights and obligations with regard to changes that may occur to the HCA. The Province acknowledges and respects the unique and distinct relationship with the eight Nations with whom have signed modern treaties. The Province will work in cooperation with First Nations and Modern Treaty Nations to meet constitutional obligations.

Further, and as part of the continued work under the Action Plan, the Province has entered into a government-to-government Shared Priorities Framework with Modern Treaty Nations with the goal of renewing its commitment to timely, effective and fully resourced implementation of modern treaties. The rights and obligations contained in modern treaties have been established, a distinction that has significant and important implications for the work the Province does with Modern Treaty Nations.

Phases of Consultation and Cooperation

It is proposed that the HCATP will take place in three phases, though advancement to Phases 2 and 3 requires Cabinet and First Nations approvals.



1. **Phase 1 – Engagement on the HCATP Process and Priorities for Change (Spring-Fall 2022):** The proposed process is introduced to First Nations and Modern Treaty Nations. As part of this initial engagement, feedback on priorities for change to the HCA and its administration will also be sought.
2. **Phase 2 – Policy Development (Spring 2023):** Develop options and solutions for the priorities for change. It is in this phase that substantive work will be done co-operatively to consider how the standards of the UN Declaration may be reflected in changed laws, policies, and practices.

3. ***Phase 3 – Development of Laws and Associated Practices (by Spring 2024):*** Turn options and solutions into proposed changes to legislation, policy, and practice, including through legislative drafting.

Potential Mechanisms of Consultation and Cooperation

Consistent with the principles above – particularly Accessible and Inclusive – multiple means will be utilized to engage with Modern Treaty Nations and First Nations throughout the phases of the HCATP process. This may include:

- Direct meetings with Modern Treaty Nations and First Nations
- Regional meetings of Modern Treaty Nations and First Nations
- Province-wide meetings of Modern Treaty Nations and First Nations
- Focused technical working groups
- Thematic workshops on alignment with the UN Declaration and HCA topics
- Virtual information sessions
- Website portals with information and updates
- Written correspondence / Online surveys

Details of how each of these would occur, including timing, will be shared and updated throughout the HCATP process.

As a first step in the Phase 1 engagement process, on May 2, 2022, First Nations and Modern Treaty Nations were sent a letter from the JWGFNHC introducing the HCATP and the intention to engage with First Nations on the HCA, its administration, and the alignment of laws. Phase 1 is anticipated to span through the summer into early fall 2022 and will be delivered by way of a mixture of in-person and virtual sessions.

Upon conclusion of Phase 1, a report detailing the feedback provided through these sessions will be shared with First Nations and Modern Treaty Nations.

It is anticipated that feedback provided through this Phase 1 will inform discussion on options that can be further explored, refined, and discussed in subsequent phases of the HCATP.

Discussion Questions

In considering the consultation and cooperation process please consider the following discussion questions:

- Does the proposed consultation and cooperation process provide an effective approach for collaborating on the transformation of the HCA?
- What do you need to support your effective participation in transforming the HCA?

ACHIEVING CONSISTENCY BETWEEN THE UN DECLARATION AND THE *HERITAGE CONSERVATION ACT* AND TRANSFORMING THE HCA IN THE PROTECTION AND GOVERNANCE OF CULTURE AND HERITAGE IN THE PROVINCE

The goal of the HCATP is to transform the HCA, including by achieving consistency between the UN Declaration and the HCA as required by section 3 of the Declaration Act. To help inform the early discussions in this process, the JWGFNHC has compiled a brief summary of information on the UN Declaration, its meaning, and how it may be interpreted and used in the HCATP. Additionally, the JWGFNHC has summarized input, priorities, and solutions provided by First Nations to date into five priority areas for change to support the consultation and cooperation process.

Cultural Heritage Resources and the UN Declaration

The UN Declaration identifies the minimum human rights standards for the survival, dignity, and well-being of Indigenous Peoples.

Certain standards in the UN Declaration must inform how **all** of the articles are interpreted and applied – such as the right of self-determination (article 3), the right of self-government (article 4), the right to participate in matters that may affect Indigenous peoples or their rights (article 18 and 19), rights to land and development of priorities and strategies for the development or use of their lands or territories (article 26 and 32) and that any limitations on the rights in the UN Declaration must be consistent with international human rights obligations (article 46). Additionally, processes are required to enable Indigenous peoples to consider providing their “free, prior and informed consent” related to legislative or administrative measures that may affect them (article 19).

Additionally, some examples of UN Declaration standards that speak directly to Indigenous human rights to cultural heritage resources include: the right not to be subjected to forced assimilation or destruction of their culture (article 8); the right to practise and revitalize cultural traditions and customs, including the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature (article 11); the right to participate in decision-making in matters which would affect their rights (article 18); and the right to maintain and strengthen the distinctive spiritual relationship with traditionally

Free, Prior and Informed Consent

Consent-based decision-making is founded upon the recognition of First Nations self-government and the imperative for interaction between the decision-making of Indigenous and Crown governments. This is different from consultation, where one party involves another in the decision they are making.

There are various emerging models of consent-based decision-making that range from: 1) establishing clear jurisdictional lines and authorities between those matters that will be solely decided upon by Indigenous governments through their own processes, structures, and laws, and those that will be solely decided upon by the Crown; 2) joint structures put in place by Indigenous and Crown governments through which decisions will be considered, for example, a joint board may be established and given authority under the laws of an Indigenous Nation and the Crown to make decisions regarding certain matters; and, 3) each of the Indigenous and Crown decision-makers making their respective decisions pursuant to their own governance structures and legal orders, as well as any processes or criteria they have agreed to between them, and working through established mechanisms to achieve alignment of these respective decisions if necessary.

The Declaration Act seeks to give practical expression to models such as these, and the standard of free, prior, and informed consent, through creating space for consent-based agreements between Indigenous governing bodies and the provincial government (section 7 agreements).

Drawn from:

https://irshdc.ubc.ca/files/2020/03/UNDRIP_Article3_InformedConsent.pdf

owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources (article 25).

To support discussion amongst First Nations about the standards of the UN Declaration and cultural heritage, the JWGFNHC have crafted a summary chart intended to outline the connections between the UN Declaration and the HCA, see Appendix A, Table 1. that must inform how all of the articles are understood and applied, as well as articles that speak more directly to cultural heritage resources.

Priorities for Change Identified by First Nations

Over many years First Nations as well as other stakeholders have identified concerns with the HCA, and priorities for change. The JWGFNHC has summarized previously received input from First Nations and other stakeholders into five priority areas for change described below. There may be additional priority areas, or different ways to define and describe the priorities. A more comprehensive list of feedback and proposed solutions or options received from First Nations and key stakeholders is set out in Appendix B.

1. Indigenous Values and Rights Recognition

The issues and challenges identified include a lack of a meaningful role and respect for First Nations laws in the management of cultural heritage, that the permitting process does not adequately address First Nations' ancestral remains, and that First Nations' place names are not represented and upheld.

Further, misalignments between the HCA and the UN Declaration means that First Nations do not determine what alterations may be made to cultural heritage sites and objects; that not all sites of importance (e.g., those without "physical evidence") are protected; that Nations may not have access to sites for cultural purposes; that repatriation is time-consuming and challenging; that Nations are not directly involved in the development of public materials relating to cultural heritage sites and objects; and, decisions are informed by consultation but ultimately rest with the Province.

2. Decision-Making

The primary issue identified is the lack of a proper role for First Nations in management, protection, and conservation of cultural heritage. The decision-making approach does not involve First Nations at an early enough stage and is not sufficiently inclusive of Indigenous Knowledge. None of the available tools – including section 4 of the HCA, and section 7 of the Declaration Act have yet been able to be utilized by First Nations. The existing decision-making and permitting processes of the province are not transparent and are administratively burdensome, without proper appeal and dispute resolution mechanisms.

Further, misalignment between the HCA and the UN Declaration means that First Nations may be consulted, but ultimately do not make decisions relating to the management – including access, protection, alteration – of their cultural heritage sites and property.

3. Protections

The issues and challenges identified to date include: the significant number of undefined terms in the HCA causing confusion and impeding protection (including terms such as burial place, ancestral

remains, grave goods, site boundaries, heritage trails, desecration); the inherent potential conflict in the HCA in both protecting and also allowing alterations to cultural heritage sites; the lack of protection of First Nations burial sites as well as sites that are not real property-based; no automatic protection for sites post-1846; no matrix of protection based on site significance; and, lack of clear accountabilities across various responsible bodies.

Further, the misalignment between the HCA and the UN Declaration means that while some heritage sites and objects may be protected, the definition, classification, and level of protection of those sites is not determined by First Nations, managed by First Nations, or guided by Indigenous human rights standards. Ultimately, decision-making about site protection, while informed by consultation with First Nations, rests with the Province.

4. *Resourcing to Support Heritage Management*

The issues and challenges identified to date include lack of resources and funding for: both First Nations and the Province to properly manage cultural heritage, resulting in inadequate protection, antiquated management systems, slow permitting processes, and centralized decision-making in Victoria; purchase of property to protect it from development and damage; archaeological assessments; and, restitution in the event of damage to cultural heritage.

Ultimately, the misalignment between the HCA and the UN Declaration means that First Nations do not have the resources to give full expression to their rights related to decision-making and to cultural heritage.

5. *Compliance and Enforcement*

The issues and challenges identified to date include: inadequate tools and resourcing to investigate and address full implementation of the HCA which results in damage to, and lack of protection of, First Nations cultural heritage; lack of a role for First Nations in investigations and enforcement; lack of clarity on roles and responsibilities for enforcement and overall administration of the law; lack of governance of the archaeological profession; and, limited public awareness and education to protect cultural heritage resources and reduce violations of the law.

Misalignment between the HCA and the UN Declaration means that First Nations cultural heritage has insufficient protection and as a result may be irreparably damaged or destroyed. First Nations are limited to providing evidence rather than being involved in defining what an infraction is, and how infractions should be investigated or addressed.

Discussion Questions

In considering solutions to these challenges and to achieve consistency between the HCA and the UN Declaration, please consider the following discussion questions:

- Do these five thematic areas cover the core priorities for change? Why or why not? What is missing?
- How would you address the misalignment in each of the priority areas for change?
- What specific changes would you like to see to the HCA and its administration (regulations, policies, program)?
- What additional issues and challenges are you facing, or observing, in heritage conservation?
- What are the tools you need to address these issues and challenges?
- What processes do we need to work through these challenges and issues together as First Nations, and between First Nations and the Province?

NEXT STEPS

This first engagement phase of the consultation and cooperation process is anticipated to extend through the Fall of 2022. A report that details the feedback provided through this process, and summarizes that feedback into key themes, will be completed and shared back with BC First Nations for review and comment, including tabling with Chiefs in Assembly at the B.C. Assembly of First Nations, First Nations Summit, Union of B.C. Indian Chiefs meetings, the First Nations Leadership Gathering, and Modern Treaty Nations.

It is anticipated that the feedback provided through this engagement phase will inform discussion on policy options that will be developed and deliberated in consultation and cooperation with BC First Nations and Modern Treaty Nations in future project phases.

APPENDIX A: UN DECLARATION AND THE HERITAGE CONSERVATION ACT

Section 3 of the [Declaration Act](#) requires that the Province, in “consultation and cooperation with Indigenous peoples” to take “all measures necessary” to ensure consistency between the UN Declaration on the Rights of Indigenous Peoples (UN Declaration) and the laws of British Columbia.

An important aspect of interpretation of the UN Declaration is that it must be read as a whole, as reading individual articles in isolation may lead to misinterpretation of those articles or UN Declaration as a whole. As in other human rights instruments, the human rights in the UN Declaration are considered to be indivisible, interrelated and interdependent.^[1] This principle clearly sets out an understanding of the standards and priorities of the UN Declaration inform how each article is interpreted and applied. The Preamble to the UN Declaration is crucial in this interpretation and application as it identifies the intent and vision of the UN Declaration as a whole. This wholistic understanding similarly applies to any interpretation of those articles that speak specifically to rights regarding cultural heritage resources.

In the Canadian context, section 35(1) recognizes and affirms the existing Aboriginal rights, including Aboriginal title, and treaty rights. Such title and rights must be recognized, implemented, and upheld in all contexts, consistent with the interpretations of the courts.

With these interpretive and framing principles as a foundation, all articles of the UN Declaration must be considered in transforming the HCA. The entire UN Declaration is below. To support dialogue the JWGFNHC has highlighted in **Green** certain articles of the UN Declaration that may be read as speaking directly to issues of cultural heritage resources and topics currently addressed in the HCA, and highlighted in **Orange** certain articles that are of broad and overarching relevance to transformation of the HCA. To reiterate, however, the UN Declaration must be read as a whole, and all articles of the UN Declaration must be considered in the HCATP.

Table 1: Initial alignment review of UNDRIP Articles’ relevance to the HCA

UN Declaration Articles	Relevance to HCA alignment review
Article 1: Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all 8 human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law.	
Article 2: Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.	
Article 3: Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development	

^[1] This is just one example of the statement of this principle and is taken from a well-respected coalition of experts (see <https://quakerservice.ca/wp-content/uploads/2018/07/Interpreting-the-Declaration-June-2018-Declaration-Coalition-1-1.pdf>)

Article 4: Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.	
Article 5: Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.	
Article 6: Every indigenous individual has the right to a nationality.	
Article 7: 1. Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person. 2. Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.	
Article 8: 1. Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture. 2. States shall provide effective mechanisms for prevention of, and redress for: (a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities; (b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources; (c) Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights; (d) Any form of forced assimilation or integration; (e) Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them.	
Article 9: Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No discrimination of any kind may arise from the exercise of such a right.	
Article 10: Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.	
Article 11: 1. Indigenous peoples have the right to practise and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature. 2. States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs	
Article 12: 1. Indigenous peoples have the right to manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains. 2. States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with indigenous peoples concerned.	
Article 13: 1. Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons. 2. States shall take effective measures to ensure that this right is protected and also to ensure that indigenous peoples can understand and be understood	

in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means.	
Article 14: 1. Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning. 2. Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination. 3. States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.	
Article 15: 1. Indigenous peoples have the right to the dignity and diversity of their cultures, traditions, histories and aspirations which shall be appropriately reflected in education and public information. 2. States shall take effective measures, in consultation and cooperation with the indigenous peoples concerned, to combat prejudice and eliminate discrimination and to promote tolerance, understanding and good relations among indigenous peoples and all other segments of society	
Article 16: 1. Indigenous peoples have the right to establish their own media in their own languages and to have access to all forms of non-indigenous media without discrimination. 2. States shall take effective measures to ensure that State-owned media duly reflect indigenous cultural diversity. States, without prejudice to ensuring full freedom of expression, should encourage privately owned media to adequately reflect indigenous cultural diversity.	
Article 17: 1. Indigenous individuals and peoples have the right to enjoy fully all rights established under applicable international and domestic labour law. 2. States shall in consultation and cooperation with indigenous peoples take specific measures to protect indigenous children from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development, taking into account their special vulnerability and the importance of education for their empowerment. 3. Indigenous individuals have the right not to be subjected to any discriminatory conditions of labour and, inter alia, employment or salary	
Article 18: Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions	
Article 19: States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.	
Article 20: 1. Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities. 2. Indigenous peoples deprived of their means of subsistence and development are entitled to just and fair redress.	
Article 21: 1. Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security. 2. States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social	

conditions. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities.	
Article 22: 1. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities in the implementation of this Declaration. 2. States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.	
Article 23: Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.	
Article 24: 1. Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals. Indigenous individuals also have the right to access, without any discrimination, to all social and health services. 2. Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. States shall take the necessary steps with a view to achieving progressively the full realization of this right.	
Article 25: Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.	
Article 26: 1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired. 2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired. 3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.	
Article 27: States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples' laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.	
Article 28: 1. Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent. 2. Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress.	
Article 29: 1. Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination. 2. States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in	

the lands or territories of indigenous peoples without their free, prior and informed consent. 3. States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by such materials, are duly implemented.	
Article 30: 1. Military activities shall not take place in the lands or territories of indigenous peoples, unless justified by a relevant public interest or otherwise freely agreed with or requested by the indigenous peoples concerned. 2. States shall undertake effective consultations with the indigenous peoples concerned, through appropriate procedures and in particular through their representative institutions, prior to using their lands or territories for military activities	
Article 31: 1. Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.	
Article 32: 1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources. 2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources. 3. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.	
Article 33: 1. Indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions. This does not impair the right of indigenous individuals to obtain citizenship of the States in which they live. 2. Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures.	
Article 34: Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards.	
Article 35: Indigenous peoples have the right to determine the responsibilities of individuals to their communities.	
Article 36: 1. Indigenous peoples, in particular those divided by international borders, have the right to maintain and develop contacts, relations and cooperation, including activities for spiritual, cultural, political, economic and social purposes, with their own members as well as other peoples across borders. 2. States, in consultation and cooperation with indigenous peoples, shall take effective measures to facilitate the exercise and ensure the implementation of this right.	
Article 37: 1. Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements. 2. Nothing in this Declaration may be	

interpreted as diminishing or eliminating the rights of indigenous peoples contained in treaties, agreements and other constructive arrangements.	
Article 38: States in consultation and cooperation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration.	
Article 39: Indigenous peoples have the right to have access to financial and technical assistance from States and through international cooperation, for the enjoyment of the rights contained in this Declaration.	
Article 40: Indigenous peoples have the right to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective 27 remedies for all infringements of their individual and collective rights. Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights.	
Article 41: The organs and specialized agencies of the United Nations system and other intergovernmental organizations shall contribute to the full realization of the provisions of this Declaration through the mobilization, inter alia, of financial cooperation and technical assistance. Ways and means of ensuring participation of indigenous peoples on issues affecting them shall be established.	
Article 42: The United Nations, its bodies, including the Permanent Forum on Indigenous Issues, and specialized agencies, including at the country level, and States shall promote respect for and full application of the provisions of this Declaration and follow up the effectiveness of this Declaration.	
Article 43: The rights recognized herein constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world.	
Article 44: All the rights and freedoms recognized herein are equally guaranteed to male and female indigenous individuals.	
Article 45: Nothing in this Declaration may be construed as diminishing or extinguishing the rights indigenous peoples have now or may acquire in the future.	
Article 46: 1. Nothing in this Declaration may be interpreted as implying for any State, people, group or person any right to engage in any activity or to perform any act contrary to the Charter of the United Nations or construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States. 2. In the exercise of the rights enunciated in the present Declaration, human rights and fundamental freedoms of all shall be respected. The exercise of the rights set forth in this Declaration shall be subject only to such limitations as are determined by law and in accordance with international human rights obligations. Any such limitations shall be non-discriminatory and strictly necessary solely for the purpose of securing due recognition and respect for the rights and freedoms of others and for meeting the just and most compelling requirements of a democratic society. 3. The provisions set forth in this Declaration shall be interpreted in accordance with the principles of justice, democracy, respect for human rights, equality, non-discrimination, good governance and good faith.	

APPENDIX B: HCATP FRAMEWORK DOCUMENT

This table presents a summary of issues regarding the HCA that have been expressed by First Nations and stakeholders over many years. It draws on comments heard by the Archaeology Branch in its relationships and engagement with First Nations and stakeholders. It also incorporates some themes drawn from relevant policy documents (listed above in the section *How We Got Here*). In many cases, similar issues were raised by both First Nations and other stakeholder groups (e.g., industry, landowners and developers, archaeologists) and this similar input has been combined in the following table.

With assistance from the JWGFNHC, preliminary analysis of feedback received to date has been used to identify patterns that led to the emergence of five key themes:

- Indigenous Values and Rights Recognition
- Decision-Making
- Protections
- Resourcing to Support Heritage Management
- Compliance and Enforcement

The first part of the table summarizes key issues, while the second summarizes previously recommended options and potential solutions. The final section of the table cites relevant sections under each theme to assist with the identification of areas within the HCA that may require modernization and/or alignment with the UN Declaration on the Rights of Indigenous Peoples per Section 3 of the Declaration Act. The limitations and strengths of this table are intertwined; it has been prepared by archaeological professionals that work directly with First Nations and stakeholders on these matters on a regular basis and therefore is an informed, but not independent and structured analysis. The content combines rights-holders and stakeholder feedback to identify key shared interests but does not specifically identify what comments were received from First Nations. This table is intended to provide a summary and backdrop for Phase 1 discussion that will result in three reports: one What We Heard report summarizing input received from First Nations; another What We Heard report summarizing stakeholder input; and a single Executive Summary document that summarizes both sets of findings.

Appendix B: Phase 1 Heritage Conservation Act Transformation Project (HCATP) Framework

This table presents a summary of issues regarding the HCA that have been expressed by First Nations and stakeholders over many years. It draws on comments heard by the Archaeology Branch in its relationships and engagement with First Nations and stakeholders. It also incorporates some themes drawn from relevant policy documents (listed above in the section *How We Got Here*). In many cases, similar issues were raised by both First Nations and other stakeholder groups (e.g., industry, landowners and developers, archaeologists) and this similar input has been combined in the following table. Preliminary analysis of this feedback led to the development of five key themes: Indigenous Values and Rights Recognition, Decision-Making, Protections, Resourcing to Support Heritage Management, and Compliance and Enforcement. The first part of the table summarizes key issues, while the second summarizes previously recommended options and potential solutions. The final part of the table cites relevant sections of the HCA under each theme to assist with the identification of areas that may require modernization and/or alignment with the [UN Declaration](#) per s. 3 of the [Declaration Act](#).

	Indigenous Values and Rights Recognition	Decision-Making	Protections	Resourcing to Support Heritage Management	Compliance and Enforcement
ISSUES	<ul style="list-style-type: none"> First Nations have been calling for an enhanced role in the management, protection, and conservation of their cultural heritage HCA automatically protects heritage sites and objects that meet certain criteria; it does not automatically protect post-1846 sites nor continuous, living cultural heritage or practices Limitations in HCA protections and the lack of UNDRIP implementation impact First Nations interests and may increase both complexity and conflict over HCA permits and referrals HCA does not address the UNDRIP concept of free, prior, and informed consent (FPIC) HCA does not recognize or integrate First Nations heritage laws and policies HCA permits do not require permit holders and proponents to follow cultural protocols for managing ancestral remains or burial places HCA permits do not require that First Nations be provided opportunities for participation in archaeological work HCA defines heritage sites as discrete locations and not as interconnected places within cultural landscapes HCA does not acknowledge the rights of Indigenous Peoples to maintain, control, protect and develop their cultural heritage, traditional knowledge, cultural expressions, or intellectual property First Nations access to culturally significant heritage sites and objects may be restricted (e.g., private land, museum collections) HCA is silent on ownership and does not address repatriation of heritage objects. Heritage objects are held in repositories that can be difficult for First Nations to access Indigenous place names are inadequately represented in archaeological records 	<ul style="list-style-type: none"> First Nations have been calling for an enhanced role in the management, protection, and conservation of their cultural heritage A decision-making model that is more inclusive of Indigenous knowledge, perspectives and direct involvement is needed Consideration of heritage sites at the earliest possible stage of development review, engagement, decision-making, and land use planning processes is required Existing regional Archaeological Overview Assessments (AOAs) and archaeological predictive models do not cover the full province and may not meet current Provincial or First Nations standards HCA does not currently enable s. 7 agreements under the <i>Declaration Act</i> HCA s. 4 agreements take too long to negotiate, are challenging to apply to private lands, are unclear regarding decision-making authority, and require intense resourcing Professional reliance: First Nations want to determine which archaeological consultants are approved to carry out HCA permitted work in their territory Inadequate provincial Natural Resource Sector (NRS) coordination on referrals/decisions, issues with centralized vs. regional delivery models, inconsistent management of heritage resources across ministries, disjointed consultation processes across NRS HCA permitting process is administratively burdensome and complex to navigate for all parties HCA decision-making criteria are unclear and do not expressly consider other public interest factors No dispute resolution or appeal mechanisms 	<ul style="list-style-type: none"> Current legal tools and administrative processes are inadequate to address circumstances where development proposals conflict with heritage sites Lack of clear definitions in HCA causes confusion and issues with administration, protection, and enforcement (e.g., burial place, ancestral remains, grave goods, site boundaries, heritage trails, desecration) HCA is a dual-purpose statute that serves to protect heritage sites, objects, and values but also permit alterations, which can create conflict First Nations ancestral remains and burial places do not receive the same protection and respect as registered cemeteries HCA does not automatically protect post-1846 sites that have significant heritage value to First Nations or other communities HCA does not adequately recognize and protect intangible cultural heritage, including sites without physical evidence and intangible cultural heritage that is not place-based Inventory of heritage sites is incomplete and out of date, leading to gaps in protection HCA does not address cumulative impacts to heritage sites HCA does not provide different levels of protection based on assessed heritage value or site significance Lack of policy or criteria for designation and recognition of provincial heritage sites No centralized, consistent management of heritage across ministries and local governments operating under different legislation, including <i>Forest & Range Practices Act</i>, <i>Oil & Gas Activities Act</i>, <i>Environmental Assessment Act</i>, <i>Land Act</i>, <i>Mines Act</i>, <i>Transportation Act</i>, <i>Local Government Act</i>, etc. There is a need for additional tools and resources to support local government's role in the management of heritage 	<ul style="list-style-type: none"> First Nations and government do not have adequate resources to effectively support heritage management, including evaluation of all permit applications and project referrals that may impact cultural heritage Archaeology Branch resources are inadequate to address the significant number of HCA permits and site forms, and existing Branch staff are concentrated in Victoria Antiquated, burdensome, and non-integrated systems and tools for heritage management Inventory of heritage sites is incomplete and out of date, leading to gaps in protection No clear framework, funding, or mechanism to support purchase of property with significant heritage sites, to offset unforeseen archaeological costs, to support cultural protocols and repatriation of ancestral remains or heritage objects, or to support restitution When ancestral remains are disturbed because of development, First Nations may bear the costs of cultural protocols and reburial First Nations require further resourcing (sustainable funding, etc.), programs and tools to safeguard, revitalize and share their cultural heritage, including support for development and maintenance of repositories Policy and resources to address the impacts of climate change on cultural heritage are inadequate Lack of clear guidance for repositories Some Archaeology Branch operational policies and bulletins need to be updated 	<ul style="list-style-type: none"> Inadequate compliance and enforcement tools in the HCA Inadequate compliance and enforcement resourcing to support investigations into reported contraventions First Nations desire more direct involvement in investigations into alleged HCA contraventions Need to establish and maintain clear and rigorous professional standards for archaeologists in B.C. Need to enhance capacity for regulatory oversight, including conducting field audits Site inventory and archaeological predictive models are not publicly available (restricted access) making it difficult to determine if heritage resources are present, likely to be present, and in conflict with proposed or active development Need to clarify and formalize roles and responsibilities (e.g., Province, First Nations, local governments, realtors, industry) in educating proponents and the public and holding them accountable to the HCA Need to enhance public awareness and education to improve compliance with HCA Management recommendations made by professional archaeologists are not always clearly outlined or implemented Inconsistent administration and enforcement of cultural heritage and application requirements among different provincial legislation and regulatory bodies (Archaeology Branch, Heritage Branch, Transport & Infrastructure, Oil & Gas Commission, Forest & Range Evaluation Program, Energy & Mines, Environmental Assessment Office)

Appendix B: Phase 1 Heritage Conservation Act Transformation Project (HCATP) Framework

	Indigenous Values and Rights Recognition	Decision-Making	Protections	Resourcing to Support Heritage Management	Compliance and Enforcement
OPTIONS (PREVIOUSLY RECOMMENDED)	<ul style="list-style-type: none"> Expand the definition of heritage to recognize and protect a broad spectrum of Indigenous cultural heritage (intangible heritage sites, post-1846 sites, continuous, living heritage) Post First Nations heritage laws and policies on the Archaeology Branch website (as desired by First Nations) for consultant and proponent consideration when planning projects and drafting permit applications Develop mechanisms to support recognition of First Nations laws, policies, governance, and decision-making authorities pertaining to heritage, and consider how to incorporate the concept of free, prior, and informed consent (FPIC) As desired by First Nations, require cultural protocols for ancestral remains and burial places be followed under HCA permits Include requirement in HCA permits to invite, engage, and support the direct participation of First Nations in archaeological work Enable Government to Government development of collaborative programs that provide opportunities for First Nations to develop and document their heritage management policies Enhance site inventory data and develop a single, centralized resource and approach to recognize and record all HCA-registered and known, non-registered heritage sites and objects Give First Nations greater control over the selection of repositories for Indigenous cultural heritage resources Develop collaborative and clear roles and responsibilities and Government to Government protocols with sufficient resourcing to support repatriation of Indigenous heritage objects Ensure Indigenous place names are used in archaeological records, if supported by Indigenous communities Ensure Indigenous intellectual property and cultural knowledge are safeguarded and that requests for confidentiality are respected 	<ul style="list-style-type: none"> Enhance First Nations' role in decision making and develop clear processes, tools, and criteria (strategic and operational) Develop a provincial framework and strategy for heritage Consider existing and additional tools and mechanisms to support earlier consideration of heritage values and better land use decisions (e.g., Informed Contributors Layer, inclusion of Indigenous knowledge, <i>Land Act</i> reserves, Notices of Intent, restrictive covenants) Develop updated, consistent regional Archaeological Overview Assessments (AOAs) and potential models Consider ways to streamline the negotiation and approval of agreements with First Nations under s. 4 and s. 20 of the HCA and s. 7 of the <i>Declaration Act</i> Facilitate a greater role for First Nations to engage with local governments on project proposals involving heritage Enhance policy and clarify processes surrounding high-significance sites near which development may be considered untenable Consider changes to Natural Resource Sector (NRS) referral and decision-making processes: <ul style="list-style-type: none"> Bolster regional archaeology branch program delivery and NRS coordination to enhance relationships and efficiency Modernize tools and integrated systems for permitting, referrals, reports, and site records Update criteria for decision-making to include broader interest factors (e.g.: social and economic implications, cumulative effects, "highest and best use of land") Streamline application processes and timelines (e.g., concurrent Archaeology Branch and First Nations review of permit applications; NRS coordination and bundling of referrals) Develop resources to support enhanced consultation expectations, requirements, and complexity (e.g.: increased capacity, training, guidance, and tools) Develop clear processes for appeals and dispute resolution 	<ul style="list-style-type: none"> Develop legislative or policy guidance to outline where alteration permits will not be considered (e.g., sites of high heritage value) Add key definitions to HCA that reflect and acknowledge Indigenous principles and perspectives Consider application of HCA s. 4, s. 9, s. 11.1, s. 32 and other mechanisms (<i>Land Act</i>, etc.) to enhance site protections Enhance protections for ancestral remains and burial places (e.g., consider alignment with registered cemeteries under the <i>Cremation, Interment and Funeral Services Act</i>, other designation tools) Develop mechanisms to expand and enhance the protection of post-1846 sites and sites without physical evidence that are of significant heritage value to First Nations or other communities, including intangible cultural heritage that is not place-based (e.g., oral traditions, cultural practices, knowledge, and skills) Coordinate the protection of heritage under different legislation managed by different regulatory bodies Develop clear criteria for the designation and recognition of provincial heritage sites Develop mechanisms to ensure that cumulative impacts to heritage are addressed Support the development of heritage planning tools and resources for municipalities 	<ul style="list-style-type: none"> Identify opportunities and resourcing to support increased First Nations capacity and involvement in heritage management, including review of permit applications and project referrals Develop sustainable, long-term funding for programs and grants to support First Nations in the stewardship of their heritage Consider enhancing resources within the Archaeology Branch and Compliance and Enforcement Branch Develop public education materials and programing (potentially Indigenous-led) to increase awareness of HCA and heritage resources Enhance systems and tools to support integrated, efficient, and effective heritage management Address the backlog of site records to ensure that the inventory provides up to date information Consider possible mechanisms and funding sources to support land purchases, compensation, restitution, site remediation, and to provide ceremonial support for reinterment or relocation of ancestral remains Identify and secure resources to address the impacts of climate change on heritage Develop clear guidance for repositories Revise and develop Archaeology Branch operational policies and guidelines 	<ul style="list-style-type: none"> Increase First Nations involvement in monitoring, oversight, protection, investigation, and enforcement responsibilities held by the Crown (i.e., Guardians, Environmental Stewardship Initiative, shared/joint/delegated decision-making authorities) Enhance training and education to increase awareness of and compliance with the HCA Enhance compliance and enforcement capacity, legal tools, and processes Enhance regulatory oversight of archaeological professionals conducting work under the HCA (qualifications, deliverable review, field audits, and eligibility to hold or conduct work under HCA permits) Develop and update policies, guidelines, and standards for archaeological work in B.C. Hold proponents and landowners accountable to adhere to professional recommendations Identify and develop additional deterrents to unauthorized site impacts (e.g., public education, legal authority to require archaeological work in high potential areas proposed for development) Seek opportunities to centralize or harmonize heritage management standards and requirements amongst regulatory bodies and legislation

Appendix B: Phase 1 Heritage Conservation Act Transformation Project (HCATP) Framework

	Indigenous Values and Rights Recognition	Decision-Making	Protections	Resourcing to Support Heritage Management	Compliance and Enforcement
HCA SECTIONS	<ul style="list-style-type: none"> Part 1 – Definitions S. 2 – Purpose of the Act S. 3 (1)(3) – Refusal to disclose site info S. 3 (6) – Protection not affected by error or omission in Provincial Heritage Register S. 4 – Agreement with First Nations S. 6 – Act prevails over other legislation S. 7 – Provincial Heritage policies S. 9, 10 and 11.1 – Heritage Designation S. 12.1 – Heritage Protection S. 16.1 – Stop work orders S. 21 – Preservation intervention S. 32 – Notice of heritage status on land title S. 32.1 – Notice of heritage status in relation to treaty lands S. 37 – Power to make regulations 	<ul style="list-style-type: none"> S. 2 – Purpose of the Act S. 3 (1) – Maintenance of the Provincial Heritage Register S. 4 – Agreement with First Nations S. 7 – Provincial Heritage policies S. 9, 10 and 11.1 – Heritage Designation S. 12.2 – Heritage Inspection/Investigation by Permit S. 12.3 – Heritage Inspection/Investigation by Order S. 12.4 – Power to Issue or amend permits S. 12.5 – Permit requirements, specifications, and conditions S. 12.6 – Amending, suspending, or cancelling permits – new info available S. 20 (1) – Powers of the minister S. 20.1 – Ministerial delegation/sub-delegation S. 22 – Advisory committees S. 37 – Power to make regulations 	<ul style="list-style-type: none"> S. 3 (3) (b) and (c) – Provincial heritage register S. 4 – Agreement with First Nations S. 5 – Act is binding on government S. 6 – Act prevails over other legislation S. 8 – No derogation of aboriginal or treaty rights S. 8.1 – Application of Act to treaty lands S. 12.1 (4) – Site definition S. 18 – promotion of heritage value S. 19 – Unclaimed objects in heritage collections S. 32.1 – Notice of heritage status in relation to treaty lands 	<ul style="list-style-type: none"> S. 2 – Purpose of the Act S. 3 (5) – fees for site info S. 11 – Compensation for heritage designation S. 12.2 (3) – proponent liable to pay for heritage inspection or investigation S. 20 (1) – Powers of the minister S. 21 (2) – Preservation at expense of owner and/or government S. 35 (1) – Immunity S. 36 – Offence and Penalty 	<ul style="list-style-type: none"> S. 3 (2) – access to Provincial Heritage Register information S. 8.2 – Duty to Report Discovery S. 12.3 – Heritage Inspection/Investigation by Order S. 12.7 – Amending, suspending, or cancelling permits – enforcement S. 15 – Entry authority for heritage inspection/investigation orders S. 15.1 – Entry and inspection S. 15.2 – Warrant to search and seize evidence S. 15.3 – Obligation of person inspection S. 16.1 – Stop work orders S. 17 – Notices and immunity S. 21 – Preservation intervention S. 34 – Civil remedies respecting contraventions S. 36 – Offence and penalty S. 37 – Power to make regulations