

HERITAGE CONSERVATION ACT TRANSFORMATION PROJECT

Phase 3 Technical Policy Paper—March 2026

From summer through fall 2025, the Province engaged with First Nations, local governments, stakeholders (industry, heritage and archaeology professionals, construction and land developers, etc), and the public, to gather additional feedback to inform policy proposals to modernize the *Heritage Conservation Act* (HCA).

This Technical Policy Paper outlines how proposed reforms to the HCA have evolved and incorporated feedback since the 2025 [Updated Phase 3 Session Primer for Engagement with Local Governments and Stakeholders](#) was released.

Engagement to date has been clear: **the current HCA is not working well for anyone.**

By modernizing the HCA, government hopes to:

1. Make permitting faster and easier;
2. Help people and communities rebuild quicker after disasters such as wildfires and floods;
3. Protect heritage more effectively, reducing the risk of accidental damage to sacred or other significant sites; and
4. Strengthen the role of First Nations in decision-making about their own heritage and ancestors, in alignment with the *Declaration on the Rights of Indigenous Peoples Act* (the Declaration Act).

For all communities, this means protecting valued heritage and history, and for property-owners, local governments and businesses, this means more process certainty, fewer delays, and faster decisions and when building a home, rebuilding after a disaster, or a starting a new project.

Below is a summary of key feedback from this round of engagement and highlights of key policy changes. Additional details on the full scope of proposed changes can be found in the Technical Policy Paper sections below.

How to Read the Technical Policy Paper:

Please note that for each policy proposal, there is a section titled “What was proposed in the Phase 3 Session Primer”. This section contains wording from the 2025 [Updated Phase 3 Session Primer for Engagement with Local Governments and Stakeholders](#). The “Further details on the proposals” section below describes how the policy proposals have evolved since this primer was released – including additional details or refinements. All policy proposals outlined in this document are subject to final decision from the Province.

Feedback on the technical policy paper will inform the Province’s proposed work on a Request for Legislation—the next step before legislative drafting can begin.

Further information on the broader project and previous engagement phases is available at: <https://engage.gov.bc.ca/heritageconservationact/>.

What We've Heard to Date: Key Feedback Themes from Recent Phase 3 Engagement

- Engagement feedback demonstrated broad support for proposals to streamline the permitting regime. Feedback emphasized the importance of building consultation points into the permitting process and ensuring circumstances for modified permitting are clearly defined with enforceable oversight
- Some local governments and stakeholders raised concerns with the proposal to create a process for “consent seeking” on statutory decisions under the HCA
- Local governments and stakeholders strongly supported proposed emergency and disaster pathways that would enable urgent work and timely recovery. First Nations were conditionally supportive, stressing the need for adequate consultation, timely notifications and accountability mechanisms
- Some stakeholders raised concern about the requirement to submit a record of engagement, stating it would place additional burden on both proponents and First Nations
- First Nations expressed strong support for proposals that more explicitly affirm First Nations’ rights and values and create new mechanisms for stewardship, including through expanded agreement types. Local governments and stakeholders were generally supportive of these proposals but raised implementation concerns around overlapping First Nations territories, capacity and resourcing
- There was broad, conditional support for proposals to protect heritage more effectively. Many partners warned that vague or overly broad concepts, notably around “intangible” heritage, could raise uncertainty which could result in project delays and increased costs
- Engagement feedback was generally supportive of proposals for earlier identification of heritage considerations through required heritage information checks, with the exception of real estate industry opposition to mandatory checks at point of sale and potential burdens for buyers and sellers. First Nations feedback also emphasized the need to adequately protect confidential information
- Many stakeholders raised concerns about Heritage Management Zones – how they are defined, how they would be implemented, and what impacts they may have
- Feedback emphasized the need for clarity around roles and responsibilities, information-sharing protocols, and due process
- First Nations, local governments and stakeholders all highlighted the need for plain language guidance materials, reliable archaeological data, and adequate resourcing and staffing to support implementation of the proposed changes
- Many partners requested further details and continued engagement on proposed changes to the HCA

Proposed Key Policy Changes—Highlights

Following feedback received through recent engagement, several key policy changes are being proposed and are summarized below. This list is not exhaustive. In addition to the highlighted changes below, more details on all policy proposals can be found in the Technical Policy Paper. All policy proposals outlined in this document are subject to final decision from the Province.

Intangible heritage

The HCA will not include references to “intangible heritage”

It was previously proposed that greater clarity be provided in legislation on the range of heritage values in the HCA and the current pathways for seeking their recognition or protection, including for intangible heritage, with no changes proposed to the types of sites automatically protected. During engagement, we heard concerns from local governments and stakeholders that the use of the term “intangible heritage” may create ambiguity and uncertainty.

Moving forward, it is proposed to not include references to “intangible heritage” in the HCA. As is the case in the current legislation, protections for sites of ceremonial, spiritual or other cultural value to First Nations may be sought through an agreement with the Province or by a formal designation (currently s.9 and 11.1). These mechanisms will continue to require thorough process (documentation, impact analysis, engagement with affected parties, consultation with First Nations) prior to a decision being made by government.

Heritage Management Zones (HMZs)

HMZs will not be included in the proposed legislative package

It was previously proposed to establish “heritage management zones” within the Provincial Heritage Register to reflect that the presence of heritage sites likely extend beyond areas of recorded evidence, and to prescribe additional requirements within these zones through regulation.

During engagement, we heard concerns about the accuracy and completeness of the existing data in the Provincial Heritage Register and a desire for greater clarity around how these zones would be established and requirements when undertaking works within these zones. We also heard that there is a need for more public education around the existing heritage register, who can access information, and how to access this information.

Moving forward, heritage management zones will be removed from the proposed legislative package. Instead, additional analysis will be conducted to address gaps and concerns around existing heritage data and related public education. Heritage Management Plans are proposed to continue to be enabled as a pro-active heritage management and planning tool.

Agreements with First Nations

Greater clarity on the scope of agreements with First Nations will be included in the proposed legislative package

While some local governments and stakeholders generally supported enabling shared decision making with First Nations on Crown land, others raised concerns about potential added complexity and uncertainty. Moving forward, it is intended that Declaration Act s.6 and 7 agreements will be enabled on Crown land, but will be limited in scope to certain provisions of the HCA.

As is the case in the current legislation, a suite of operational agreement opportunities are also proposed to enable First Nations to participate in operational items (e.g., collection, care, and management of heritage objects and ancestral remains). Where a proposed operational agreement affects private landowner interests, agreement of the private landowner would be required. More information on these agreements can be found in the technical policy paper.

Compliance and Enforcement (C&E) agreements will not be included in the proposed legislative package

While First Nations were generally supportive of compliance and enforcement agreements, including the ability to be delegated compliance and enforcement authorities, stakeholders and local governments raised concerns about delegating compliance and enforcement powers, including lack of clarity around governance, decision-making authority, appeals, and provincial oversight, and potential for inconsistent enforcement across jurisdictions.

Moving forward, specific compliance and enforcement agreements will not be included in the proposed legislative package. The Province will continue to explore opportunities for greater information sharing with First Nations on compliance and enforcement activities and use existing tools and mechanisms to support First Nations involvement in compliance and enforcement and monitoring, such as through Guardians programs.

Consent-Seeking on Permit Decisions

“Consent-seeking” language will be removed from permitting decision-making

It was previously proposed that a process for seeking consent on statutory decisions be added to the HCA. This language created confusion. The intent was to reflect and to specify the process for fulfilling existing consultation requirements under s.35 of the *Constitution Act, 1982*, not create a new obligation. Moving forward, “consent-seeking” language will be removed from the proposals. The Province will continue to use existing processes to fulfill the Province’s constitutional duty to consult with First Nations on permitting decisions.

Record of Engagement

Records of engagement will not be a required part of HCA permit applications

It was previously proposed to create a legislative requirement for proponents to submit a record of engagement as part of an HCA permit application. During engagement, we heard concerns that this would place additional burden on proponents, and on First Nations.

Moving forward, a record of engagement will be a recommended best practice but not required in legislation. Guidance will be developed to support this best practice.

Heritage Information Checks

Greater clarity on the proposal

To ensure early awareness about heritage site potential and responsibilities under the HCA for people making land use decisions and project investments, it was proposed to require local government and subdivision approval officers to see proof of an archaeological data check (heritage information check) prior to issuing development and building-related permits or subdivision approvals. Heritage information checks are a free service provided by the Province and support early planning around heritage values to increase certainty and reduce delays for developers related to unforeseen heritage considerations.

Additionally, it was proposed to create a regulation-making authority to require mandatory archaeological data checks (heritage information checks) in prescribed circumstances, such as during the sale of a property.

The intention is to move forward with these proposals while clarifying that a heritage information check would only be required for building permits or property sales that involve ground disturbance (e.g., sale of a 3rd floor condo would not require a heritage information check).

Before regulations are developed, there will be more engagement.

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Intended Outcome 1: Making Permitting Faster and Easier

The policy proposals under this outcome aim to make permitting more efficient and transparent, while ensuring decisions are durable, meet constitutional consultation obligations, and minimize risks to heritage sites. All policy proposals outlined in this section are subject to final decision from the Province.

1.1: Project-based permit

Current State

Currently, a single project may require up to three separate permit types, issued in sequence, with lengthy wait times and little flexibility to align with project phases. Site identification and assessment must be completed before alteration permits (and amendments) can be applied for, resulting in long start and stop project timelines and, in some cases, duplicative consultation with First Nations that does not provide a complete picture of the project, potential impacts to heritage values, and proposed heritage management measures.

Requiring permits to be held by archaeologists further compounds these challenges, often necessitating multiple permits for a single project and creating barriers to transferring work between archaeology firms.

What was proposed in the Phase 3 Session Primer

- Replace the HCA's current three permit structure with a single project-based permit model
- New permitting processes will not compromise or reduce opportunities for meaningful consultation with First Nations at key project junctures

Further details on the proposals

Based on feedback received from Phase 3 engagement and further analysis, the following policy changes are proposed:

- Heritage Inspection, Heritage Investigation and Alteration permits are proposed to be replaced with a single project-based permit model
- Permits would be modular, providing flexibility through the permit process to align with development phases
- Simultaneous authorizations would allow for concurrent activities
- Consulting with First Nations on the entire permit and various scenarios upfront could, in many cases, allow for proceeding to alteration without applying for a new permit, including on previously unassessed sites
 - This would be subject to meeting conditions outlined in the initial application, including that

Expected Benefits

- The proposed new project permit model would simplify administration for all parties by reducing duplication in application requirements and processes, decision points, and resulting delays, without compromising necessary information or meaningful consultation
- Conditional and simultaneous authorizations would increase flexibility and support project continuity when sites are encountered, providing greater process and timeline certainty for proponents
- Fewer overall authorizations and referrals would be expected to free up capacity for all parties involved in the HCA permitting process and reduce wait times for those seeking a permit

the archaeological assessment aligns with anticipated site findings

- Would enable the proponent to be the permit holder in more circumstances
- Permits terms could last for the length of project
- Streamlined reporting requirements

- Additionally, the proposed model would enable multiple consultants to work under a single permit, eliminating the need for multiple permits held by different firms, allowing proponents to more efficiently manage their projects

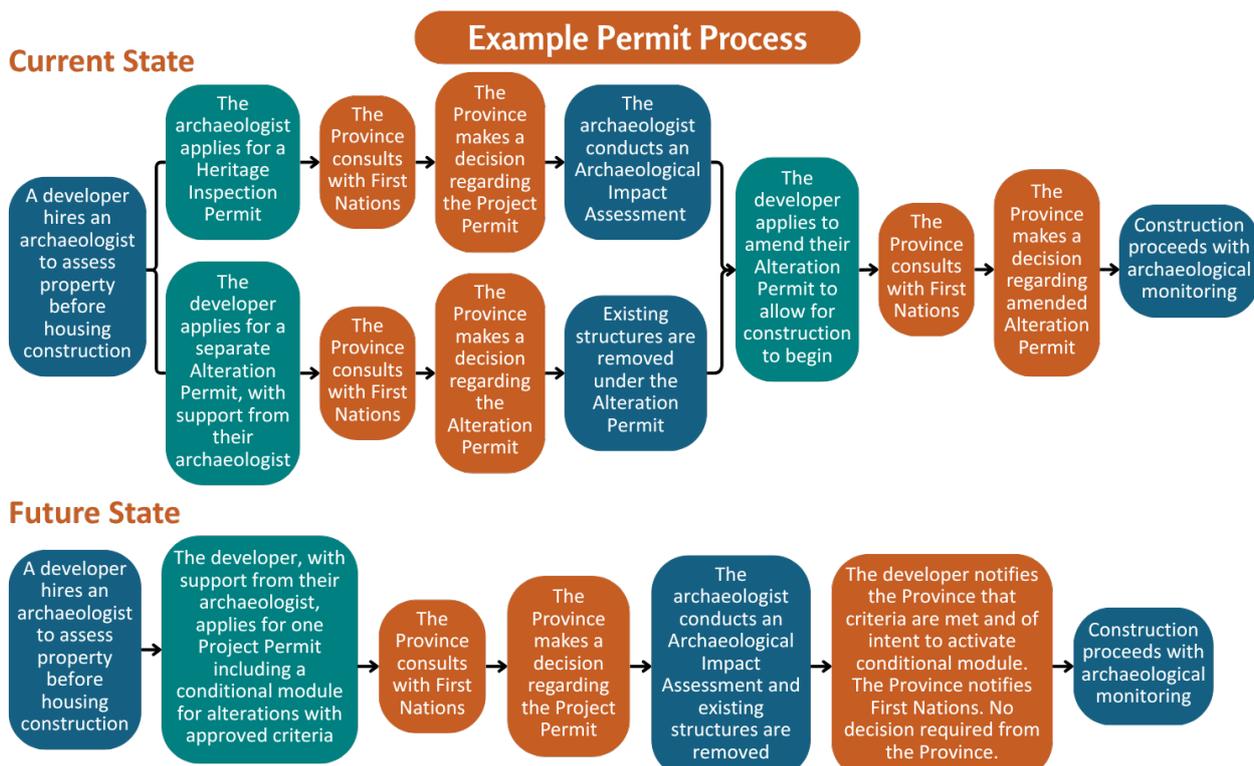
Example Permit Process for a small project such as a residential construction project

The following diagram shows how the proposed new HCA permit process would be streamlined for a typical residential construction project. It would require fewer permits, reduce the number of decision points and cut down on reporting, without compromising meaningful consultation with First Nations and durable, well-informed decisions.

Current State: a project needs separate HCA permits for archaeological assessments and alterations to heritage sites, sometimes requiring subsequent permit amendments. Each permit or amendment requires its own application process, consultation with First Nations, decisions and reports. This can lead to duplicated work, lengthy timelines, and a delay at any one step can bring a project to a halt.

Future State: a project could use one project-based permit with two application modules—archaeological impact assessment and conditional site alteration—that would be reviewed together. The permit would be referred to First Nations once, covering both modules, before the Province makes a single decision.

The conditional site alteration module could propose heritage management measures, such as the removal of structures atop a heritage site and impact mitigation work to take place based on anticipated archaeological deposits prior to the archaeological assessment taking place. Where consulted upon conditions are met, through an interim report shared with First Nations and accepted by the Province, site alterations/construction could start without needing a new permit or permit amendment. A single, final summary report would be submitted post-construction.



1.2: Fit-for-use permits

Current State

The current HCA provides no formal legislative structure for multi-assessment permits nor dedicated permits for research, conservation, or emergency management. As a result, existing permitting tools can be poorly suited to the types of projects they are used for.

What was proposed in the Phase 3 Session Primer

- Create several fit-for-use permit types:
 - A conservation and research permit
 - A multi-project permit framework with enhanced notice of intent process
 - A disaster response and recovery permit (this proposed change is described below under “helping people and communities rebuild quicker after disasters”)

Further details on the proposals

Based on feedback received from Phase 3 engagement and further analysis, the following policy changes are proposed:

- A conservation and research permit could be used for:
 - Altering a site to protect or conserve heritage (e.g., installing a retaining wall to protect a site from wave erosion)
 - Enhancing the heritage value of a site (e.g., installing a guided walkway with information boards about the history of a site)
 - Undertaking a university field school
 - Undertaking heritage research (not to support development) such as a heritage inventory
 - Permits may be held by (individuals identified by) a First Nation, community group or an archaeologist
 - Increased accessibility:
 - B.C. First Nations knowledge holders and university researchers could hold and lead these permits
- A multi-project permit framework could codify the existing Notice of Intent (NOI) process in legislation and include clarity that authorization is only extended when all parties have had opportunity to comment. The permit could be used for both assessments and alterations over multiple areas including:
 - Local Government and other infrastructure maintenance
 - Mining, forestry and other natural resources projects
 - Highways and other linear projects
- Additional details would be described in policy

Expected Benefits

- The proposed conservation and research permit would support First Nations in conserving and researching their heritage
- The proposed multi-project permit would reduce the administrative burden for proponents, First Nations, and the Province by integrating the ability to apply for alterations under the same permit, and the flexibility of using modules and conditional/simultaneous authorizations described in the single project permit above

For Example

A research permit issued to a university and First Nation to run a field school to train archaeologists could be held by a university researcher, with a term length that aligns with grant timelines.

1.3: Modified permitting requirements

Current State

The HCA provides little flexibility to tailor permit requirements for low impact activities, resulting in a full permitting process even when the ground-altering activity or development poses minimal risk to a heritage site.

What was proposed in the Phase 3 Session Primer

- Create a regulation-making authority to allow for modified permitting requirements in specific or specified circumstances (e.g., low impact activities such as small footprint developments or rebuilding within the same footprint, building on imported fill, etc.)

Further details on the proposals

Based on feedback received from Phase 3 engagement and further analysis, the following policy changes are proposed:

- Under the new project permit (see project permit), activities would be modular. It is proposed, in regulation, to create “off-the-shelf” permit modules that would allow for streamlined activities for specific circumstances. These activities, associated eligibility, and requirements are proposed to be laid out in regulation. This could include:
 - If rebuilding a house on the same footprint or on imported fill atop a heritage site, no archaeological assessment work would be required and an HCA permit would have simplified requirements
 - When digging a small utility trench or other activities with limited/small-scale land disturbance, there could be reduced requirements
 - Streamlined procedures for subsurface infrastructure maintenance to allow simultaneous assessment and alteration of heritage sites

There will be future opportunities to engage on the details of this regulation.

Expected Benefits

The proposed modified permitting requirements would create greater certainty for proponents conducting certain activities. Off-the-shelf permit modules would allow for faster review and referrals, providing greater predictability and cost-savings.

For Example

Where construction occurs on the same footprint as previous work on top of a heritage site, a proponent could proceed with simplified permitting requirements (e.g., filling out a form) that do not require obtaining an archaeologist.

1.4: Statutory Decision-Making Criteria

Current State

Under the current HCA, it is unclear how permit decisions are made and which factors are considered. This lack of transparency creates uncertainty for applicants and First Nations and undermines confidence in the consistency and fairness of permitting decisions.

What was proposed in the Phase 3 Session Primer

To enhance transparency about how permitting decisions are made, bolster HCA permit decision-making criteria:

- Include a process for consulting and cooperating with First Nations on statutory decisions
- Decision-making criteria could include consideration of the following (in no particular order):
 - First Nations information, knowledge, policies and/or laws
 - Statements of site significance and heritage value
 - Whether principles of site avoidance/non-disturbance/minimizing disturbance of cultural heritage have been followed
 - Cumulative impacts to affected sites
 - Whether or not affected First Nations have provided their consent
 - Negotiated mitigations/accommodations
 - Any existing agreements and/or heritage management plans
 - Public interest
 - Proponent performance history
- Where impacts to sites are unavoidable, bolster the provincial government’s ability to issue permits that include terms and conditions surrounding agreed-upon work (e.g., enhanced site recording, sampling and analyses, monitoring, other measures to address loss of heritage)

Further details on the proposals

Based on feedback received from Phase 3 engagement and further analysis, the following policy changes are proposed:

- Clarify criteria that the Minister must consider when determining whether or not to issue a permit. Rather than the more extensive list above, the criteria proposed to be in legislation are (in alphabetical order):
 - Existing agreements and heritage management plans
 - Impacts to heritage sites and objects
 - Public interest
 - Submissions from affected First Nations
- Clarify that additional conservation activities agreed to by proponents and First Nations to mitigate impacts to heritage may be considered in the decision to issue an HCA permit
 - Broadly define “conservation” to encompass a wide scope of activities that support heritage conservation

Expected Benefits

The proposed statutory decision-making criteria would give proponents and First Nations a clear understanding of how decisions under the HCA are made.

For Example

When a local government submits a permit application for a new watermain, the Minister considers the required decision making criteria, including the potential impacts to heritage sites that intersect the project area, information submitted by affected First Nations regarding the sensitivity of sites along the project corridor, and how the watermain will benefit the residents in the area. After considering the criteria, the Minister issues the permit, documenting their decision rationale.

1.5: Introduce greater regulation of the archaeology profession

Current State

Currently the Province's regulatory authority over the archaeology profession is largely through permit requirements and establishing expected qualifications for permit holders under the HCA. There is no process or structure that provides consistent and accountable oversight of the profession.

What was proposed in the Phase 3 Session Primer

- Clarify authorities in the HCA to regulate the archaeology sector
- Enable the charging of fees for registered archaeologists

Further details on the proposals

Based on feedback received from Phase 3 engagement and further analysis, the following policy changes are proposed:

- Establish a regulatory framework for archaeologists conducting work under HCA permits. Components of a framework may include:
 - A public facing registry of qualified archaeologists
 - Registrant categories (e.g., field director) and which activities they may undertake
 - Professional standards and guidelines
 - Standards of professional conduct
 - Continuing professional development requirements
 - A formal compliance framework (e.g., complaints, auditing and remedial actions)
 - Recognition of equivalent knowledge and experience held by First Nations

The authority to make regulations to regulate the profession is proposed to be in legislation. There will be more engagement before regulations are developed.

Expected Benefits

The proposal to increase oversight of the archaeology profession would lead to timelier permitting decision, and a transparent framework for more consistent and predictable archaeological work.

For Example

A residential developer can select an archaeologist directly from a public registry of qualified professionals and have certainty that individuals on this register have met required provincial qualifications and standards.

Intended Outcome 2: Helping People and Communities Rebuild Quicker After Disasters

The objective of the policy proposals under this outcome is to support disaster-impacted communities by providing greater flexibility in the HCA to respond and recover from disasters such as wildfires and floods, and allow people impacted by disasters to return home faster. The proposed tools will compliment authorities in the *Emergency and Disaster Management Act* (EDMA). All policy proposals outlined in this section are subject to final decision from the Province.

2.1: Allow for permitting flexibility to support emergency management

Current State

There is no legislative structure for emergency response and recovery permits under the HCA, and a lack of legislative tools to support community disaster recovery and emergency repair work. These gaps can lead to delays and unexpected costs.

What was proposed in the Phase 3 Session Primer

- Create an authority allowing the minister to make exemptions to the permitting regime (e.g., where there is an imminent threat to life or public health) to support urgent emergency/disaster response and recovery activities, with circumstances to be prescribed
- Create a regulation-making authority to allow for modified permitting requirements for specified or specified circumstances (for more information see item “1.3: Modified permitting requirements” above)
- Create a fit-for-use disaster response and recovery permit

Further details on the proposals

Based on feedback received from Phase 3 engagement and further analysis, the following policy changes are proposed:

Create a range of tools to support heritage management during emergency management activities:

- **Emergency exemption in regulation**
 - In circumstances outlined in regulation, certain critical infrastructure operators, including local governments, are proposed to be exempt from permit requirements when carrying out emergency repairs
 - This exemption would only apply to emergency incidents posing an imminent threat to life or public health
 - Follow-up requirements could include:
 - Prompt notification to the Province and First Nations
 - Completion of a post-impact assessment
 - Submission of reports on work undertaken
- **Ministerial order**
 - In urgent situations posing a threat to life, public health, or heritage, the minister may issue an order exempting specified persons, such as private land owners, from HCA permit requirements. The order would set out conditions, including notification to First Nations, required heritage activities, and reporting, and could be issued or renewed for up to 90 days

- This tool would provide more flexibility to add new persons and circumstances specific to the emergency event that may not be included in the regulation noted above
- **Emergency management permit**
 - HCA permit designed to support heritage conservation in emergency response, recovery, and mitigation scenarios
 - Permits may include multiple proponents and archaeologists and could be held by the Province, allowing impacted homeowners to be added quickly and reducing duplicative work across communities
 - Permits would reflect existing emergency management agreements and plans
 - Under this permit, special allowances could be made to modify or reduce permitting requirements in collaboration with affected local governments and in consultation and cooperation with First Nations to support the recovery of a community impacted by an emergency
- **Modified permitting requirements in regulation (see also 1.3)**
 - In addition to broader circumstances outlined in 1.3, this regulation could pre-define circumstances where permit requirements could be modified for disaster reconstruction and recovery. Circumstances could include clarifying that archaeological work would not be required for activities like rebuilding on the same footprint, or with imported fill

Policy work is underway to identify appropriate linkages to the EDMA. The authority to make regulations to make emergency exemptions is proposed to be in legislation. There will be more engagement before regulations are developed.

Expected Benefits

The proposals for tools to support emergency management during emergency management activities would:

- Enable rapid, flexible response to emergencies
- Streamline an approach where standard permitting is not appropriate
- Reduce administrative burden and delays during and after critical incidents

For Example

- When a local government sewer pipe suddenly breaks within a heritage site, the local government goes ahead and makes emergency repairs and notifies the province. A post-impact assessment of heritage is conducted, and reports are provided to the province and to First Nations
- As an emergency enters the recovery phase, the Minister issues a tailored permit, developed in collaboration with affected local governments and in consultation and cooperation with First Nations, to support faster rebuilding while ensuring the protection of heritage

The HCA Emergency Management Toolkit graphic below outlines proposed tools, including the existing authority under section 83 of the EDMA to indicate the scope of the proposed HCA emergency management toolkit, and some of the scenarios they could help address.

HCA Emergency Management Toolkit

	Emergency Exemption in Regulation	Ministerial Order	Emergency Management Permit	Modified Permitting Requirements in Regulation	EDMA s. 83 Modification of Enactments
Infrastructure Failures or Critical Incident Examples: Sewer-line break, fallen Hydro pole					
Disaster Risk Reduction Examples: Seasonal debris management, flood mitigation, controlled burns					
Emergency Response Examples: Landslide, wildfire or flood response					
Emergency Recovery Examples: Community recovery, fireguard rehabilitation					
Major Disaster Examples: Catastrophic earthquake					

Intended Outcome 3: Strengthening the Role of First Nations in Management of Their Cultural Heritage

The objective of the policy proposals under this outcome is to expressly acknowledge or respect First Nations' rights to maintain, control, protect, and develop their heritage, traditional knowledge, and traditional cultural expressions, and to recognize First Nations' authority and jurisdiction as decision-makers regarding the care and management of their heritage. All policy proposals outlined in this section are subject to final decision from the Province.

3.1: Affirm First Nations' rights related to cultural heritage

Current State

While First Nations have Constitutional rights to be consulted with respect to decisions that impact their Aboriginal rights under section 35 of the *Constitution Act, 1982*, the current HCA does not include an explicit affirmation of First Nations' rights, or statements to guide the interpretation and administration of the HCA in relation to cultural heritage.

What was proposed in the Phase 3 Session Primer

- Amend the HCA to affirm First Nations' inherent right to self-determination, including self-government, recognized and affirmed by Section 35 of the *Constitution Act, 1982* and the *United Nations Declaration on the Rights of Indigenous Peoples*, which includes jurisdiction/law-making authority/responsibility in relation to the protection, management, and development of their heritage
- Include in the HCA principles related to First Nations' data sovereignty, place names, repatriation/rematriation, avoidance/non-disturbance/minimizing disturbance of cultural heritage

Further details on the proposals

Based on feedback received from Phase 3 engagement and further analysis, the following policy changes are proposed:

- The proposal to affirm First Nations rights with respect to their heritage in the context of the HCA remains a priority
- It is expected that there will be a series of statements that guide the interpretation and administration of the HCA including:
 - Cultural heritage has inherent value to the Province
 - Cultural heritage should be cared for with respect and dignity and in a way that minimizes disturbance
- Additional statements will continue to be refined throughout the drafting process

While these statements would affirm First Nations' rights and guide how the HCA is administered, statutory decision-making authority under the HCA would remain with the Province, unless otherwise provided for through an agreement. Detailed guidance would be developed to ensure it is clear how these statements would work in practice.

Expected Benefits

The proposal to include statements that guide the interpretation and administration of the HCA would provide greater clarity on the objectives of the HCA and how it is administered.

3.2: Affirm First Nations as decision-makers regarding where ancestral remains and heritage belongings are held and cared for

Current State

Under the current HCA, ancestral remains and heritage belongings collected under permits are generally required to be deposited in approved repositories, such as museums. This framework excludes many First Nations that wish to care for their ancestral remains and belongings within their own territories or to rebury them in accordance with their laws and practices. The HCA does not currently provide a clear mechanism for First Nations to determine where these items are held or how they are cared for once collected.

What was proposed in the Phase 3 Session Primer

- Create an opt-in process for First Nations to be the decision-makers regarding where Ancestors and belongings collected under permits are held and cared for

Further details on the proposals

Based on feedback received from Phase 3 engagement and further analysis, the following policy changes are proposed:

- First Nations may establish a “deposition framework” that would guide where ancestral remains, belongings and other heritage objects are deposited following a permit or other form of collection
- Once a framework is established and meets established criteria, the minister would use it when making a decision about where heritage objects collected under a permit are deposited
- The framework would detail where it is to be used and what it applies to. It must not be opposed by any affected First Nation, contradict another deposition framework or increase costs
- Repositories, institutions, and other organizations would not be obligated to accept ancestral remains or belongings.
- It is proposed for the HCA to outline a process for amendments, variances and suspensions of deposition frameworks in consultation and cooperation with First Nations

Expected Benefits

- The proposed deposition framework would affirm First Nations as caretakers of their ancestors and belongings
- The proposal would eliminate the need to determine and consult on repository pathways for each individual permit

For Example

A First Nation establishes a deposition framework that covers its territory. All permits issued in this area will use it to determine where collected heritage items are deposited. Outside this area, the default process is applied, where repositories are identified on a permit-by-permit basis.

3.3: Protect Indigenous knowledge and heritage data

Current State

Current Provincial operational policies, as overseen by the Archaeology Branch, restrict access to Indigenous Knowledge and archaeological data. However, First Nations have expressed concerns that these policies do not provide sufficient certainty that sensitive information will remain confidential.

What was proposed in the Phase 3 Session Primer

- Protect confidentiality of Indigenous knowledge and heritage data that is provided in confidence by ensuring that it is only used for the purposes for which it was shared and identifying a limited suite of circumstances in which it may be disclosed
- Circumstances for disclosure could include:
 - Information that is already publicly available
 - Written consent of the First Nation
 - Exercise of a power or duty under the HCA if the information is required
 - To support investigation of a contravention under the HCA
 - If required by court order

Further details on the proposals

Based on feedback received from Phase 3 engagement and further analysis, the following policy changes are proposed:

- Clarify that Indigenous knowledge explicitly shared in confidence may only be used for the purpose for which it was provided and may not be reused or repurposed without the agreement of the First Nation
- Limit disclosure to a defined set of circumstances, including:
 - where the information is publicly available
 - where the First Nation has provided written consent
 - where disclosure is authorized under an applicable agreement
 - where required by a court order, or
 - to support procedural fairness to proponents on HCA permit decisions, with advance notice to the affected First Nation and safeguards to prevent further disclosure

These provisions would complement existing confidentiality protections under the HCA and *the Freedom of Information and Protection of Privacy Act* and are expected to take a similar approach to provisions in other provincial legislation.

Expected Benefits

The proposal to protect Indigenous knowledge would provide clarity and consistency for all parties by clearly setting out when confidential Indigenous knowledge can and cannot be disclosed.

For Example

If a proponent has applied for an HCA permit, a Nation may share information with the Province about a heritage site within the proposed project footprint to support their position on whether or not the permit should be issued and/or what mitigations should be required. The Province would only be able to use the information shared by the First Nation to support their decision on that permit application.

3.4: Continued use and collection of at-risk heritage belongings by First Nations on Crown land

Current State

Currently, First Nations that wish to use and maintain their heritage sites require a permit under the HCA. The permitting process can be costly and time-consuming and may require First Nations to involve external consultants. These barriers may prevent First Nations from being able to take proactive steps to care for and protect their heritage sites and belongings and may risk restricting First Nations in exercising their rights to maintain, control, protect and develop their cultural heritage.

What was proposed in the Phase 3 Session Primer

- In legislation, clarify that certain heritage-related activities conducted by First Nations on Crown land do not constitute an offence or require a permit, such as:
 - Clam garden maintenance
 - Heritage trail maintenance
 - Collection of objects at imminent risk of loss or destruction

Further details on the proposals

Based on feedback received from Phase 3 engagement and further analysis, the following policy changes are proposed:

- Enable the continued use of heritage sites on Crown land:
 - Clarify that First Nations conducting an activity for the continued use of a heritage site for the exercise of s.35 rights would not commit an offence under the HCA if the activities:
 - are located on Crown Land or land agreed to under a heritage management plan
 - do not significantly alter heritage sites
 - do not negatively affect the rights of any other First Nation
 - do not interfere with any other action authorized by the HCA
 - This provision would not provide a right of access nor exemption from authorizations under other statutes
 - Policy guidance would be developed to guide the circumstances and examples these provisions apply to including:
 - Clam garden maintenance
 - Heritage trail maintenance
 - Building and maintaining canoe runs
 - Raising grave poles or totem poles
 - Conducting a pit cook
- Enable conservation and collection of at-risk belongings
 - Clarify that persons authorized by a First Nation would not commit an offence under the HCA if they conduct conservation activities or collect belongings (heritage objects) at-risk of imminent damage, destruction or loss from a site if: the activities do not significantly alter the heritage sites, do not negatively affect the rights of any

Expected Benefits

- The proposal to enable conservation and collection of at-risk heritage belongings would support the exercise of First Nations' constitutionally-protected rights and enables prompt action in relation to potential damage to sites or belongings on Crown land
- The proposal to enable the continued use of heritage sites on Crown land would reduce the administrative burden associated with permits for First Nations to use and maintain their heritage sites on Crown Land

For Example

A First Nation wishes to revitalize a historic clam

other First Nation, do not interfere with any other action authorized by the HCA

- This provision would not provide a right of access nor exemption from any other statute
- First Nations would have to provide notice and reports of any collection

Circumstances and requirements related to the collection of at-risk ancestral remains would be established in regulation, as further policy work would be required to align with other related legislation such as the *Cremation, Interment and Funeral Services Act* and the *Coroner's Act*.

garden and begin collecting clams again. The HCA would be clear that rebuilding the retaining walls and clearing the interior of the garden without an HCA permit does not constitute an offence.

3.5: Enhance opportunities for agreements with First Nations under the HCA

Current State

The current HCA has limited mechanisms to recognize First Nations' authority and jurisdiction as decision-makers regarding the care and management of their heritage. The HCA currently includes the ability for the Province and a First Nation to enter into agreements for certain purposes, including identifying policies and procedures to guide permitting decisions, and to protect heritage sites not otherwise automatically protected. These agreement making powers have been underutilized and do not sufficiently address the broader interests of First Nations.

What was proposed in the Phase 3 Session Primer

Joint or consent-based decision-making agreements under the Declaration Act on Crown land:

- Enable the implementation of the Declaration Act agreements to ensure that First Nations are involved in a range of cultural heritage decisions made under the HCA
 - Broadly enabled, could include designations of heritage sites and objects, permitting decisions, etc.
- Negotiating a Declaration Act agreement is proposed to require a mandate from Cabinet
- These agreements would include dispute resolution processes

Jurisdictional Agreements on Crown land:

- Enable agreements recognizing jurisdictional authority of First Nations, where a First Nation's cultural heritage law would vary application of the HCA in certain circumstances
- Negotiating a jurisdictional agreement is proposed to require a mandate from Cabinet
- Through regulation, the circumstances in which a jurisdictional agreement can be negotiated will be laid out
- Agreements would be limited to certain provisions of the HCA

Operational Agreements:

- Expand the scope of the existing HCA agreements to cover more operational matters related to a First Nations' heritage
- Apply to Crown and/or private lands
- Seeking to change provincial approval level from Cabinet to Minister (depending on scope)
- Items that could be included in operational agreements: [content reorganized for greater clarity]

- Heritage sites and objects to receive protections (current s. 4(a) and (b)); actions that would damage or take away from the value of those sites and objects (current s. 4(5))
- Continued use of sites; provisions around the collection, care, and management of heritage objects and ancestral remains
- Additional/alternative permitting considerations for protected heritage sites and objects (current s. 4(d)); additional decision-making criteria for permits, archaeological methods for identifying and recording sites; cultural protocols
- ~~Certain aspects of heritage management plans~~ (no longer under consideration)
- Public engagement agreements; information sharing protocols
- ~~Delegation of certain compliance and enforcement powers~~ (no longer under consideration)

Further details on the proposals

Based on feedback received from Phase 3 engagement and further analysis, the following policy changes are proposed:

Enhance opportunities for agreements with First Nations under the HCA

Declaration Act s. 6&7 Agreements would allow for joint or consent-based decision-making for specific provisions in the HCA on Crown Land, such as:

- applying aspects of the *Park Act* to provincial heritage properties (e.g., no dumping, restricted use of land)
- prescribing notification and reporting requirements for First Nations for the continued use of heritage sites without a permit
- modifying permitting requirements for specific circumstances within an agreed upon area, such as reduced requirements when rebuilding in an existing footprint within a First Nation's territory
- permit exemptions in emergency scenarios in an agreed upon area, such as watermain breaks within a local government's jurisdiction
- exemptions to the prohibition on possession, sale, and trade of heritage objects, such as an exemption for belongings that have been gifted to that First Nation
- designations of heritage sites, objects, and fossils
- the application of Heritage Management Plans

The proposed legislation would not enable Declaration Act s. 6&7 Agreements for permitting decisions.

These agreements are proposed to require:

- Approval from Cabinet prior to negotiating the agreement
- Consultation with affected parties
- The Province to initiate agreement negotiations when specific circumstances, such as sufficient resources and capacity, are met
- The agreement must be publicly available
- Extensions to the agreement are proposed to be approved by the Minister, where appropriate

Jurisdictional Agreements are proposed to enable the sharing of jurisdiction that would coordinate how First Nations' laws or policies would interact with certain provisions of the HCA. This

coordination may change what aspects of the HCA apply in an agreed upon area. This policy intent is proposed to be achieved using existing mechanisms under the HCA or other agreement mechanisms outlined in this section.

These agreements would require:

- Approval from Cabinet prior to negotiating the agreement
- Consultation with affected parties
- The agreement must be publicly available

Operational agreements would allow for First Nations to have greater participation in operational items. The scope of operational agreements could include any of the items outlined in the Phase 3 primer (see above), but no longer includes delegation of compliance and enforcement or heritage management plans. Heritage management plans are not specifically referenced as they are covered under other proposals (see Heritage Management Plans, Statutory Decision Making Criteria, and Declaration Act Agreements – or individual components of an operational agreement).

These agreements are proposed to require:

- Approval from Minister prior to negotiating the agreement
- Consultation with affected parties
- Where a proposed operational agreement affects private landowner interests, agreement of the private landowner would be required
- The agreement must be publicly available

Expected Benefits

- The operational agreement proposal would provide First Nations with greater participation in operational matters regarding their cultural heritage
- The proposed agreements would provide greater certainty for proponents in agreement areas by clearly setting out a framework for how cultural heritage decisions will be made

For Example

An operational agreement could allow for a First Nation and the Province to co-develop educational material about a heritage site in a Provincial Park.

Intended Outcome 4: Protecting Heritage More Effectively

The objectives of the policy proposals under this outcome are to modernize the protection framework, enhance due diligence and create greater awareness of HCA requirements early in the process, and enhance the compliance and enforcement toolkit. All policy proposals outlined in this section are subject to final decision from the Province.

4.1: Ensure greater recognition of First Nations' values

Current State

The HCA does not consistently reflect what matters most to First Nations, such as ancestral and sacred sites, belongings and ongoing cultural practices. This gap is evident in the language used in the HCA, how key terms are defined, and how the HCA is structured.

What was proposed in the Phase 3 Session Primer

- Enhance the definition of heritage (and related definitions) to include a broader suite of First Nations values (tangible and intangible) without automatically protecting more land
- Items to be considered in a definition include: cultural landscapes, mortuary landscapes, intangible cultural heritage (heritage sites and heritage objects that are of particular spiritual, ceremonial or other cultural value to First Nations), as well as oral histories, place names, language, knowledge, objects and places within Indigenous worldview. Include recognition of fossils
- Reorganize the HCA to clearly identify the existing tools and processes under the HCA to recognize and/or protect heritage, clarify what is or can be protected, and what activities are prohibited without authorization

Further details on the proposals

Based on feedback received from Phase 3 engagement and further analysis, the following policy changes are proposed:

- It is no longer proposed to include references to “intangible heritage,” “cultural landscapes,” or “mortuary landscapes” in the HCA, but instead use language already in the HCA
- Broader cultural concepts such as oral histories, language, and traditional knowledge are proposed to be reflected as “cultural practices” and be eligible for recognition under the HCA. This will not result in land-based protections (see Recognition).
- Definitions in the HCA may be re-written. Careful attention will be paid to the language that reflects the significant and ongoing relationship that First Nations have to their heritage. This may include describing certain terms in the HCA, such as ancestral remains, belongings, and burial places, without changing the scope of what is protected under the HCA
- The reorganization of the HCA will be subject to the legislative drafting process, which has not yet begun

Expected Benefits

The proposed changes would improve alignment with First Nations values and worldviews.

4.2: Maintain and clarify automatic protection criteria

Current State

Currently, automatic protections apply to specific categories of sites and objects, such as burial places, Indigenous rock art, and heritage sites that pre-date 1846. Proposals are intended to clarify, but not expand, these criteria. For example, the definition of heritage wreck is overly broad and can inadvertently capture abandoned water vessels and crashed aircraft that have no heritage value.

What was proposed in the Phase 3 Session Primer

- Ancestral remains, burial places, and rock art are automatically protected, regardless of their age.
- Retain 1846 as a baseline for age-based automatic protections for other site types
- Clarify the automatic protection criteria for certain site types:
 - Culturally modified trees
 - Heritage wrecks that have identified heritage value or may contain human remains

Further details on the proposals

Based on feedback received from Phase 3 engagement and further analysis, the following policy changes are proposed:

- Maintain and clarify automatic protection criteria without expanding the scope of current protections
- Ensure ancestral remains, belongings, burial places, rock art (i.e., petroglyphs, pictographs), and culturally modified trees remain protected and are appropriately described in the HCA, without changing the scope of protections
- The definition of “heritage wreck” is proposed to be amended to ensure only vessels and aircraft with heritage value are protected
- Per 4.1 above, modernize certain terms and definitions to be more reflective of the sensitive nature of ancestral remains and heritage belongings and their significance to First Nations

Expected Benefits

- The proposal would ensure that all partners have a greater understanding of what sites are protected under the HCA
- The proposal to amend the definition of “heritage wreck” would reduce time spent registering modern wrecks, such as abandoned boats, with no heritage value

4.3: Clarify and streamline heritage designation process

Current State

For sites that are not automatically protected under the HCA, a heritage site designation can be made under the HCA, on Crown land or private land. This is not a common process: approximately 100 sites (of over 64,000 sites in the Provincial Heritage Register) have been designated to-date.

When a heritage site designation is made on private land, the land owner is eligible to apply for compensation for loss of market value to their property.

Examples of Heritage designations made to-date include:

- [McAbee Fossil Beds](#)
- [Nuxalk Carrier Grease Trail/Alexander McKenzie Heritage Trail](#)
- [Barkerville Historic Town](#)

Local governments can also make [heritage designations](#) under the *Local Government Act* and these sites are also added to the Provincial Heritage Register.

What was proposed in the Phase 3 Session Primer

- Clarify criteria, process, and procedures for designation of sites identified by First Nations or other groups with post-1846 heritage in the province, including procedural requirements
- Reduce administrative barriers to seeking protections via designations (reduce Provincial approval levels from Cabinet to the minister responsible for the HCA to help streamline the process. It is not being proposed that this decision be available for delegation down from the minister)
- This includes clarifying criteria, process, and procedures for designation of heritage sites that are of particular spiritual, ceremonial or other cultural value to First Nations
- The process for designations will continue to require significant process (impact analysis, engagement with affected parties, consultation with First Nations)

Further details on the proposals

Based on feedback received from Phase 3 engagement and further analysis, the following policy changes are proposed:

- Enable the Minister responsible for the HCA to make designations under sections 9 and 11.1 of the HCA
- The Minister would be required to consult and cooperate with affected First Nations where designations impact First Nations land use and heritage
- There would be increased requirements to engage landowners and affected parties (including local governments and those with existing tenures), and notify the public of proposed designations
- There would be increased requirements to assess impacts on affected parties, current and future land use, and economic activities

Expected Benefits

- The proposed changes to the designations process would create more streamlined pathway for First Nations and other groups to seek protection for important heritage sites
- The proposed changes would give more clarity and certainty for landowners and other affected parties on how they will be involved in heritage designation decisions

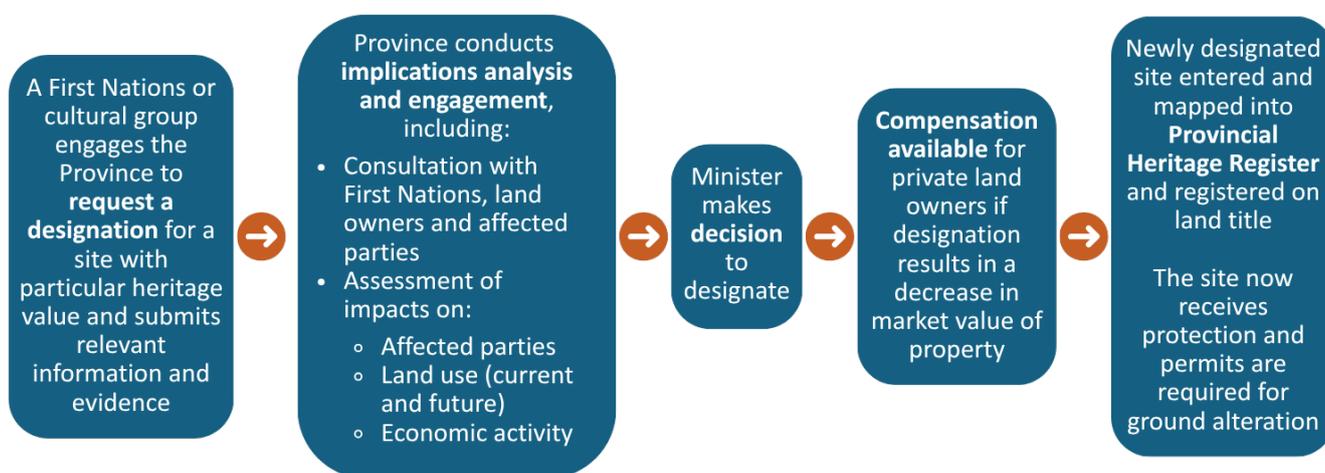
For Example

A First Nation may engage the Province to request a designation for a site with particular heritage value by providing relevant information and evidence. The Province would consult with affected First

- Enhance criteria the Minister would be required to consider before making a designation, including:
 - Results of the consultation and engagement with affected parties
 - Impacts of the designation on affected parties
 - Impact of the designation on current uses (mineral tenures, forest tenures, grazing tenures, etc.)
 - Impact of the designation on other potential uses of the land
 - The necessity of the designation to further the purposes of the HCA

Nations, engage with affected parties, and prepare an impact analysis. When making a decision on whether or not to proceed with the heritage designation, the Minister would balance the heritage value of the area with other land use considerations.

Heritage Site Designation Process



4.4: Clarify and broaden the promotion of diverse cultural heritage in B.C.

Current State

Recognition is an important symbolic and educational tool. Currently, section 18 of the HCA allows for the “promotion of heritage value”, which is typically achieved through certificates and plaques. This section is out-dated and limited in scope, which can restrict opportunities to recognize and promote the full range of heritage values in British Columbia.

What was proposed in the Phase 3 Session Primer

- It is proposed to modernize section 18 of the HCA to create more opportunities to celebrate, commemorate, or mark heritage in an impactful way
- When signs related to heritage recognitions are erected, clarify that this must be done in consultation and cooperation with First Nations
- Clarify that heritage recognition and promotion goes beyond physical sites, but could include cultural practices (e.g., songs, ceremonies, food, traditions). The heritage recognition tool would not protect land or pose any obligations on any party, but is an educational tool to promote and celebrate diverse cultural heritage in B.C.

Further details on the proposals

Based on feedback received from Phase 3 engagement and further analysis, the following policy changes are proposed:

- Clarify that the scope of heritage values that the minister may acknowledge under section 18 includes cultural practices as well as sites and objects
- Clarify that acknowledgement would not be limited to certificates, plaques, or markers, but may include any means the Minister would consider appropriate, such as websites
- When a recognition is related to First Nations heritage, it is proposed to require the Minister to consult and cooperate with affected First Nations
- Where plaques or markers are installed under this provision and do not relate to First Nations heritage, affected First Nations would be notified

*As noted above, the heritage recognition tool would not protect land or pose any obligations on any party

Expected Benefit

The proposed clarifications would provide more inclusive, culturally respectful, and flexible ways to recognize and promote British Columbia's diverse heritage.

For Example

A First Nation identifies a cultural practice, such as traditional herring roe harvesting techniques, it wants the Province to formally recognize to support awareness, celebration, and revitalization of the practice. The Nation requests it be recognized via an educational website and with educational signage at a harvesting site on Crown land.

4.5: Explore mechanisms for distinct protections based on heritage value

Current State

The current HCA largely applies uniform protection and permitting requirements to heritage sites. Tools to differentiate protection requirements relative to heritage value or conservation objectives are not always understood or utilized.

What was proposed in the Phase 3 Session Primer

- Explore, via regulation, the ability to vary protection criteria and permitting requirements based on heritage value and conservation goals, in consultation and cooperation with First Nations
- Protection criteria and permitting requirements could include:
 - Site criteria (e.g., Indigenous cemeteries) which receive greater protection (enhanced avoidance and mitigation measures)
 - Site criteria for sites to be preserved by record (e.g., culturally modified trees impacted by wildfire or pine beetle)

Further details on the proposals

- **Further policy analysis and feedback from Phase 3 engagement has identified a range of existing and/or proposed tools under the HCA that could support the goal of varying protection criteria and permitting requirements based on heritage value and conservation objectives:**
 - Existing ability to include a range of requirements, specifications and conditions in permits reflective of heritage value and conservation objectives

- Existing site designation provisions (see policy item 4.3 above) that allow for including policies or procedures for issuing permits with respect to the designated site(s)
- Existing ability to exempt specific sites from permitting requirements, such as where a site lacks sufficient heritage value to justify its conservation
- Proposed new heritage management plan tool that allows for establishing recommended requirements and specifications for permits pertaining to specific sites within a plan area
- Guidance would be developed to support decision-makers in implementing these tools.
- Additionally, tools that could be applied broadly across specific site types include existing regulation making powers in the HCA that can be used to develop regulations related to protection for different site types.

4.6: Heritage Site Boundaries

Current State

Currently, there is a lack of clarity around how boundaries of sites automatically protected under the HCA are defined and entered into the Provincial Heritage Register and how site boundaries determine permitting requirements. These criteria are presently set out in policy, rather than in legislation/regulation.

What was proposed in the Phase 3 Session Primer

- In legislation, clarify administrative site boundary criteria for entry into the Provincial Heritage Register. These will continue to be based on recorded presence of heritage sites and objects
- To reflect that the presence of heritage sites likely extend beyond areas of recorded evidence, establish “heritage management zones” within the Provincial Heritage Register. These could include areas that are reported to contain heritage value but are not verified
- In regulation, prescribe any additional requirements associated with heritage management zones. This could include the ability to require archaeological data checks, or to compel additional archaeological work within a heritage management zone (e.g., where there is imminent risk or threat to heritage values)

Further details on the proposals

Based on feedback received from Phase 3 engagement and further analysis, the following policy changes are proposed:

- Include criteria for how site boundaries are entered into the Provincial Heritage Register. Some of these criteria may be defined in regulation
- Site boundaries would be based on the presence of physical evidence as observed on/above the ground surface, in exposures, or through archaeological testing
- Site boundaries would include a buffer (proposed to be 5 m unless otherwise prescribed) to help prevent damage to the site and its contents.
- The buffer may be expanded to include a surrounding landform (e.g., the entirety of a small islet) or reduced to account for disturbance (e.g., a cliff edge or area scraped to sterile material)

Expected Benefits

The proposal for site boundaries would increase consistency and transparency regarding how site boundaries are defined and registered.

Criteria regarding boundaries for certain site-types (e.g., culturally modified trees) may be further specified.

4.7: Fossils

Current State

The current HCA does not explicitly address fossils.

What was proposed in the Phase 3 Session Primer

- Clarify that fossils may be included in the definition of heritage object
- Clarify that fossils and fossil sites can be designated as a protected site and can be included in the duty to report

Further details on the proposals

Based on feedback received from Phase 3 engagement and further analysis, the following policy changes are proposed:

- Amend the HCA to explicitly identify that fossils and fossil sites are considered heritage objects and sites and therefore would be eligible for designation (under sections 9 or 11.1) or recognition (under section 18)
- Fossils may also be included in the Duty to Report regulation to be developed in future

Expected Benefits

The proposal for fossils would ensure that fossils are reflected as part of B.C.'s heritage

For Example

A significant fossil site, like [the McAbee fossil site](#), is designated as a heritage site and to manage research, education and recreation in the site.

4.8: Heritage Information Check

Current State

Information about the location of heritage sites in B.C. is sensitive and confidential and protected under the *Freedom of Information and Protection of Privacy Act*, due to the risk of damage or looting.

The Archaeology Branch provides a free [heritage/archaeological information check](#) to those parties with a direct interest or role in a particular property (e.g., property owners, realtors, tenure holders, local governments, First Nations) with details about whether a property overlaps with known protected heritage sites or may contain as-yet unidentified heritage resources, and to provide information about any HCA requirements for development. It does not require hiring an archaeologist to conduct work on a property.

While this free service exists, it is voluntary. There is currently no requirement for local governments to see proof of a heritage information check prior to issuing development and building related permits, meaning that projects can be approved without awareness of heritage considerations, which may only be identified later—sometimes during construction. There is also no requirement to check the Provincial Heritage Register during the sale of property, leading to some purchasers making real estate decisions without a full picture of the property they are buying.

While the Provincial Heritage Register is continually updated as new sites are documented, previously unknown sites may still be discovered during ground altering work.

What was proposed in the Phase 3 Session Primer

- Facilitate early awareness about heritage site potential and responsibilities under the HCA for people making land use decisions and project investments
 - In legislation, require local governments to see proof of a heritage information check prior to issuing development and building-related permits and authorizations
 - Require subdivision approval authorities to see proof of a heritage data check prior to subdivision approvals
- Create a regulation-making authority to require mandatory heritage information checks for prescribed circumstances (e.g., sale of property) and/or entities (e.g., Crown corporations, critical infrastructure operators)
- Explore opportunities to enhance access to some heritage data to a broader set of user groups, without compromising data confidentiality requirements. Specifically, explore the creation of a specific data layer (that only shares limited details such as presence/absence of recorded sites) that can be checked on a plot-by-plot basis in advance of property sales and ground disturbance

Further details on the proposals

Based on feedback received from Phase 3 engagement and further analysis, the following policy changes are proposed:

For Local Governments:

- It is proposed that in legislation, a local government or subdivision approval authority must not issue development or building permits or approvals unless a heritage information request has been completed
- There are a number of ways the heritage information request can be completed:
 - by the local government (through their access to the Remote Access to Archaeological Database [RAAD])
 - by the Province, through a free [heritage/archaeological information check](#)
 - By a third party consulting archaeologist
- The check would only apply to building permits or development approvals which involve ground alteration
- The Province heard that local governments are concerned about liability when they are the entity providing heritage information, directly to their residents; further consideration is being given to these matters

At point of sale, and for entities such as Crown corporations or critical infrastructure owners:

- It is proposed that legislation enable regulations to prescribe:
 - Additional circumstances when an information check would be required (e.g., point of sale, transfer of land title)

Expected Benefits

- The proposal for heritage information checks would support proactive, early planning around heritage values to increase certainty and reduce delays for developers
- Defining certain requirements in a future regulation would allow more time to engage with the real estate community, conduct more policy analysis, and ensure appropriate implementation supports are in place before any new requirement comes into effect

For Example

- The entities that would be required to complete an information check prior to ground altering works (e.g., Crown corporations, critical infrastructure operators)

To ensure successful implementation of these proposals, the Province continues to explore opportunities to make heritage and archaeological information more accessible, including through third party systems. While it is expected that more parties may access heritage information, the Province will continue to be responsible for maintaining the Provincial Heritage Register and the information therein, not parties accessing the data.

Further engagement will be needed to develop any point-of-sale or property transfer duty-to-check regulation. Feedback to-date has emphasized the need for exemptions in cases such as condo sales where no ground disturbance is contemplated.

If a homeowner seeks a permit to build an addition, the local government, when reviewing the building permit, would flag the need to get an information check. If a heritage site is present, the homeowner would learn about their responsibilities under the HCA. A permit may not be required if the heritage site will not be disturbed by their project.

4.9: Clarify tools that enable additional archaeological work to be required

Current State

Section 12.3 and 21 of the HCA allow the Province to require additional archaeological work, but it has not always been clear when these authorities can be used.

What was proposed in the Phase 3 Session Primer

- Clarify and prescribe circumstances in which existing authority to compel archaeological work may be exercised (e.g., heritage management plans recognized through agreements, agreements with First Nations, sites at risk from development activities)

Further details on the proposals

Based on feedback received from Phase 3 engagement and further analysis, the following policy changes are proposed:

- Minor amendments are proposed to section 21 of the HCA to clarify that the tool to ensure preservation of heritage sites in specified circumstances can be used on Crown Land

4.10: Heritage Management Plans

Current State

The HCA lacks a legislative framework for collaborative heritage management plans, meaning informal arrangements with First Nations, local governments, and proponents are not formally recognized, limiting abilities for coordinated planning around heritage.

What was proposed in the Phase 3 Session Primer

- Enable in legislation a framework for “heritage management plans” to proactively manage heritage
- Heritage management plans could be developed with multiple parties (e.g., First Nations, local governments, the Province, proponents). Further details to be prescribed in regulation

Further details on the proposals

Based on feedback received from Phase 3 engagement and further analysis, the following policy changes are proposed:

- A framework for Heritage Management Plans (HMP), formalized through an agreement between parties (e.g., First Nations, Local Governments and/or industry groups) is proposed to be established in legislation
- A HMP would allow for parties to collectively agree and map out heritage management approaches, and would inform how HCA permitting decisions would be made within a plan area
- HMPs are proposed to be used to:
 - Set processes for managing heritage values and sites within defined areas
 - Recommend permit requirements
 - Establish conditions for First Nations' continued use of heritage sites or collection of at-risk belongings on local government land (e.g., maintenance of a heritage trail in a regional park, without interfering with park maintenance or impacting users)
 - Streamline consultation processes for HCA permits

Engagement with First Nations and affected parties on HMPs would be required. HMPs would be publicly available.

Expected Benefits

- The proposal for Heritage Management Plans (HMPs) would support expedited permitting where applications align with an approved HMP
- The proposal for HMPs would provide proponents with clearer guidance on heritage management best practices and First Nations' interests within the plan area
- The proposal would reduce administrative burden on First Nations and the Province by, in some cases, streamlining consultation referrals

For Example

A local government and a First Nation develop a heritage management plan for an area with cultural significance. The plan clearly sets out permitting requirements and how consultation will occur. As a result, proponents—including the local government—know what is expected, and permit applications can be reviewed and processed more efficiently.

4.11: Add Violation Tickets and Administrative Monetary Penalties to the Compliance and Enforcement Toolkit

Current State

Violation tickets are not currently enabled for HCA contraventions, and the current HCA does not allow for administrative penalties for contraventions. These gaps result in less effective and the inability to scalable enforcement of the HCA.

What was proposed in the Phase 3 Session Primer

- Create the ability to issue violation tickets for contraventions of the HCA (by amending the Violation Tickets and Fine Administration Regulation under the *Offence Act*). Fines are proposed to be set at a range of up to \$1,000 but could be issued daily if a contravention continues
- In the HCA, create the ability to issue administrative monetary penalties (AMPs) for more severe contraventions to the HCA, with specific amounts and additional details outlined in a future regulation. These penalties could be substantial and are proposed to be up to a maximum of \$100,000 for an individual and to a maximum of \$1,000,000 for a corporation

- Explore opportunities to direct fine and penalty revenue to a fund to support remediation of impacted heritage sites, including through First Nations

Further details on the proposals

Based on feedback received from Phase 3 engagement and further analysis, the following policy changes are proposed:

- Enable violation ticketing for minor offences under the HCA by amending the Violation Ticket and Fine Administration Regulation (VTAFR) under the *Offence Act*. Amendments to the VTAFR would specify:
 - The violation ticket amount for each contravention
 - Persons authorized to issue violation tickets (e.g., Natural Resource Officers)
- Enable AMPs for more severe contraventions of the HCA. Specific provisions related to AMPs could include:
 - Notification requirements and opportunities to be heard
 - Factors that would determine an AMP amount could include:
 - Previous contraventions of a similar nature by the person
 - Whether the contravention was deliberate, repeated or ongoing
 - The person’s cooperation and corrective actions
 - The seriousness of the contravention

The proposal to divert revenue from fines and penalties is no longer being considered as a legislative item.

The ministry is also exploring amendments that would enable administrative remedies for contraventions of the HCA that may include remedial work orders.

Expected Benefits

The proposal for Violation tickets and AMPs would provide progressive enforcement tools to address contraventions under the HCA, promote compliance, and deter future violations. These tools would better align the HCA with other Natural Resource Sector legislation.

For Example

If a developer ignores a warning notice and continues operations after receiving a Stop Work Order (SWO), they may be subject to an administrative monetary penalty.

4.12: Duty to report heritage finds

Current State

Although HCA permit holders are currently required to report heritage finds to the government as a condition of a permit, there is no legal obligation to report heritage finds when no HCA permits are in place (e.g., chance finds).

What was proposed in the Phase 3 Session Primer

- Through regulation, implement a legal “duty to report” for archaeological and significant heritage finds and clarify the circumstances and entities to whom it applies

Further details on the proposals

Based on feedback received from Phase 3 engagement and further analysis, a duty to report heritage finds regulation could identify:

Expected Benefits

The proposal to enable a duty to report heritage finds regulation would increase awareness of heritage sites, strengthen the record of known sites,

- The entities required to report (e.g., construction companies conducting ground altering works)
- Objects and sites that must be reported, including fossils
- The time period to report
- Potential exemptions to the requirement

The duty to report requirement would not come into effect until a regulation is created. Further engagement would be needed on the development of this regulation.

Policy would be developed to specify reporting procedures, including information to be included in the report.

and enable earlier identification and protection of heritage before damage occurs.

For Example

A worker in a park is maintaining a trail, and encounters stone tools and reports the find to the Province, allowing the site to be recorded and conserved before damage occurs.

4.13: Prohibit possession, sale and trade of heritage objects

Current State

There is presently no legislative prohibition on the possession, sale, or trade of heritage objects. This represents a significant gap in the legislation. In practice, there are no legal mechanisms available to intervene when heritage objects are advertised for sale through online platforms. As a result, the responsibility to inform the public and encourage the voluntary return of such items has largely fallen to First Nations, placing an undue burden on communities whose cultural property is at risk.

What was proposed in the Phase 3 Session Primer

- Prohibit possession, sale, and trade of heritage objects

Further details on the proposals

Based on feedback received from Phase 3 engagement and further analysis, the following policy changes are proposed:

- Create an offence that would prohibit the possession, sale, or trade of prescribed types of heritage objects unless the activity is authorized or the individual or institution is exempt from the prohibition (for example, repositories and museums could be exempt from prohibition on possession and trade)
- Regulations would identify:
 - The persons or groups of persons who are subject to this provision.
 - Heritage objects or belongings that are subject to this provision
 - Exemptions to the provisions
 - Amnesty periods may be included to support public education before full implementation

Setting details in regulation would allow for phased implementation, ensuring enforcement capacity and appropriate public education and resources are in place.

Expected Benefits

- The proposal to prohibit possession, sale and trade of heritage objects would reduce commodification, trafficking, and looting of heritage objects
- Strengthens First Nations' ability to protect their heritage

For Example

If someone lists a protected heritage object for sale on an online marketplace (e.g., an auction or resale site), they could face a fine or penalty.

4.14: Enhance compliance and enforcement regime

Current State

The HCA's current compliance and enforcement tools are limited. Processes for handling seized or forfeited heritage objects are not clearly laid out. Rules for stop-work orders have some ambiguity and there is no explicit authority for public disclosure of contraventions. These gaps reduce consistency, accountability, and effectiveness across the enforcement regime.

What was proposed in the Phase 3 Session Primer

- Amend and enhance the HCA to address and guide the collection, treatment, care and disposition of collected, seized and forfeited heritage objects to a repository and/or descendent communities
- Enhance permit enforcement and auditing measures, including enabling the minister, in consultation and cooperation with First Nations, to order compensatory conservation work for loss of heritage value and harms to affected First Nations
- Clarify rules for issuance and extension of stop work orders
- Enhance civil remedy orders to include requirements to consult and cooperate with First Nations, without interfering with prosecutorial independence
- Clarify authority to publicly disclose specific information related to contraveners and offenders of the HCA

Further details on the proposals

Based on feedback received from Phase 3 engagement and further analysis, the following policy changes are proposed:

Disposition of collected, seized and forfeited heritage objects

- When evidence is collected through an enforcement investigation, promote methods of respectful treatment and care of the evidence and ensure that it would be returned to appropriate places in consultation and cooperation with affected First Nations

Enhance permit enforcement and auditing measures

- Failure to follow requirements, specifications and conditions of a permit will continue to be an offence under the HCA and would be subject to newly established fines and penalties (e.g., violation tickets and AMPs)
- Auditing of permitted work would be enhanced through the proposed regulation of the archaeology profession

Stop work orders

- It is proposed to clarify that the minister may issue a new SWO for the same contravention or a new contravention on the same site, if a previous SWO has expired or been rescinded
- In regulation, clarify ability to extend a stop work order beyond the initial 120 days, and circumstances or limitations that should apply to the issuance of new SWOs

Expected Benefits

The proposals for enhancing the compliance and enforcement regime would strengthen protection of heritage sites and objects through clearer, more effective, and more accountable compliance and enforcement tools.

For Example

A Natural Resource Officer (NRO) seizes First Nations' Belongings as evidence during an HCA investigation. In handling the items, the NRO takes measures to care for and handle heritage objects respectfully. Once the

Civil remedy orders

- Further policy work is underway to identify how civil remedy orders can be improved

Public Disclosure of Contraveners of the HCA

- Clarify that certain information may be disclosed with respect to a person who is convicted of an offence, has paid or is liable to pay an administrative penalty, or is subject to another sanction under the HCA
- This information would be published in the Natural Resource Compliance and Enforcement Database
- Sensitive information would be omitted (e.g., any location information that can be used to locate a heritage site; this provision would be administered in accordance with the *Freedom of Information and Protection of Privacy Act*)

investigation concludes, the NRO returns them to the First Nation in accordance with the First Nation's deposition framework (see item 3.2).

4.15: First Nations' role in compliance and enforcement

Current State

There are limited opportunities under the current HCA for First Nations to be involved in compliance and enforcement activities.

What was proposed in the Phase 3 Session Primer

- Enable First Nations to exercise certain HCA compliance and enforcement duties by entering into agreements or other arrangements with the Province. These arrangements would be subject to certain criteria (training, experiential requirements, etc.) and subject to oversight from the Province

Further details on the proposals

Based on feedback from Phase 3 engagement and further analysis, no specific agreement type that allows for delegation of compliance and enforcement powers will be outlined in the HCA. Other ways of enhancing First Nations involvement in enforcement include:

- Information sharing agreements would be available under operational agreements, which would allow First Nations to be quickly informed about compliance and enforcement actions taking place in their territories, such as stop work orders or notices of non-compliance
- Explore existing mechanisms, tools, and programs to support First Nations involvement in compliance and enforcement activities, such as First Nations Guardians' and similar programs and opportunities that strengthen partnerships between B.C. and First Nations in compliance, enforcement and monitoring

Appendix 1: Summary of HCATP Engagement To-Date

Engagement on the HCATP started in 2022 and has proceeded in phases. Phase 1 engagement (Summer/Fall 2022) focused on identifying priority areas for change, while Phase 2 engagement (Fall 2023) sought feedback on proposed short-term legislative changes. In these two phases, a total of 454 individuals participated in engagement sessions, representing over 225 different organizations across various sectors including First Nations, local and federal governments, heritage and archeology professionals, natural resource development proponents, construction and real estate industries, and academics.

We are currently in Phase 3. Engagement on proposed changes to the HCA began in Summer 2025 and continued throughout the Fall. During this round of engagement, feedback was received through: consultation with First Nations; engagement with local governments, including presenting at the Union of B.C. Municipalities’ Convention in September 2025; stakeholders, and the general public. The purpose of this round of engagement was to gather input on how proposed changes to the HCA should be implemented (through legislation, regulations, or policy) and to identify key implementation considerations to ensure no unintended consequences, and to use this feedback to inform a Request for Legislation and subsequent legislative drafting.

More details on Phase 3 engagement participation and methods can be found in the following table:

Table 1. Number of Phase 3 engagement participants by stream and method.

First Nations	Local Governments	Stakeholders	Public
<p>101 First Nations and 5 First Nation Organizations represented through:</p> <ul style="list-style-type: none"> • 5 virtual sessions • 18 meetings • 33 written Submissions, including through feedback forms 	<p>90 Local Governments and 4 Local Government Organizations/Boards represented through:</p> <ul style="list-style-type: none"> • 1 dedicated LG virtual session • Invitation to 2 broad stakeholder virtual sessions • 40 written submissions, including through feedback forms • More than 8 one-on-one meetings 	<p>144 organizations represented through:</p> <ul style="list-style-type: none"> • 2 virtual sessions • 2 stakeholder-hosted sessions • 66 written submissions, including through feedback forms • More than 35 one-one-one meetings 	<p>2,037 public surveys submitted</p>

To learn more about engagement in Phases 1 and 2, access engagement reports here:

<https://engage.gov.bc.ca/heritageconservationact/what-weve-heard/>. Detailed information on engagement feedback will be shared after the culmination of Phase 3.