



COMMITTEE OF THE WHOLE - NOTICE OF SPECIAL MEETING



Thursday, November 6, 2025

Strathcona Regional District offices located at 990 Cedar Street, Campbell River, BC commencing at 10:30 am

The purpose of this meeting is to permit consideration of matters listed on the agenda below and, where appropriate, to provide recommendations to the Regional Board. Unless otherwise noted, all resolutions will be decided pursuant to section 208(1) of the Local Government Act, which requires that all directors in attendance vote and each director receives one vote.

[Hide Notes](#)

A. CONFIRMATION OF QUORUM

The Chair will determine that a quorum is present and have the names of the directors present recorded in the minutes. [\[Add Note\]](#)

B. CALL TO ORDER

The Chair will call the meeting to order following confirmation of a quorum. [\[Add Note\]](#)

C. FIRST NATIONS TERRITORIAL ACKNOWLEDGEMENT

The Chair will acknowledge that we are located on the traditional territory of the Laichwiltach people. [\[Add Note\]](#)

D. ADOPTION OF PUBLIC AGENDA

THAT the agenda for the November 6, 2025 special meeting of the Committee of the Whole be adopted as presented. [\[Add Note\]](#)

E. PETITIONS AND DELEGATIONS

There are no petitions or delegations scheduled for the current meeting of the Committee of the Whole. [\[Add Note\]](#)

F. ADOPTION OF MINUTES

THAT the minutes of the special meeting of the Committee of the Whole held on June 18, 2025 be adopted. [\[Item\]](#) [\[Add Note\]](#)

G. BUSINESS ARISING FROM MINUTES

Following adoption of the previous meeting minutes the Chair will provide an opportunity for directors to introduce further resolutions in respect of matters contained in the minutes that are not otherwise scheduled for consideration on the current agenda. [\[Add Note\]](#)

H. CHAIR'S REPORT

I. STAFF REPORTS

Heritage Conservation Act Transformation Project [\[Add Note\]](#)

THAT the report from the Chief Administrative Officer be received. [\[Item\]](#) [\[Add Note\]](#)

J. CLOSED SESSION

K. TERMINATION

THAT the November 6, 2025 special meeting of the Committee of the Whole be terminated. [\[Add Note\]](#)



COMMITTEE OF THE WHOLE

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Minutes of the special meeting of the Committee of the Whole held on Wednesday, June 18, 2025 in the Strathcona Regional District office located at 990 Cedar Street, Campbell River, B.C.

A quorum having been confirmed, the Chair called the meeting to order at 12:31 p.m. with the following directors physically in attendance or participating electronically:

Chair:	D. Chapman	City of Campbell River
Directors:	M. Baker	Village of Sayward
	J. Colborne	Village of Zeballos
	K. Dahl	City of Campbell River
	M. Davis	Village of Tahsis
	R. Kerr	City of Campbell River
	R. Mawhinney	Discovery Islands-Mainland Inlets (Electoral Area C)
	J. Rice	Oyster Bay-Buttle Lake (Electoral Area D)
	S. Sinnott	City of Campbell River
	M. Vonesch	Cortes Island (Electoral Area B)
	G. Whalley	Kyuquot/Nootka-Sayward (Electoral Area A)

FIRST NATIONS TERRITORIAL ACKNOWLEDGEMENT

The Chair acknowledged that we are located on the traditional territory of the Laichwiltach people.

ADOPTION OF MINUTES

Whalley/Vonesch: COW 13/25

THAT the minutes of the special meeting of the Committee of the Whole held on April 30, 2025 be adopted. [[Item](#)]

CARRIED

STAFF REPORTS

Director Compensation

Whalley/Rice: COW 14/25

THAT the report from the Chief Administrative Officer be received. [[Item](#)]

Director Lanyon arrived at the meeting chambers.

Directors Dahl and Kerr left the meeting chambers.

Director Lott joined the meeting.

A vote was held on the motion and it was...

CARRIED

Director Dahl returned to the meeting chambers.

Sinnott/Davis: COW 15/25

THAT staff work with municipalities to prepare a report outlining options for better public disclosure of comprehensive remuneration of elected officials of the Strathcona Regional District, and

THAT the report include remuneration from all external agencies such as Comox Strathcona Regional Hospital and Waste Management boards.

CARRIED

Corporate Administrative Support Cost Allocation Policy

Whalley/Vonesch: COW 16/25

THAT the report from the Chief Administrative Officer be received. [\[Item\]](#)

The Chief Financial Officer made a presentation regarding the Corporate Administrative Support Cost Allocation Policy. [\[Item\]](#)

Director Kerr returned to the meeting chambers.

A vote was held on the motion and it was...

CARRIED

Whalley/Rice: COW 17/25

THAT the draft Corporate Administrative Support Allocation Policy be recommended to the Regional Board for further consideration at this time.

CARRIED

RECESS

The Chair recessed the meeting at 2:07 p.m.

RECONVENE

The meeting reconvened at 2:33 p.m.

STAFF REPORTS (cont.)

Transportation Study

Whalley/Baker: COW 18/25

THAT the report from the Chief Administrative Officer be received. [\[Item\]](#)

The Manager of Parks and Planning made a presentation on regional transportation. [\[Item\]](#)

A vote was held on the motion and it was...

CARRIED

Davis/Rice: COW 19/25

THAT the Regional District advertise existing transportation services in the Strathcona Regional District, and

THAT a Strathcona Regional District transportation service is created, and

THAT discussions are initiated with BC Transit, Island Link, Island Health, and other current transportation providers within the Region to strategize future BC Transit transportation options for the region, including potential purchase or access of vans for unserved areas such as Zeballos, Kyuquot and Tahsis.

Vonesch/Mawhinney: COW 20/25

THAT the motion be amended to add the word "subregional" before the words "transportation service is created".

DEFEATED

*Directors
Colborne, Dahl,
Davis, Kerr,
Lanyon, Rice,
Sinnott, and
Whalley opposed*

A vote was held on the pending motion and it was...

DEFEATED

*Directors Dahl,
Kerr, Lanyon,
Lott, Mawhinney,
Rice, Sinnott,
Vonesch, and
Whalley opposed*

Kerr/Whalley: COW 21/25

THAT a further report to examine potential operational models and service partnerships to Gold River, Tahsis, Sayward, and Zeballos be prepared for the Board's consideration.

Director Sinnott requested that the motion be amended to include other service delivery models such as air and ship.

A vote was held on the motion as amended and it was...

CARRIED

TERMINATION

Whalley/Kerr: COW 22/25

THAT the June 18, 2025 special meeting of the Committee of the Whole be terminated.

CARRIED

Time: 3:32 p.m.

Certified Correct:

Chair

Corporate Officer



STAFF REPORT

DATE: October 28, 2025 **FILE:** 0550-04 COW

TO: Chair and Directors,
Committee of the Whole

FROM: Dave Leitch
Chief Administrative Officer

RE: HERITAGE CONSERVATION ACT TRANSFORMATION PROJECT

PURPOSE/PROBLEM

To consider information regarding the *Heritage Conservation Act* Transformation Project.

EXECUTIVE SUMMARY

In 2019, B.C. committed to aligning its laws with the United Nations Declaration on the Rights of Indigenous Peoples through the *Declaration on the Rights of Indigenous Peoples Act*. This includes the protection and conservation of heritage property, with over 60,000 registered sites, most of which are of First Nations origin. Taking into consideration the need to protect both registered and unregistered sites, the Province launched the three-phase Heritage Conservation Act Transformation Project in November 2021. The Province has developed a website with information about the Heritage Conservation Act Transformation Project, which can be accessed here: [Heritage Conservation Act Transformation Project](#).

Consultation on this project has taken place in three main phases beginning in 2022.

- **Phase 1 (Summer–Fall 2022):** Focused on identifying key areas for improvement through discussions with First Nations, local governments, and other stakeholders.
- **Phase 2 (Fall 2023):** Sought feedback on proposed short-term changes. While participants confirmed the importance of the identified areas, they also expressed strong interest in broader, long-term reforms.
- **Phase 3 (2024–2025):**
 - In January 2024, the Province committed to developing a more comprehensive package of proposed legislative amendments.
 - In August 2025, local governments were invited to participate in additional engagement sessions, preview proposed changes, and provide written feedback by October 1, 2025.
 - Following discussions at the UBCM Convention in September 2025, the feedback deadline was extended to November 14, 2025, and a public survey was launched to gather input from the broader community. The survey can be accessed here: [Heritage Conservation Act Survey](#).

To support consultation with local governments, UBCM initiated its own engagement process, including:

- A survey of CAOs or their delegates, followed by interviews with selected staff (October 9–23, 2025);
- A webinar for elected officials on **November 7, 2025**, to share preliminary findings (all Directors have been registered); and

- Preparation of a final report summarizing results, to be submitted to Ravi Parmar, Minister of Forests, and shared with local governments by November 14, 2025.

Staff has pre-registered all Directors for the November 7, 2025 webinar which will share findings from the survey of local government and First Nation CAO's or their delegates. During this webinar UBCM will gather feedback from elected officials on the findings and the proposed changes to the Heritage Conservation Act.

Directors should have received an email confirming their registration.

Written feedback on the proposed changes to the Heritage Conservation Act can also be submitted by November 14, 2025 which will be included in the submission to the Minister of Forests.

BACKGROUND

The intent of the BC *Heritage Conservation Act* (HCA) is to encourage and facilitate the protection and conservation of heritage property, which includes sites and objects of historical, cultural and archaeological value, in British Columbia.

The Province is presently undertaking the Heritage Conservation Act Transformation Project, aiming to update the *Heritage Conservation Act* (HCA) which it states is to ensure it is consistent with the UN Declaration on the Rights of Indigenous Peoples and to improve the manner in which the HCA is implemented so that it benefits all stakeholders. Current legislation has not undergone significant updates since 1996.

The Project states that it aims to modernize the *Heritage Conservation Act* in response to longstanding concerns with intended outcomes including:

- Streamline the permitting process to minimize delays and improve clarity and ease of navigation through regulatory requirements.
- Support faster recovery for communities and individuals following disasters such as wildfires and floods.
- Enhance heritage protection to minimize the risk of unintentional harm to sacred or culturally significant sites.
- Elevate the role of First Nations in decisions related to their heritage and ancestors in alignment with the UN Declaration on the Rights of Indigenous Peoples.
- Increase transparency and access to information, including easier ways to find out if a protected site exists on a property, to support planning and development decisions.

With respect to the HCA, the Union of BC Municipalities (UBCM) membership has endorsed several resolutions related to its implementation. In 2007 (B139) and 2019 (B52), resolutions requested that the Province provide funding to assist local governments with costs incurred when archaeological materials are encountered during routine infrastructure work (e.g., road, sewer, and water projects) and must be recorded in accordance with the HCA. In response to the 2019 resolution, the Province noted that funding was not available to support these costs.

In 2013, UBCM members endorsed a resolution requesting that the Province consider amendments to the HCA to ensure equitable treatment of property owners affected by unregistered or previously undiscovered archaeological sites on fee simple land.

A number of amendments to the Act include:

- replacing the current 3-permit system with a single project-based permit with the goal to reduce delays and costs.
- proposing that a new regulation-making authority be established to allow for adjustments to permitting requirements in specific circumstances which would provide flexibility to modify permit conditions for low-impact activities, such as construction on

imported fill, small-scale developments, or rebuilding projects that remain within existing footprints.

- proposing that proponents engage with First Nations earlier in the process and include a record of that engagement with permit applications. This requirement is intended to encourage timely and well-documented communication, which may support a more efficient consultation process and facilitate quicker Heritage Conservation Act (HCA) permit decisions.
- proposing that the archaeology profession be subject to greater regulation. As archaeologists in British Columbia are not currently governed by a regulatory body, further work and engagement will be required to develop and implement this change.

The proposed amendments to the HCA would require local governments and realtors to conduct archaeological data checks before issuing building or development permits and before property sales. This requirement is intended to prevent accidental violations of the Heritage Conservation Act (HCA), avoid related penalties, and reduce project delays caused by the unexpected discovery of protected heritage sites.

The proposed changes outline potential consent-based decision-making agreements with First Nations to reflect First Nation laws and authority concerning heritage sites in their territories.

The proposed reforms include a wider variety of agreements to facilitate consent-based decision-making:

- **Joint or Consent-Based Decision-Making Agreements:** These agreements would apply to Crown land and ensure First Nations are involved in decision-making, including permitting decisions, and could include the delegation of compliance and enforcement power to First Nations.
- **Jurisdictional Agreements:** These agreements would formally recognize First Nations' heritage laws and allow the *Heritage Conservation Act* to be applied in ways that reflect those laws within their territories.
- **Operational Agreements:** These agreements could apply to both Crown and private land and would broaden existing section 4 agreements to cover areas such as heritage site protection, permitting, decision-making, cultural protocols, and the ongoing use of heritage sites. (Section 4 agreements under the Heritage Conservation Act are formal agreements with First Nations that set out how heritage sites and objects will be managed, including decision-making, permits, and cultural practices).

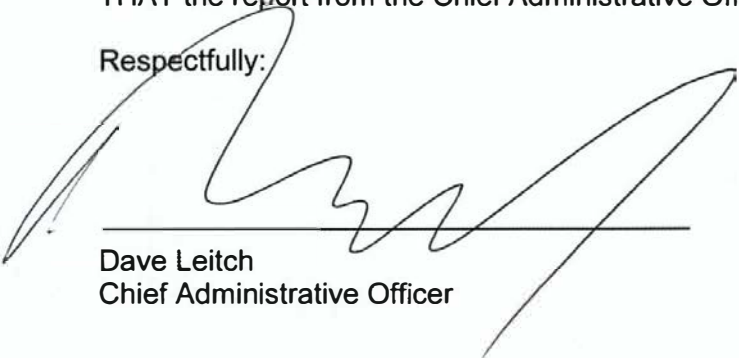
The criteria for entry into these agreements and the full impact of these agreements are not specified but will likely introduce further complexity in heritage permitting.

Furthermore, the proposed changes would clarify how heritage site boundaries are defined and recorded including how Indigenous knowledge and other information is incorporated into that process. The stated intent is to provide local governments with more consistent and reliable boundary information when reviewing development applications or issuing building permits.

RECOMMENDATION

THAT the report from the Chief Administrative Officer be received.

Respectfully:



Dave Leitch
Chief Administrative Officer

Prepared by: E. Watson, Manager, Corporate Operations

Attachment: Heritage Conservation Act Transformation Project – Updated Phase 3
October 15, 2025 UBCM News Release regarding webinars for elected officials
Heritage Conservation Act – UBCM Member Engagement Survey
Heritage Conservation Act Transformation Project Phase 1 – First Nations
Heritage Conservation Act Transformation Project Phase 1 – External Stakeholders
Heritage Conservation Act Transformation Project Phase 2 – What We Heard Report

HERITAGE CONSERVATION ACT TRANSFORMATION PROJECT

UPDATED PHASE 3 SESSION PRIMER FOR ENGAGEMENT WITH LOCAL GOVERNMENTS AND STAKEHOLDERS

This document has been updated as of October 10 to provide greater clarity and detail on certain policy proposals based on what we've heard through engagement to date. Updates are shown in blue italics.

This document provides details on the proposed changes to the Heritage Conservation Act. This session primer is designed to prepare registrants for engagement sessions. The consultation and cooperation process with First Nations and engagement with local governments and stakeholders in earlier phases of the HCATP identified priority areas for change (Phase 1) and defined the scope of reform (Phase 2). Feedback from these earlier phases has informed the proposed changes, categorized into four core outcomes, that are detailed below.

Phase 3 of engagement will focus on determining how these proposals can be implemented through legislation, regulations, or policy. Questions are posed throughout the document to guide feedback and discussion at the upcoming sessions and each session will cover the proposed changes under each of the four core outcomes identified below. Feedback will be used to translate proposals into a Request for Legislation.

Written feedback is also welcome via engageHCA@gov.bc.ca until November 14, 2025.

Photo: Kootenay Region, BC.
(Kevin Floyd 2023)



KEY ENGAGEMENT QUESTIONS

The following questions will be asked during this phase of engagement:

- How does the policy direction support or impact your local government's/organization's/sector's/interests?
- Are there possible unintended consequences of the proposals? How can these be addressed?
- What kinds of guidance, education, or outreach would be needed to support implementation?
- Are there any alternatives we should consider to achieve these outcomes? Is there anyone else we should talk to?

In addition to these broad questions, specific questions and considerations are posed in the right-hand column of the detailed policy proposal table.

MAKING PERMITTING FASTER AND EASIER

The current HCA permitting regime is administratively burdensome and complex—projects require up to three different permits, resulting in long wait-times. These issues have created difficulties for all British Columbians in navigating the permitting process. The objectives of the policy proposals under this core outcome are to make permitting more transparent and efficient for all parties, including enhancing and clarifying First Nations’ role in permitting decisions.

Detailed Policy Direction/Mechanisms	Specific questions and considerations
What is intended to be achieved: Reduce administrative burden and complexity of permit process	
How this can be achieved: • 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 • Create several fit-for-use permit types: ○ A conservation and research permit ○ A multi-assessment permit framework with enhanced notice of intent process ○ A disaster response and recovery permit (this proposed change also supports a core outcome “Helping people and communities rebuild quicker after disasters” described below)	What benefits and/or risks can you identify with a single project-based permit model? The conservation and research permit is primarily intended to advance First Nations’ interests to investigate and conserve their own sites. Are there other activities that this permit type could support? How should the permitting process for these types of permits be different? What steps can be taken to improve the use of multi-assessment permits (e.g., notice of intent process)?
How this can be achieved: Create a regulation-making authority to allow for modified permitting requirements for specific or specified circumstances (e.g., low impact activities such	What circumstances could you imagine needing modified permitting requirements?

as small footprint developments or rebuilding within the same footprint, where First Nations are seeking *reduced* permitting requirements, etc.)

* This proposed change also supports a core outcome "Helping people and communities rebuild quicker after disasters" described below

What is intended to be achieved: Enhance First Nations' influence in permitting decisions and enhance transparency about how permit decisions are made

How this can be achieved:

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

Decision-making criteria would be considered by decision-makers when deciding whether or not to issue a permit.

What items would you like to see included as criteria?

How this can be achieved:

Create a legislative requirement to submit a record of engagement conducted by proponents as part of a permit application

How have you seen early engagement with First Nations support timely permitting decisions?

*This process will not replace existing consultation conducted by the Province but may serve to streamline consultation <i>*This is not intended to duplicate other processes. If a proponent is submitting a record of engagement to the Province for another authorization (e.g., Mines Act), that includes discussions of heritage, they can submit this record to the Archaeology Branch</i> <i>*Pre-application engagement is NOT required. A record of engagement could state that no engagement has taken place</i>	Do you already create a record of engagement for some projects? Should a record of engagement be required for all projects or only certain types of projects? What items/considerations should be included in a record of engagement?
How this can be achieved: Where impacts to sites are unavoidable, bolster the provincial government's ability to issue permits that include terms and conditions surrounding <i>agreed-upon</i> compensatory conservation work (e.g., enhanced site recording, sampling and analyses, monitoring, other measures to address loss of heritage)	What compensatory conservation work is already being negotiated between your local government/organization/sector and First Nations? How would a legislative provision support those negotiations?
What is intended to be achieved: Ensure greater regulation of the archaeology profession	
How this can be achieved: • Clarify authorities in the HCA to regulate the archaeology sector • Enable the charging of fees for registered archaeologists	Further engagement on regulation of the archaeology profession will take place in early 2026. What should be considered regarding the regulation of the archaeology profession in B.C.?

HELPING PEOPLE AND COMMUNITIES REBUILD QUICKER AFTER DISASTERS

HCA requirements have created challenges during disaster response and recovery. In the current state, when a homeowner needs to rebuild their home (located on a known or potential heritage site) after a disaster, they often have to get multiple HCA permits and hire an archaeologist, even when rebuilding occurs within existing footprints and/or is considered to minimally impact a heritage site. The objective of the policy proposals under this core outcome is to support disaster-impacted communities by providing greater flexibility to respond and recover from disasters such as wildfires and floods and allow people impacted by disasters to return home faster.

Detailed Policy Direction/Mechanisms	Specific questions and considerations
What is intended to be achieved: Allow for flexibility in the permitting structure in disaster situations	
How this can be achieved: 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	What types of situations do you think warrant an exception from permitting? What mechanisms should be put in place to ensure this authority is used appropriately?
How this can be achieved: Create a disaster response and recovery permit For more information see “Making Permitting Faster and Easier” above	
How this can be achieved: Create a regulation-making authority to allow for modified permitting requirements for specified or specified circumstances For more information see “Making Permitting Faster and Easier” above	

STRENGTHENING THE ROLE OF FIRST NATIONS IN MANAGEMENT OF THEIR CULTURAL HERITAGE

The current HCA does not expressly acknowledge or respect First Nations' rights to maintain, control, protect, and develop their heritage, traditional knowledge, and traditional cultural expressions. Recognition and affirmation of First Nations' values and rights in the transformed HCA is a key objective of the HCATP to support consistency with the UN Declaration.

Additionally, 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 to enter into s. 4 agreements for the purposes of shared decision-making and the protection of sites not otherwise automatically protected. These agreement types have been underutilized and do not sufficiently address the broader interests of First Nations.

The objectives of the policy proposals under this core outcome are:

- To recognize and affirm First Nations' rights regarding their heritage in the HCA, which will guide how the HCA should be interpreted and administered.
- To create a framework that acknowledges multiple legal orders and is grounded in respect for the authority of First Nations to self-determine and self-govern.
- Ensure First Nations values are embedded throughout the Act, including how heritage is defined and the various pathways to protect and conserve it.
- Affirm First Nations as decision-makers regarding the care and management of their heritage and to formalize and address First Nations' unique and distinct interests under the HCA.

Detailed Policy Direction/Mechanisms	Specific questions and considerations
What is intended to be achieved: Affirm First Nations' rights in relation to their cultural heritage. The interpretation and administration of the HCA is guided by statements affirming First Nations' rights Embed additional principles related to First Nations data sovereignty, use of First Nations place names, repatriation/rematriation, and conservation of cultural heritage through avoidance and non-disturbance	
How this can be achieved: 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 UN Declaration, which include 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	
What is intended to be achieved: Expand the definition of heritage to include a broader spectrum of First Nations values, including intangible heritage values	
Examples are included within the "Protecting Heritage More Effectively" core outcome	This item is discussed in more detail within the "Protecting Heritage More Effectively" core outcome.
What is intended to be achieved: Affirm First Nations as decision-makers regarding where ancestors and heritage belongings that are collected under permits are held and cared for	
How this can be achieved: 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	What should be considered to support successful implementation of this opt-in process?
What is intended to be achieved: 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	
How this can be achieved: The suite of circumstances could include: • Information that is already publicly available • With written consent of the First Nation	What should be considered regarding the circumstances where the Province may need to disclose First Nations' heritage data?

• Exercise of a power or duty under the HCA if the information is required • To support investigation of a contravention • To legal counsel to support obtaining legal advice • If required by court order Circumstances to be prescribed in regulation	
What is intended to be achieved: Remove barriers for First Nations when maintaining and accessing heritage sites on Crown land in certain circumstances (e.g., clam garden use, trail maintenance) and to collect objects at imminent risk of loss or destruction	
How this can be achieved: In legislation, clarify that certain heritage-related activities conducted by First Nations on Crown land do not constitute an offence or require a permit: • Clam garden maintenance • Heritage trail maintenance • Collection of objects at imminent risk of loss or destruction	What should be considered in the implementation of this proposed change?
What is intended to be achieved: Enable a suite of agreement types in the HCA: • Joint or consent-based decision-making agreements for Crown land • Jurisdictional agreements for Crown land • Operational agreements that expand the scope of s. 4 agreements on Crown/private land *Joint or consent-based decision-making agreements and jurisdictional agreements are not being considered for private land	
How this can be achieved: Joint or consent-based decision-making (Declaration Act) Agreements: • Enable the implementation of 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 delegation of certain compliance and enforcement powers*, designations of heritage sites and objects, permitting decisions, etc.	

- Negotiating a Declaration Act agreement will require a mandate from Cabinet
- *These agreements would include dispute resolution processes*

**NOTE*: Further policy work has indicated that delegation of compliance and enforcement powers would be undertaken through a different form of agreement or arrangement with the Province*

Jurisdictional Agreements:

- 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 will 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 s.4 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:
 - Heritage sites and objects to receive protections (current s. 4(a) and (b))
 - Additional/alternative permitting requirements for protected heritage sites and objects (current s. 4(d))
 - Actions that would damage or take away from the value of those sites and objects (current s. 4(5))
 - Decision-making criteria
 - Information sharing protocols
 - Cultural protocols
 - Provisions around the collection, care, and management of heritage objects and ancestral remains
 - Archaeological methods for identifying and recording sites
 - *Delegation of certain compliance and enforcement powers*
 - Continued use of sites
 - Certain aspects of heritage management plans
 - Public engagement agreements

What should be considered regarding implementation of this agreements framework?

What is intended to be achieved: Reduce procedural barriers to access and enter into agreements

How this can be achieved:

- Operational agreements will not require a Cabinet mandate and can be approved more easily.
- Simplify procedural requirements for agreement extensions (to be approved by the minister instead of Cabinet)
- Explore what potential pre-conditions, such as mutual readiness, could be for entering into s.6 and s.7 agreements

PROTECTING HERITAGE MORE EFFECTIVELY

There are three key themes under this core outcome: modernizing the protection framework, due diligence, and greater awareness of HCA requirements early in the process and enhancing the compliance and enforcement toolkit.

Modernizing the Protection Framework

The HCA currently contains several pathways toward recognition and protection of heritage values, including automatic protections, Order-in-Council designations, and agreements with First Nations. However, these pathways are not always clearly understood and have been underutilized. The objective is to provide greater *recognition* of First Nations’ values, rather than just scientific values, and enhance the clarity on the range of heritage values protected under the HCA and the pathways for seeking protections, including for intangible heritage.

Intangible cultural heritage, or heritage sites and heritage objects that are of particular spiritual, ceremonial or other cultural value to First Nations, is not a new addition to the HCA; it has been considered under the current Act for decades. However, as it is not defined in the current Act, this leads to a lack of certainty for all involved. We are working to bring clarity to this term.

Intangible cultural heritage can be protected under the current HCA (through an agreement with a First Nation (s.4) or a formal designation (s.9, 11.1)). This requires significant process (impact analysis, engagement with affected parties, consultation with First Nations) and the approval of Cabinet.

Detailed Policy Direction/Mechanisms	Specific questions and considerations
What is intended to be achieved: Ensure greater <i>recognition</i> of First Nations’ values, rather than just scientific values Create greater clarity on the range of heritage values under the HCA and the <i>current</i> pathways for seeking protections, including for intangible heritage	
How this can be achieved: Enhance the definition of heritage (and related definitions) to include a broader suite of First Nations values (tangible and intangible)	What should be considered regarding how heritage-related definitions are worded in the HCA? Which heritage-related definitions need refinement?

• <i>Expanding the definition of heritage (including defining intangible heritage) will not automatically protect more land or change the existing process/pathways to protect intangible cultural heritage. It will add clarity to the legislative interpretation</i> • <i>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</i> • <i>Reorganize the Act 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</i>	
What is intended to be achieved: Maintain automatic protection for ancestral remains, burial places, and rock art, regardless of age, and clarify automatic protection criteria for certain site types	
How this can be achieved: • 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	Culturally modified trees are critically important, yet the current protection framework does not align well with their distinct characteristics. How should automatic protection apply to culturally modified trees? Are there other heritage sites or objects for which the current protection framework doesn't align well? Protections for heritage wrecks are currently overly broad. What

	criteria for protecting heritage wrecks is appropriate?
What is intended to be achieved: Recognizing that First Nations have called for extending the protection of heritage sites which post-date 1846, create clearer and easier pathways for protecting sites that do not receive automatic protection, including sites of intangible heritage	
How this can be achieved: • 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 • <i>This includes clarifying criteria, process, and procedures for designation of sites with intangible heritage value, such as heritage sites that are of particular spiritual, ceremonial or other cultural value to First Nations</i> • <i>The process for designations will continue to require significant process (impact analysis, engagement with affected parties, consultation with First Nations)</i> • 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)	What kind of process could support seeking protection designations for post-1846, intangible, or other non-automatically protected sites?
What is intended to be achieved: Clarify and broaden processes for the recognition and promotion of diverse cultural heritage in B.C.	
How this can be achieved: Currently, s.18 of the HCA "Promotion of heritage value" is done through certificates and plaques. It is proposed to modernize this provision to create more opportunities for communities to celebrate, commemorate, or mark heritage in an impactful way	What should the Province consider regarding the recognition and promotion of the diversity of cultural heritage in B.C.?

- 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 intangible cultural heritage practices (e.g., songs, ceremonies, food, traditions). *The heritage recognition tool would not protect lands or pose any obligations on any party, but is an educational tool to promote and celebrate diverse cultural heritage in B.C.*

What is intended to be achieved: Explore mechanisms for distinct protections based on heritage value

How this can be achieved:

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)

These variations to protections would take place through a regulation. Engagement on this regulation would take place at a future date.

What is intended to be achieved: Clarify how the presence of sites and site boundaries are determined, including how Indigenous knowledge and other reported information is considered

How this can be achieved: 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 (<i>e.g., where there is imminent risk or threat to heritage values</i>) <i>*NOTE*: BC has received feedback that better clarity and limitations need to be placed on this authority in legislation and we are currently exploring options to do so</i>	How do you see heritage management zones supporting the conservation of heritage sites? What else should be considered in the implementation of heritage management zones and potential associated requirements?
What is intended to be achieved: Clarify the scope of tools to support reporting and conservation of fossil finds	
How this can be achieved: Clarify that fossils are 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	Is there anything you would like to share about including fossils within the Heritage Conservation Act? More engagement will take place when the Duty to Report Regulation is being drafted.

Due Diligence and Greater Awareness of HCA Requirements Early in the Process

There is a lack of awareness about the HCA and potential risks to heritage from development activities. Heritage considerations are often identified late in the project planning process, leading to: project delays; cost increases; contraventions of the HCA; and/or damage to, or desecration of, First Nations heritage.

The objective of these policy proposals is to ensure greater awareness of risks to heritage in advance of land use decisions.

Detailed Policy Direction/ Mechanisms	Specific questions and considerations
What is intended to be achieved: Ensure early awareness about heritage site potential and responsibilities under the HCA for people making land use decisions and project investments	
How this can be achieved: • In legislation, require local governments to see proof of an archaeological data check* prior to issuing development and building-related permits and authorizations • Require subdivision approval authorities to see proof of an archaeological data check prior to subdivision approvals • Create a regulation-making authority to require mandatory archaeological data checks for prescribed circumstances (e.g., sale of property) and/or entities (e.g., Crown corporations, critical infrastructure operators) <i>* archaeological data checks are a free service from the Archaeology Branch with an average turnaround of 6 days</i>	What challenges have you experienced regarding lack of awareness of risks to heritage sites prior to applying for development or building-related permits, or if a local government, issuing a development or building-related permit? What additional circumstances should require people to conduct an archaeological data check? What other ideas do you have to enhance due diligence about heritage sites?
What is intended to be achieved: Explore opportunities to enhance access to some archaeological data to a broader set of user groups, without compromising data confidentiality requirements	

How this can be achieved: 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	How could increasing access to some archaeological information for property owners/realtors/developers reduce the risk of unintended damage to heritage sites?
What is intended to be achieved: Clarify tools that enable requiring additional archaeological work	
How this can be achieved: Clarify and prescribe circumstances in which existing authority to compel archaeological work may be exercised (e.g., heritage management plans <i>recognized through agreements</i>, agreements with First Nations, sites at risk from development activities)	
What is intended to be achieved: Enable in legislation a framework for “heritage management plans” to proactively manage heritage	
How this can be achieved: 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	How could heritage management plans support consideration of heritage in land use planning and decisions? How could heritage management plans support your community’s/sector’s interests and processes? What would you like to see incorporated into, or considered with respect to heritage management plans?

Enhancing the Compliance and Enforcement Toolkit

All parties have identified the need for a more comprehensive compliance and enforcement toolkit in the HCA. The existing toolkit is limited to stop work orders, civil remedies, voluntary restorative justice processes, and prosecuting major offences through the courts. This leaves gaps in enforcement options, resulting in less effective enforcement of contraventions.

Detailed Policy Direction/mechanisms	Specific questions and considerations
What is intended to be achieved: Enhance the role of First Nations in compliance and enforcement activities	
How this can be achieved: Enable First Nations to exercise <i>certain</i> HCA compliance and enforcement <i>duties</i> by entering into agreements <i>or other arrangements</i> with the Province <i>*These arrangements would be subject to certain criteria (training, experiential requirements, etc.) and subject to oversight from the Province</i>	
What is intended to be achieved: Expand the compliance and enforcement toolkit	
How this can be achieved: • Create the ability to issue violation tickets for minor 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 fines could be substantial and are proposed to be up to a maximum of \$100,000 for an	Based on severity, are there HCA contraventions that should have higher or lower violation ticket and administrative monetary penalty fines than others?

individual and to a maximum of \$1,000,000 for a corporation	
What is intended to be achieved: Divert revenue from fines and penalties to a fund to support remediation of heritage sites	
How this can be achieved: Explore opportunities to direct fine and penalty revenue to support remediation of impacted heritage sites, including through First Nations	
What is intended to be achieved: Implement a duty to report heritage finds	
How this can be achieved: 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 engagement will follow when regulation is developed.
What is intended to be achieved: Deter commodification and unauthorized private ownership of heritage objects	
How this can be achieved: Prohibit possession, sale, and trade of heritage objects	What belongings should be prohibited from possession, sale, and trade? What unintended consequences can you foresee that should influence how this is drafted? Who should be exempt from these rules and under what circumstances?
What is intended to be achieved: Clarify and enhance the compliance and enforcement regime under the HCA	

How this can be achieved: • 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	What should be considered with respect to the implementation of these proposed changes?
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Heritage Conservation Act webinars for elected officials

Publishing Date: October 15, 2025

UBCM is leading an **engagement process** with local governments and member First Nations regarding proposed changes to the *Heritage Conservation Act*. Two webinars are scheduled for Friday, November 7, to share findings from the survey that is currently underway. *(Emails with the survey links have been sent to all CAOs. Please reach out to UBCM policy analyst **Reiko Tagami** if your CAO has not received the survey invitation.)*

The morning session is reserved for UBCM-member First Nations; the afternoon is open for all members.

Register here:

- Friday, November 7: 10am - 11:30 am – **Elected officials and senior staff from UBCM member First Nations**
- Friday, November 7: 1pm - 2:30 pm – **Elected officials and senior staff from all UBCM members**

During the webinar, UBCM will share the findings report from the survey of local government and First Nation CAOs.

UBCM president Cori Ramsay will chair both webinars, and consultant Randy

Diehl will present the findings. During these webinars, UBCM will also

feedback from elected officials on the findings and the proposed changes to the HCA.

Tags

Events & Webinars

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> Heritage Conservation Act webinars for elected officials

Heritage Conservation Act – UBCM Member Engagement

This survey, for CAOs or staff designates of UBCM member local governments and member First Nations, is part of the engagement process UBCM is leading with regard to proposed changes to the *Heritage Conservation Act* (HCA).

In August, the Province shared details on 57 proposed policy changes under the HCA that have been co-developed in partnership with the First Nations Leadership Council over the past two years. The Province produced and has updated a [primer](#) that explains the proposed changes; you may wish to download or print the primer to refer to when working through the survey.

With apologies, we anticipate that it will take roughly one hour to complete. The proposals are both sweeping and technical, so this survey must be long in order to capture feedback on the full suite of policy changes. There is the option to save your progress and return later to complete the survey.

Thurs Oct 23: CAO survey closes

Fri Nov 7: Presentation of the findings report via webinars

UBCM will develop a findings report based on the survey input and share that with UBCM elected members in two webinars – one for First Nation members and another for our general membership. UBCM will gather feedback from elected officials during these webinars.

Fri Nov 14: Submission and sharing of final report

After feedback from UBCM elected members on the findings report, UBCM will prepare a submission on proposed changes to the HCA that will be delivered to the Province and shared with our membership.

Respondent Information

Responses to this survey will not be used for attribution, and will be shared in an anonymized format. However, for the purpose of information clarity, do you consent to UBCM staff contacting you if we have questions about the information provided in this survey?

- ☒ Yes, please feel free to contact me
- ☐ No, please do not contact me

Please indicate the type of local government or First Nation where you are employed.

Regional District

Please provide the name of the local government or First Nation where you are employed.

Strathcona Regional District

Please provide your job title.

Chief Administrative Officer

Please provide your name.

David Leitch

Please provide your email address.

dleitch@srd.ca

Please provide your daytime telephone number.

Changes to Permitting

Note: the survey uses a combination of matrix-based questions regarding impact, followed by the opportunity to provide written comments. Comment boxes follow each matrix or group of matrix questions.

The Province proposes to change the present 3-permit system to a single project-based permit under the HCA. Please indicate how the move from a 3-permit system to a single project-based permit could impact your local government or First Nation.

	Positive	Neutral	Negative	Need more info	Don't know
Move to single project-based permit from present 3-permit system	☐	☐	☐	☒	☐

Please indicate how the proposed new project-based permit types could impact your local government or First Nation.

	Positive	Neutral	Negative	Need more info	Don't know
Conservation and research	☐	☐	☐	☒	☐
Multi-assessment (with enhanced notice of intent process)	☐	☐	☐	☒	☐
Disaster response and recovery	☐	☐	☐	☒	☐

The Province has indicated that they will set out detailed decision-making criteria for permits. The criteria for making permit decisions are to allow for First Nations influence in the permitting process. Please indicate how the decision-making criteria outlined below could impact your local government or First Nation.

	Positive	Neutral	Negative	Need more info	Don't know
First Nations information, knowledge, policies, 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 affected First Nations have provided consent	☐	☐	☐	☒	☐
Negotiated mitigations/accommodations	☐	☐	☐	☒	☐
Existing agreements/heritage management plans	☐	☐	☐	☒	☐
Public interest	☐	☐	☐	☒	☐
Proponent performance history	☐	☐	☐	☒	☐

Please indicate how other proposed policy changes regarding permitting could impact your local government or First Nation.

	Positive	Neutral	Negative	Need more info	Don't know
New provincial authority to modify permit requirements for low impact activities	☐	☐	☐	☒	☐
Legislative requirement for proponents to provide record of engagement with First Nations	☐	☐	☐	☒	☐
New provincial ability to set terms and conditions for compensatory conservation work (e.g. enhanced site recording, sampling and analysis, monitoring, other measures to address loss of heritage)	☐	☐	☐	☒	☐
New provincial authority to regulate the archaeology sector	☐	☐	☐	☒	☐
Enable the charging of fees for registered archaeologists	☐	☐	☐	☒	☐

Please share any thoughts on the proposed changes to permitting under the HCA.

Disaster Response

Please indicate how the proposed policy changes regarding disaster response and recovery could impact your local government or First Nation.

	Positive	Neutral	Negative	Need more info	Don't know
Ministerial authority to make permit exemptions for urgent emergency or disaster response and recovery	☐	☐	☐	☒	☐

Please share any thoughts on the proposed new ministerial authority to make permit exemptions for emergency or disaster response and recovery.

Enhancing the Role of First Nations

The Province has expressed intent to include in the HCA certain rights and principles related to First Nations self-determination. Please indicate how inclusion of these First Nation rights and principles in the HCA could impact your local government or First Nation.

	Positive	Neutral	Negative	Need more info	Don't know
Affirm First Nations' inherent right to self-determination, including self-government under s. 35 of Constitution Act and UNDRIP, encompassing jurisdiction, law-making authority, and responsibility for protection, management, and development of heritage	☐	☐	☐	☒	☐
Include principles related to First Nations data sovereignty, place names, repatriation/rematriation, avoidance, non-disturbance, or minimizing disturbance of cultural heritage	☐	☐	☐	☒	☐

Please share any thoughts on inclusion in the HCA of certain rights and principles related to First Nations self-determination.

The Province proposes a new opt-in process for First Nations to be decision-makers regarding where collected ancestors and heritage belongings are held and cared for. Please indicate how this new decision-making process could impact your local government or First Nation.

	Positive	Neutral	Negative	Need more info	Don't know
New opt-in process for First Nations to be decision-makers regarding where collected ancestors and heritage belongings are held and cared for	☐	☐	☐	☒	☐

Please share any thoughts on a new opt-in process for First Nations to be decision-makers regarding where collected ancestors and heritage belongings are held and cared for.

The Province proposes to set out, through regulation, circumstances under which Indigenous knowledge and heritage data may be disclosed. Please indicate how the example circumstances outlined below could impact your local government or First Nation.

	Positive	Neutral	Negative	Need more info	Don't know
Information already publicly available	☐	☐	☐	☒	☐
Written consent of First Nation	☐	☐	☐	☒	☐
Exercising a power or duty under HCA for which information is required	☐	☐	☐	☒	☐
Investigation of a contravention	☐	☐	☐	☒	☐
To obtain legal advice	☐	☐	☐	☒	☐
Court order	☐	☐	☐	☒	☐

Please share any thoughts on the proposed circumstances under which Indigenous knowledge and heritage data may be disclosed.

The Province has expressed intent to amend the HCA to clarify that certain heritage-related First Nations activities on Crown land do not constitute an offence or require a permit. Please indicate how clarifying the process around these activities could impact your local government or First Nation.

	Positive	Neutral	Negative	Need more info	Don't know
Clam garden maintenance	☐	☐	☐	☒	☐
Heritage trail maintenance	☐	☐	☐	☒	☐
Collection of objects at imminent risk of loss or destruction	☐	☐	☐	☒	☐

Please share any thoughts on clarifying that certain heritage-related First Nations activities on Crown land do not constitute an offence or require a permit.

Agreements with First Nations

The Province has expressed intent to enter into joint or consent-based decision-making (Declaration Act) agreements with First Nations, for Crown land. This is to support First Nation involvement in a range of cultural heritage decisions. Please indicate how aspects of Declaration Act agreements for Crown land could impact your local government or First Nation.

	Positive	Neutral	Negative	Need more info	Don't know
Delegation of HCA compliance and enforcement powers to First Nations	☐	☐	☐	☒	☐
Delegation of HCA permitting decisions to First Nations	☐	☐	☐	☒	☐
Cabinet mandate required to negotiate such a Declaration Act agreement with a First Nation	☐	☐	☐	☒	☐

Please share any thoughts on Declaration Act agreements between the Province and First Nations for Crown land.

The Province has expressed intent to enter into jurisdictional agreements with First Nations, for Crown land. This would recognize First Nations jurisdictional authority on the Crown land, such that in certain circumstances, First Nations cultural law could vary the application of the HCA. Please indicate how aspects of jurisdictional agreements for Crown land could impact your local government or First Nation.

	Positive	Neutral	Negative	Need more info	Don't know
New regulation would prescribe the circumstances where First Nations cultural law could vary application of the HCA	☐	☐	☐	☒	☐
Cabinet mandate required to negotiate such a jurisdictional agreement with a First Nation	☐	☐	☐	☒	☐

Please share any thoughts on jurisdictional agreements between the Province and First Nations for Crown land.

The Province has expressed intent to expand the scope of existing operational agreements with First Nations for Crown or private land, under s.4 of the HCA. The expanded scope will cover operational matters related to First Nations heritage. Please indicate how expanding the scope of operational agreements for Crown or private land, through the examples below, could impact your local government or First Nation.

	Positive	Neutral	Negative	Need more info	Don't know
Decision-making criteria	☐	☐	☐	☒	☐
Information sharing protocols	☐	☐	☐	☒	☐
Cultural protocols	☐	☐	☐	☒	☐
Provisions for collection, care, and management of heritage objects and ancestral remains	☐	☐	☐	☒	☐
Archaeological methods for identifying and recording sites	☐	☐	☐	☒	☐
Continued use of sites	☐	☐	☐	☒	☐
Aspects of heritage management plans	☐	☐	☐	☒	☐
Public engagement agreements	☐	☐	☐	☒	☐

The Province proposes to change the approval level for operational agreements with First Nations for Crown or private land. Please indicate how changing the approval level could impact your local government or First Nation.

	Positive	Neutral	Negative	Need more info	Don't know
Operational agreements: approval level would change from Cabinet to Minister	☐	☐	☐	☒	☐
Agreement extensions: approval level would change from Cabinet to Minister	☐	☐	☐	☒	☐

Please share any thoughts on changes to the scope and approval levels for operational agreements with First Nations for Crown or private land.

The Province is interested in exploring pre-conditions (e.g. mutual readiness) for entering into s.6 and s.7 agreements with First Nations under the Declaration on the Rights of Indigenous Peoples Act (DRIPA). Please indicate how this could impact your local government or First Nation.

	Positive	Neutral	Negative	Need more info	Don't know
Pre-conditions for entering into s.6 and s.7 agreements with First Nations under DRIPA	☐	☐	☐	☒	☐

Please share any thoughts on pre-conditions for the Province entering into DRIPA s.6 and s.7 agreements with First Nations.

Effective Heritage Protection

Modernizing the Protection Framework

The Province has committed to greater protection of First Nation values, not just scientific values. It aims to clarify a range of heritage values and how to seek protection, including for intangible heritage.

Please indicate how including the following in the range of heritage values could impact your local government or First Nation.

	Positive	Neutral	Negative	Need more info	Don't know
Cultural landscapes	☐	☐	☐	☒	☐
Mortuary landscapes	☐	☐	☐	☒	☐
Intangible cultural heritage (oral histories, place names, language, knowledge)	☐	☐	☐	☒	☐
Objects and places within an Indigenous worldview	☐	☐	☐	☒	☐
Fossils	☐	☐	☐	☒	☐

Please share any thoughts on clarification of the range of heritage values.

The Province proposes to reorganize the HCA. Please indicate how reorganizing the HCA could impact your local government or First Nation.

	Positive	Neutral	Negative	Need more info	Don't know
Reorganization of the HCA to clarify what is recognized or protected, the pathways for protection, and what actions are prohibited without authorization	☐	☐	☐	☒	☐

The Province proposes to retain and clarify certain automatic protections. Please indicate how these automatic protections could impact your local government or First Nation.

	Positive	Neutral	Negative	Need more info	Don't know
Ancestral remains, burial places, and rock art are automatically protected regardless of age	☐	☐	☐	☒	☐
Retain 1846 as the baseline for age-based automatic protections for other site types	☐	☐	☐	☒	☐
Clarify automatic protections for culturally modified trees and heritage wrecks with identified heritage value or human remains	☐	☐	☐	☒	☐

Please indicate how other proposed changes to the protection regime could impact your local government or First Nation.

	Positive	Neutral	Negative	Need more info	Don't know
Clarify criteria, process, procedures, and procedural requirements for designations of sites identified by First Nations (including intangible heritage) or other groups with post-1846 heritage	☐	☐	☐	☒	☐
Reduce provincial approval levels for seeking a heritage designation	☐	☐	☐	☒	☐
Modernize HCA s.18 "Promotion of heritage value" to move beyond certificates and plaques with new ways of recognizing and celebrating heritage	☐	☐	☐	☒	☐
Signs for heritage recognition will require consultation and cooperation with First Nations	☐	☐	☐	☒	☐
Clarify that heritage recognition and promotion includes intangible cultural heritage, including songs, ceremonies, foods, traditions	☐	☐	☐	☒	☐
New regulation to enable flexible protection criteria and permitting requirements, based on heritage value and conservation goals, in consultation and cooperation with First Nations	☐	☐	☐	☒	☐
Include fossils 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	☐	☐	☐	☒	☐

Please share any thoughts on changes to the protection regime.

The Province proposes "heritage management zones" within the Provincial Heritage Register. Please indicate how the introduction of heritage management zones could impact your local government or First Nation.

	Positive	Neutral	Negative	Need more info	Don't know
Clarify administrative site boundary criteria for entry into the Provincial Heritage Register	☐	☐	☐	☒	☐
Enable establishment of "heritage management zones" within Provincial Heritage Register; such zones could include areas reported to contain heritage value but not yet verified	☐	☐	☐	☒	☐
Prescribe additional requirements for heritage management zones (e.g. archaeological data checks, additional archaeological work).	☐	☐	☐	☒	☐

Please share any thoughts on heritage management zones.

Effective Heritage Protection

Due Diligence & Earlier Awareness of HCA Requirements

The Province proposes introducing an archaeological data check, to raise early awareness about heritage site potential and related responsibilities under the HCA. Please indicate how the proposed role for local governments and other authorities seeking proof of archaeological data check could impact your local government or First Nation.

	Positive	Neutral	Negative	Need more info	Don't know
Legislative requirement for local governments to seek proof of archaeological data check from all development proponents	☐	☐	☐	☒	☐
Legislative requirement for subdivision approval authorities to seek proof of archaeological data check from all subdivision proponents	☐	☐	☐	☒	☐
New regulatory authority to mandate archaeological data checks for prescribed circumstances (e.g. property sale) or entities (e.g. Crown corporations, critical infrastructure operators)	☐	☐	☐	☒	☐
Create a new, limited data layer that can be checked plot-by-plot in advance of property sales or ground disturbance (this would comprise the archaeological data check)	☐	☐	☐	☒	☐

Please share any thoughts on the archaeological data check and the roles of local governments and other authorities.

Please indicate how proposed changes to the ordering of additional archaeological work could impact your local government or First Nation.

	Positive	Neutral	Negative	Need more info	Don't know
Clarify circumstances in which Province can order additional archaeological work	☐	☐	☐	☒	☐

Please share any thoughts on proposed changes to the ordering of additional archaeological work.

The Province proposes a new framework for "heritage management plans" to support proactive management of heritage. Please indicate how heritage management plans could impact your local government or First Nation.

	Positive	Neutral	Negative	Need more info	Don't know
Legislative provision for heritage management plans, developed with multiple parties (e.g. First Nations, local governments, Province, development proponents)	☐	☐	☐	☒	☐
New regulation to prescribe details of heritage management plans	☐	☐	☐	☒	☐

Please share any thoughts on heritage management plans.

Effective Heritage Protection

Compliance & Enforcement Tools

The Province has expressed interest in enabling First Nations to undertake HCA compliance and enforcement. Please indicate how a compliance and enforcement role for First Nations could impact your local government or First Nation.

	Positive	Neutral	Negative	Need more info	Don't know
Provincial agreements with First Nations to undertake compliance and enforcement under the HCA	☐	☐	☐	☒	☐

Please share any thoughts on enabling First Nations to undertake HCA compliance and enforcement.

Please indicate how proposed changes to fines and monetary penalties under the HCA could impact your local government or First Nation.

	Positive	Neutral	Negative	Need more info	Don't know
Enable daily violation tickets for minor HCA contraventions, with fines up to \$1,000/day	☐	☐	☐	☒	☐
Enable administrative monetary penalties (AMPs) for more severe contraventions, max \$100,000 per person or \$1 million per corporation	☐	☐	☐	☒	☐
New regulation to prescribe details of AMPs and specific penalty amounts	☐	☐	☐	☒	☐
Explore opportunities to direct fine and AMP revenue to support heritage site remediation, including through First Nations	☐	☐	☐	☒	☐

Please share any thoughts on proposed changes to fines and monetary penalties under the HCA.

Please indicate how other proposed changes to compliance and enforcement could impact your local government or First Nation.

	Positive	Neutral	Negative	Need more info	Don't know
New legal "duty to report" for archaeological and significant heritage finds	☐	☐	☐	☒	☐
Prohibition of possession, sale, and trade of heritage objects	☐	☐	☐	☒	☐
New guidance on collection, treatment, care, or disposition of heritage objects (to a repository or to descendant communities)	☐	☐	☐	☒	☐
Enable the Minister, in consultation and cooperation with affected First Nations, to order compensatory conservation work for loss of heritage value and harms	☐	☐	☐	☒	☐
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 HCA contraveners and offenders	☐	☐	☐	☒	☐

Please share any thoughts on these other proposed changes to compliance and enforcement.

Local Experience

Please feel free to share local experience with the current HCA and associated processes, that could add to UBCM's understanding of the current HCA's impact on local governments and First Nations.

Please share questions or concerns with the proposed changes to the HCA that were not addressed in the previous questions.

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

- ☐ Yes
- ☒ No
- ☐ Don't know

Please share any thoughts on whether you support the proposed changes to the HCA.

Heritage Conservation Act Transformation Project



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, used with permission of the Family)

Phase 1 What We
Heard Report: First
Nations

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EXECUTIVE SUMMARY

Overview of Heritage Conservation Act Transformation Project

First Nations and stakeholders (external and internal) in B.C. have consistently raised significant issues with the [Heritage Conservation Act](#) (HCA, the Act) and its administration over many years. First Nations continue to call for increased protection of culturally important sites and the implementation of the [Declaration on the Rights of Indigenous Peoples Act](#) (Declaration Act) to make the HCA consistent with, and to meet the objectives of, the [United Nations Declaration on the Rights of Indigenous Peoples](#) (UN Declaration). While there have been several initiatives undertaken over the years to review and improve the Provincial heritage conservation and management framework, there continue to be challenges with the HCA and its administration.

The [Declaration Act Action Plan 2022-2027](#), a five-year plan which commits the Province to advancing a number of initiatives, includes Action 4.35, which states that 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.” This commitment to working collaboratively with First Nations to reform the HCA is central to this transformative work.

The Joint Working Group on First Nations Heritage Conservation (JWGFNHC) has served as a primary conduit for collaboration between the Province and First Nations representatives on matters relating to heritage conservation and management since its inception in 2007, as mandated through resolutions of the B.C. Assembly of First Nations, First Nations Summit, and Union of B.C. Indian Chiefs. The JWGFNHC, which includes representatives appointed by the First Nations Leadership Council (FNLC) and the provincial government, and the Alliance of B.C. Modern Treaty Nations (ABCMTN), which serves as a direct connection to Modern Treaty Nations, are key bodies for the co-development of the Heritage Conservation Act Transformation Project (HCATP). The Province acknowledges and respects the unique and distinct relationship with the eight Nations with whom it has signed modern treaties, and is committed to upholding all constitutional obligations and the principles outlined in the [Shared Priorities Document](#). The objective of this collaborative work is to align the HCA with the UN Declaration and transform the Act to better meet the needs of all British Columbians.

Beginning in July 2022, engagement with First Nations, Modern Treaty Nations, external stakeholders (industry, heritage and archaeological professionals,

local/regional governments, construction and land developers, etc.), and internal stakeholders (B.C. government employees who regularly interact with the HCA or are involved in broader cultural heritage management) was undertaken for Phase 1 of the HCATP.

This report provides an overview of feedback received from participants during Phase 1 engagement with First Nations and Modern Treaty Nations (July-October 2022). Feedback from engagement with stakeholders is included in a separate report.

Key Findings

- **Colonialism underpins the HCA.** First Nations laws, protocols, values and traditional/Indigenous knowledge must be better reflected in the HCA;
- **Decision-making needs to recognize and respect** First Nations laws, protocols, and customs;
- **First Nations as decision-makers;**
- **First Nations should have the authority to define heritage**, including intangible heritage, and to specify sites for protection;
- **More comprehensive protections are needed**, to include sites identified as possessing intangible heritage and cultural importance, and **better protections are necessary for First Nations burial sites and ancestral remains;**
- Greater consideration should be given to **cumulative effects** on heritage sites;
- **Protections should be proactive** rather than reactive;
- **Resources are needed to support First Nations** in heritage management, including the availability of suitable repositories;
- **Insufficient resourcing at the Archaeology Branch** and within the Compliance and Enforcement Branch continues to have significant impacts to heritage management in B.C.;
- The **HCA lacks adequate compliance and enforcement** tools; and
- First Nations should have a **greater role in compliance and enforcement.**

ACKNOWLEDGMENTS

The Joint Working Group on First Nations Heritage Conservation (JWGFNHC) gratefully recognizes the Lheidli T'enneh, Tk'emlúps te Secwépemc, Skwah First Nation, Squamish Nation, and Songhees Nation upon whose lands these important in-person discussions were undertaken. We acknowledge and honour the past and present First Nations Elders, knowledge keepers, and stewards of these lands and reaffirm the importance of a robust conservation and management regime for heritage and culture in B.C.

The JWGFNHC would like to thank its members and technical support staff from the Union of B.C. Indian Chiefs and the Province:

JWGFNHC Members:

Dr. Judith Sayers – Co-chair

Matt Austin – Co-chair (B.C.)

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Further, this report has been informed by the substantial contributions from Shana Thomas Consulting and Rhonda Knockwood (Nakatohkew Consulting) who facilitated the in-person and virtual engagement sessions and collated the initial feedback analysis. The subsequent quantitative and qualitative analysis of feedback was undertaken by R.A. Malatest & Associates Ltd.

INTRODUCTION

Context

First Nations have governed and stewarded their cultural heritage resources since time immemorial. Colonialism in B.C. has resulted in the institution of laws, policies, and practices that do not properly recognize, respect, or protect First Nations cultural heritage resources and have severely limited the role of First Nations in their protection and management. Over time, the legacy of colonialism has resulted in the disturbance and destruction of cultural heritage resources and ancestral remains. Further, the ability of First Nations to engage in traditional protocols, ceremonies, and practices has been impacted and impeded. This has led to heightened land and resource development conflicts as well as significant and cumulative spiritual, cultural, social, and economic impacts to First Nations.

The purpose of the [*Heritage Conservation Act*](#) (HCA, the Act) is to encourage and facilitate the protection and conservation of heritage property in B.C. The HCA provides legal tools and mechanisms to establish and maintain a register of B.C.'s more than 60,000 currently known heritage sites and to authorize inspections and alterations of heritage sites. The HCA also authorizes various compliance and enforcement actions that may be taken against those who damage, desecrate, or alter heritage sites or objects without authorization. The HCA also contains provisions authorizing the Province to enter into agreements with First Nations with respect to the conservation and protection of heritage sites and objects that represent their cultural heritage. The HCA has not been substantially changed since 1996, although in 2019 there were administrative amendments which added new compliance and enforcement tools.

For many years, First Nations and stakeholders (industry, landowners, professional archaeologists, etc.) have raised concerns with the HCA and its administration, while Nations specifically have called for an enhanced role in the management of their cultural heritage, increased protection of culturally sensitive sites, including ancestral remains, and implementation of the UN Declaration on the Rights of Indigenous Peoples (UN Declaration).

Overview of the Heritage Conservation Act Transformation Project

Mandate

In 2019, the Government of B.C. passed the [Declaration on the Rights of Indigenous Peoples Act](#) (Declaration Act), which requires that all measures must be taken to make laws in B.C. consistent with the UN Declaration. To this end, the Declaration Act [Action Plan](#) includes Action 4.35, which commits the Province to “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 November 2021, the Ministry of Forests received a mandate for Phase 1 of the Heritage Conservation Act Transformation Project (HCATP), a commitment reaffirmed in the [Minister of Forests’ 2022 mandate letter](#).

The HCATP is being undertaken collaboratively through the JWGFNHC and in partnership with Modern Treaty Nations through the ABCMTN.

HCATP Timeline

Given the need for broad and meaningful engagement with First Nations, and stakeholders, the HCATP is a multi-year process. The HCATP is proposed to be undertaken in three phases:

Phase 1 – Engagement on the HCATP Process and Priorities for Change: The proposed process was introduced to First Nations, including Modern Treaty Nations, and stakeholders. As part of this initial engagement, feedback on priorities for change to the HCA and its administration, feedback on the alignment of the HCA with the UN Declaration, and the proposed engagement process was sought. The co-development of the HCATP Consultation and Cooperation Plan (HCATP CCP) with First Nations was also completed.

Phase 2 – Policy Development: 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.

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

Heritage Conservation Act Transformation Project – Collaboratively Developed Process

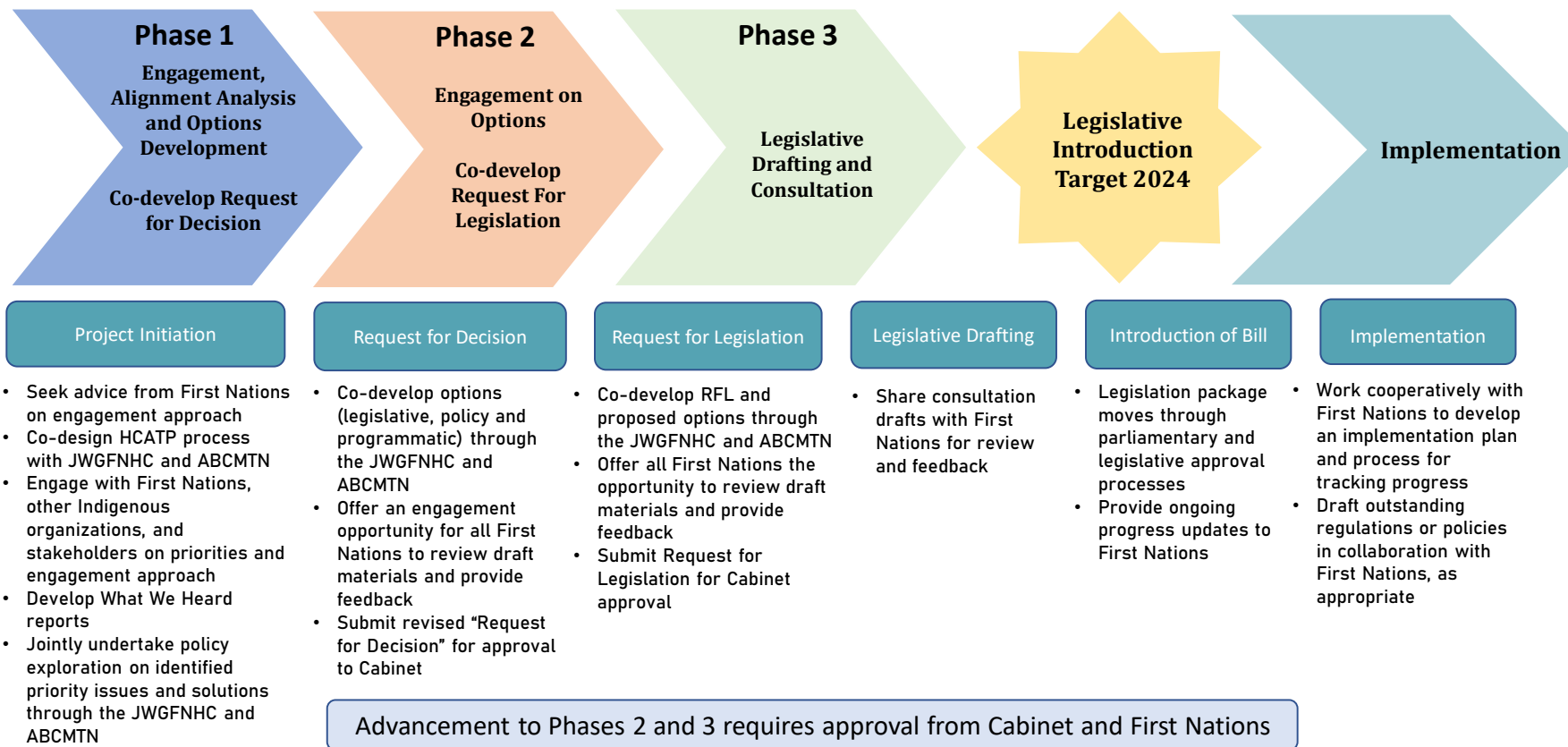


Figure 1: HCA Transformation Project Process (HCATP CPP 2023)

ENGAGEMENT PRINCIPLES, METHODS, AND APPROACHES

The Province is committed to a distinctions-based approach for the HCATP. This requires that the Province's dealings with First Nations, Métis, and Inuit Peoples be conducted in a manner that acknowledges the specific Rights, interests, priorities, and concerns of each, while respecting and acknowledging these distinct Peoples with unique cultures, histories, Rights, laws, and governments. Section 35 of the *Constitution Act, 1982*, recognizes and affirms the Rights of Aboriginal Peoples of Canada, while all Indigenous Peoples have human rights that are expressed in the UN Declaration. However, not all rights are uniform or the same among or between all Indigenous Peoples. In many cases, a distinctions-based approach may require that the Province's relationship and engagement with First Nations, Métis, and Inuit Peoples include different approaches or actions and result in different outcomes. First Nations have land-based Title and Rights. As such, the focus of the HCATP, as reflected in Cabinet direction and mandate letters, is on consultation and co-operation with First Nations.

Through the JWGFNHC and ABCMTN, the HCATP Consultation and Cooperation Plan with First Nations (HCATP CCP) has been co-developed. The HCATP CCP details the various means and approaches to consultation and cooperation to be employed throughout the HCATP process.

The HCATP CCP process 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 occur 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 through their governments. None are excluded; and
- *Transparent*: All phases of the HCATP must be transparent, with information being shared early.

Pre-Engagement Methods and Materials

The JWGFNHC sent an initial letter (dated May 2, 2022) to all First Nations in B.C. introducing the HCATP and advising that further information would be forthcoming once the engagement sessions were confirmed. The JWGFNHC sent a follow-up letter (dated June 30, 2022) with details, engagement dates, and meeting locations. Appended to that correspondence was the collaboratively developed HCATP Backgrounder.

To support meaningful engagement, the above-noted Backgrounder document on the HCATP was developed by the JWGFNHC to guide and inform dialogue. A key component of the Backgrounder was the priority Framework Table. This table was informed by several public policy and engagement initiatives, commissioned reports (internal and external to government), a literature review, and significant input by First Nations and stakeholders over many years. Its purpose was to summarize and honour previously received feedback on the HCA and serve as a starting point for an updated discussion on transforming the HCA and its administration.

The **Framework Table** identified five **priority themes**:

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

Each theme summarized relevant issues and concerns while presenting potential solutions previously suggested by First Nations and stakeholders regarding improvements to the HCA. The Backgrounder also posed several questions intended to stimulate conversation.

The Backgrounder was used as the basis for all information shared about the project, presentations for First Nations engagement sessions, and survey questions.

Phase 1 Engagement with First Nations

Phase 1 engagement with First Nations included in-person sessions, online/virtual sessions, direct government to government meetings with First Nations and Modern Treaty Nations, and opportunities to provide feedback through written submissions or an online survey.

Shana Thomas Consulting facilitated the sessions, recorded participants' feedback, and managed the online survey, which were used to develop the contents of this report.

Phase 1 First Nations engagement activities included:

- Five in-person regional meetings with First Nations: Prince George, Kamloops, Chilliwack, North Vancouver, and Victoria (July 2022)
- Two online video meetings with First Nations (September 2022)
- Government-to-Government meetings with First Nations and Modern Treaty Nations (Fall 2022)
- Written submissions (accepted until October 24, 2022)
- Online survey (open until October 11, 2022)

Regional In-Person and Virtual Meetings with First Nations

Direct engagement with First Nations included five in-person regional meetings and two online virtual meetings. All meetings included representatives from the JWGFNHC to field and process questions and hear directly from attendees. Meeting dates and locations were:

- July 19, 2022: Prince George
- July 21, 2022: Kamloops
- July 26, 2022: Chilliwack
- July 27, 2022: North Vancouver
- July 28, 2022: Victoria
- September 22 and 27, 2022: virtual sessions

145 individual participants, representing 108 First Nations, participated in various engagement activities (see Appendix 1). This included 60 First Nations that participated directly in the engagement process, and 15 First Nations organizations representing an additional 48 First Nations. 11 other individuals and organizations that work closely with First Nations also provided input.

Staff from the Union of B.C. Indian Chiefs (UBCIC) sent reminder emails to all First Nations in B.C., while Shana Thomas Consulting called all the First Nations within each region to remind them of the upcoming opportunity. These emails included the registration information and the Backgrounder, as well as notations about the survey and the opportunity to have one-on-one meetings if requested.

Each in-person session began with an Elder from the territory offering a territorial welcome and prayer. A discussion was then facilitated using a PowerPoint

presentation and an enlarged priority Framework Table. During the presentation and discussion, participants were encouraged to use stickers to indicate their priority issues and solutions.

For the online engagement sessions, the First Nations Public Services Secretariat was contracted to host the online virtual sessions. Each online session was held via Zoom and recorded for notetaking purposes. The virtual sessions started with a prayer from Elder Thxutstun, Daniel Norris of Halalt First Nation. The presentation used for the in-person engagement was modified for the online meetings. Shana Thomas Consulting led and directed the online sessions. The virtual session format provided an opportunity to break out into smaller groups throughout the presentation to discuss further and provide feedback on the presentation questions. These smaller break-out groups were facilitated by a team member and recorded for note-taking purposes.

First Nation participants' discussions, survey responses, and written submissions were thoughtful, informed, and heartfelt. Many also provided anecdotes and case studies of events or situations within their communities that have led to deep frustration with the current HCA.

Government-to-Government meetings

As requested by Nations, the Provincial HCATP team held Government-to-Government meetings. These sessions were facilitated by Provincial representatives and notetaking was undertaken by an independent contractor.

The Government-to-Government engagement meetings included:

- Meetings with the Alliance of B.C. Modern Treaty Nations, representing eight Modern Treaty Nations; and
- Three First Nations that specifically asked for one-on-one sessions.

Written Submissions

In addition to in-person and virtual engagement sessions, First Nations were encouraged to provide written submissions until October 24, 2022. Six (6) written submissions were received from First Nations. The content of these submissions has been incorporated into the report's analysis and findings.

Online Survey

Shana Thomas Consulting hosted an online survey with SurveyMonkey (www.surveymonkey.com). The survey was open between July 18 and October 11,

2022. First Nation governments were contacted by email weekly, and follow-ups were made by telephone as reminders to register and provide survey feedback. All participants were provided with the survey link during the in-person and virtual sessions and information about the survey was included in all follow-up project correspondence.

35 participants registered on SurveyMonkey. However, one registration was blank after the consent question, and 14 participants only partially completed the survey.

The HCATP First Nation Engagement Survey posed 30 questions that followed the format of the in-person and virtual engagement sessions. This alternative response tool provided additional opportunities for Nations to provide quantitative and qualitative feedback on the proposed HCATP process, the prioritization of previously recommended issues, and possible solutions for transforming the HCA, as well as to propose any previously unidentified priorities, concerns, or solutions. In addition, participants could rank issues and proposed solutions while having the latitude to provide open-ended qualitative responses relating to Nations' interests and vision for transformation of the HCA. Finally, the survey concluded with evaluation questions to solicit feedback on Phase 1 engagement (pre-engagement materials/correspondence, session approach and content, communication, and reporting).

Through Shana Thomas Consulting, survey participation was incentivized. Those who completed the survey were automatically entered into a draw. Ten names were chosen randomly to receive a \$100 electronic money transfer.

Analysis Methods

A quantitative and qualitative analysis of feedback was undertaken by R.A. Malatest & Associates Ltd. For the analysis of qualitative data, an inductive coding approach was used in which engagement session transcripts were reviewed and codes created as they emerged from the data. This process was iterative, with previously read content being re-read when a new code was identified to ensure that no content was missed during the coding process. Once saturation was reached (defined as reading through three full transcripts without identifying new codes or themes), the coding framework was considered final. This same coding framework was applied to the written submissions content, as well as open-ended comments included in the surveys.

Once all data was coded, queries were used to develop quantitative summaries (i.e., frequencies or counts) of the codes and themes found in the data. The codes applied and their relative frequency in the data are reported here.

Close-ended survey questions were reviewed and have been included as bar charts in Appendix 2. The recommendations presented for each theme reflect the proposed solutions that scored more than 65% among First Nations survey respondents.

Limitations

While strong efforts have been made to support a rigorous analysis of the data collected during the engagement process, some research limitations exist. There was no control for single participants responding through multiple formats. If a single First Nation representative participated by speaking during an engagement session, sending in a written submission, and completing a survey, their voice would potentially be represented up to three times in reporting in each section. Because data sources were collected and organized in different formats, it was not possible to fully account for these potential double-counts.

The survey was lengthy and required participants to spend thirty to forty minutes to complete. As a result, some survey respondents did not complete all the questions.

FINDINGS AND ANALYSIS

The data analysis is reported out according to priority themes from the Framework Table used during engagement. Additional feedback on the engagement approach is reported here as well.

Key Findings

Highlights from the First Nations engagement include:

- **Colonialism underpins the HCA.** First Nations laws, protocols, values and traditional/Indigenous knowledge must be better reflected in the HCA;
- **Decision-making needs to recognize and respect** First Nations laws, protocols, and customs;
- **First Nations as decision-makers;**
- **First Nations should have the authority to define heritage**, including intangible heritage, and to specify sites for protection;
- **More comprehensive protections are needed**, to include sites identified as possessing intangible heritage and cultural importance, and **better protections are necessary for First Nations burial sites and ancestral remains;**
- Greater consideration should be given to **cumulative effects** on heritage sites;
- **Protections should be proactive** rather than reactive;
- **Resources are needed to support First Nations** in heritage management, including the availability of suitable repositories;
- **Insufficient resourcing** at the Archaeology Branch and within the Compliance and Enforcement Branch continues to have significant impacts to heritage management in B.C.;
- The **HCA lacks adequate compliance and enforcement** tools; and
- First Nations should have a **greater role in compliance and enforcement.**

Feedback on Engagement Approach

Participants were invited to provide feedback on the proposed engagement approach for the HCATP. While many participants agreed that the proposed engagement process will support the transformation of the HCA, suggestions were raised, including:

- A **regional approach** to ensure that different protocols are respected;

- First Nations could be better supported with **capacity funding** to support adequate internal consultation and discussion about proposed changes;
- HCATP timeframe is optimistic and may not provide **adequate time for engagement and co-development** of options and solutions;
- Legislative drafting and review process must **include First Nations participants**; and
- **Thorough consultation** must be undertaken with First Nations before new legislation is introduced to the Legislative Assembly.

It was noted that the Province and the JWGFNHC must continue to respect **Reconciliation Protocol Agreements** held at the Nation level to ensure that potential changes stemming from the HCATP acknowledge and align with these existing agreements. Fundamentally, Nations were adamant that changes must be made with direction from and in collaboration with communities.

Modern Treaty Nations highlighted how their unique and constitutional agreements create legal obligations for the Province, and that it will be important to work with individual Treaty Nations (as requested) during the legislative drafting process.

First Nations participants also called for near-term changes to address issues with the current HCA and its administration while awaiting broader transformative changes, including:

- Increased **resourcing** for the Archaeology Branch;
- Improved **cultural and Indigenous worldview training** for government employees (federal/provincial/regional/local);
- Additional funding for improved **compliance and enforcement** and the acceleration of the investigation process; and
- Explore opportunities for provincial Compliance and Enforcement Branch staff to **work cooperatively and in partnership with First Nations** (including Guardian and Ranger programs) when undertaking inspections and investigations.

Thematic Framework

Attendees expressed overall support for the thematic framework, noting that the five themes provide adequate flexibility and reflect the priorities for transformation of the HCA. Additional themes were proposed, including Indigenous leadership and

jurisdiction over cultural heritage, ownership, reporting, and collaborative engagement.

Indigenous Values and Rights Recognition

The major sub-themes identified among engagement session transcripts and written submissions were:

- **Colonialism underpins the HCA.** First Nations laws, protocols, values and traditional/Indigenous knowledge must be better reflected in the HCA;
- **Decision-making needs to recognize and respect** First Nations laws, protocols, and customs; and
- **Jurisdictional issues**, as well as **Rights and Title** need to be addressed.

Within each of these broad themes, several discussion points were raised by many First Nations participants, across multiple formats.

Colonial Assumptions

The first sub-theme, **colonial assumptions underpin the HCA**, included four main discussion points that were raised multiple times by both First Nations and external stakeholders. Discussions relate to **the assumption of *terra nullius*** (the idea that no one owned the land prior to European assertion of sovereignty¹), as well as the pre-1846 date for automatic protections, **reinforce existing colonial narratives about history in B.C.** and prioritize the knowledge held by settler institutions rather than the knowledge held by First Nations communities and knowledge keepers. Survey respondents called for an enhanced role for First Nations in cultural heritage management, protection, and conservation (80%).

A related sub-theme about archaeological work noted that **archaeological assessments do not reflect local First Nations knowledge**. Archaeologists may be hired from outside of local communities, may have no knowledge or experience in the region, and as a result may conduct work that is ignorant of local knowledge and customs. Comments around this sub-theme noted that this is another example of **prioritization and over-valuing of traditional western science and ways of knowing over traditional First Nations knowledge**. Survey respondents also

¹ Tsilhqot'in Nation v. British Columbia, 2014 SCC 44, para. 69, <https://www.afn.ca/wp-content/uploads/2018/02/18-01-22-Dismantling-the-Doctrine-of-Discovery-EN.pdf>

proposed that solutions will need to ensure First Nations intellectual property and cultural knowledge are safeguarded and that requests for confidentiality are respected (75%).

When discussing how to address these colonial assumptions, First Nations noted that engagement and consultation approaches must shift toward **collaborative and equal partnerships in archaeology** and heritage preservation work, and that any future transformation should prioritize an assessment approach that assumes the presence, not absence, of heritage and cultural sites. Survey responses endorsed the development of Government-to-Government collaborative programs for First Nations to develop and document their heritage (85%).

First Nations Laws and Values

The second major sub-theme, **First Nations laws and values must be reflected**, included the need to reflect First Nations Rights related to heritage conservation. The most prominent discussions within this sub-theme included the need **for First Nations to have authority over defining what heritage is and how it should be managed**. Further, for decisions on their territories (“no means no”), any revised HCA or other **legislation must reflect First Nations laws**. Survey responses, noted that the HCA is not currently compatible with the UN Declaration concept of free, prior, and informed consent (75%), and that there was a need to expand the definition of heritage to recognize and protect a broader spectrum of First Nations cultural heritage (80%).

Related to the acknowledgement and reflection of First Nations laws, a few First Nations participants noted that legislation and protocols in any revised legislation must leave room to allow **protocols to be responsive to individual Nations** as laws and cultural practices vary greatly among First Nations within B.C. Survey respondents echoed this sub-theme, indicating that HCA permits don’t require that cultural protocols for managing ancestral remains or burial places be followed (80%), and that HCA permits should require cultural protocols for ancestral remains and burial places to be followed (80%).

Finally, it was noted among First Nations that they **need to retain access to their ancestors and cultural objects**. While it was noted by some that not all First Nations have the capacity to provide homes for these family members and items currently, it was important that First Nations have access to these items in the places where they are stored (e.g., Royal BC Museum, UBC Museum of Anthropology). Survey respondents rated this as a key challenge, identifying that First Nations’ access to culturally significant sites and objects may be restricted (65%).

Jurisdictional Issues

The third and final major sub-theme was related to **jurisdictional issues, Rights, and Title**. Comments coded within this sub-theme acknowledged that, for many First Nations, Rights and Title issues remain contested or fluid, and that any changes to the HCA should be mindful of this evolving landscape. Comments included the need for greater clarity on the intersection of, and potential conflicts between, First Nations Title and the HCA. First Nations participants, including Modern Treaty Nations, noted the need to **consider the interactions between treaties, federal legislation, and provincial legislation**.

In recognition of the unique relationship between Modern Treaty Nations and the Province, Modern Treaty Nations specifically noted the need for the Province to **recognize Modern Treaty Nation jurisdiction** over heritage objects and sites located within and outside of established Treaty lands. Modern Treaty Nation jurisdiction over cultural heritage should not be limited to existing geographic restrictions outlined within Treaties.

A couple of First Nations representatives also noted that **destructive activity to heritage sites can have implications for land claims proceedings** and, therefore, the provincial government is indirectly incentivized to allow development and destruction of heritage sites.

Finally, a strong voice from respondents identified the need to better **protect First Nations heritage sites located on private lands**.

Proposed Solutions (Survey Data) – Indigenous Values and Rights Recognition

- Enable Government-to-Government development of collaborative heritage management programs that provide opportunities for First Nations to develop and document their heritage management policies (85%);
- Require cultural protocols for ancestral remains and burial places be followed under HCA permits (80%);
- Expand the definition of heritage to recognize and protect a broad spectrum of First Nations cultural heritage (80%);
- Ensure Indigenous intellectual property and cultural knowledge are safeguarded and that requests for confidentiality are respected (75%); and
- Develop mechanisms to support recognition of First Nations laws, policies, governance, and decision-making pertaining to heritage (75%).

Protections

Among First Nations participants, the major topics that emerged from content related to protections were:

- First Nations should have the **authority to define heritage**, including intangible heritage, and to specify sites for protection;
- **More comprehensive protections are needed**, to include sites identified as possessing intangible heritage and cultural importance, and **better protections are necessary for First Nations burial sites and ancestral remains**;
- Greater consideration should be given to **cumulative effects** on heritage sites; and
- **Protections should be proactive** rather than reactive.

First Nations Role in Defining Protections

The most common discussion points within the sub-theme of **First Nations role in defining protections** were the need for **First Nations to have the authority to define** or delineate areas of protection, and the need for any **protections to be holistic** in jurisdiction and scope (e.g., natural heritage sites used for traditional purposes should restrict non-traditional uses of the land). The need for **better protections for burial sites and ancestral remains** was also a key comment throughout the engagement sessions and written submissions. Some First Nations representatives shared stories of burial sites being disturbed, ignored, damaged, desecrated, or disrespected during past development projects. These comments emphasized the need for protections for First Nations burial grounds and ancestral remains to be equivalent to protections in the *Cemeteries Act* (75%).

First Nations were strongly supportive of **protections being created for intangible heritage and culture** (e.g., language and place names, sites of spiritual significance even in the absence of physical structures), with this issue being raised both in engagement sessions and written submissions. Other sub-themes within this topic that were discussed by First Nations included the need for **protections to take into account the cumulative effects of “low impact” activities**, recognizing that activities such as landscaping and recreation may have minimal impact when conducted infrequently, but can significantly impact the integrity of a site when low impact activities become frequent and repetitive. This was also endorsed within the survey data, with respondents identifying that the HCA does not address cumulative impacts to heritage sites as the top challenge (80%). The issue of addressing protections on private property was also raised.

Stronger Protections

Finally, the third major topic noted that **protections must be stronger to achieve conservation**. Concerns that the **HCA is only reactive** and “kicks in” when artifacts are found on a site, but that it **should be more proactive** and extend protections to sites where artifacts are believed to be or could possibly be. Survey respondents also endorsed the statement that the **inventory of heritage sites is incomplete and out of date**, leading to gaps in protection (80%).

Participants also raised that the protections within the HCA are not meaningful without proper oversight of sites (compliance audits) and enforcement, and that the **right to redress and restore damage caused by projects/landowners who contravene the HCA should be included** in a revised HCA. Some First Nations suggested that **the HCA ultimately prioritizes development over conservation**,

Survey respondents noted that having multiple **administrators for heritage conservation, operating under different legislation and mandates** (e.g., *Land Act, Forest & Range Practices Act, Oil and Gas Activities Act, Local Government Act*) is a challenge. Further, it was outlined that local and regional governments need to be better informed of the HCA and provided **more tools to support them in heritage management** (65%).

Proposed Solutions (Survey Data) – Protections

- Develop mechanisms to consider or account for cumulative impacts to heritage sites (75%);
- Enhance protections for ancestral remains and burial sites (70%);
- Considering the application of HCA Sections 4, 9, 11.1, and/or 32 to enhance site protections (70%); and
- Coordinate the protection of heritage under different legislation managed by different regulatory bodies, including for local governments (65%).

Decision-Making

The topic area of decision-making focused on issues related to when and how decisions regarding land use and heritage protection are made, and whose voices are heard in those discussions. Key points that emerged among First Nations related to this topic included:

- **Decision-making must be shared** and respectful of First Nations laws and customs;
- **First Nations as Decisions Makers;**

- **Elders and knowledge keepers must be acknowledged as experts**, and their input respected;
- **Information is not shared with First Nations in a timely manner**, and bureaucratic process hampers meaningful dialogue;
- **Final decisions should ultimately lie with First Nations**; and
- Province should be respectful of inter-Nation dialogue and negotiation.

Collaborative Relationships

The most common discussion points within the sub-theme of **collaborative relationships needed between First Nations and the Province** was the need for **shared decision-making** with First Nations. Further, decision-making processes need to be more inclusive and flexible to local (potentially Nation-held) priorities and requirements rather than rigidly adhering to provincial standards. Survey respondents overwhelmingly highlighted the need for First Nations to have an enhanced role in the management, protection, and conservation of their cultural heritage (85%).

First Nations participants felt that the roles and policies of various government entities were unclear, and that there is **a need for coordination and consistency amongst government agencies** to reduce confusion and administrative burden on First Nations and stakeholders.

First Nations Are Experts

Within the sub-theme of **First Nations as experts**, there was broad agreement that **Elders and knowledge keepers must be acknowledged as experts**. The authority and expertise of Elders and Knowledge keepers was emphasized in engagement sessions with First Nations twelve times, 5 times in written submissions, and an additional 8 times in survey comments. Survey respondents highlighted the need for a decision-making model that is inclusive of First Nations' knowledge and perspectives (75%). First Nations participants also emphasized that **final decisions should ultimately lie with First Nations**.

Jurisdictional Issues

The sub-theme of **jurisdictional issues** highlighted the importance of First Nation's involvement in government decision-making processes. There were calls for a suite of decision-making options, including shared decision-making, joint decision-making, and delegated decision-making. Several First Nations also noted that negotiating agreements for shared decision-making may work for some Nations but that it isn't a tenable solution for all.

Similarly, participants felt that the **role of local government and related entities in heritage conservation needed to be clarified** and supported. First Nations participants noted while some Nations have strong relationships with municipal neighbours, many local governments make potentially impactful development decisions without any input or consultation with First Nations. 70% of survey respondents endorsed facilitating a greater role for First Nations with local governments on project proposals involving heritage.

Several First Nations participants articulated a desire to see **disputes between First Nations managed by the First Nations themselves**, not mediated by the Province. These comments noted that First Nations had shared and managed overlapping territories for generations and suggested that inter-Nation conflicts or relationships be left to the Nations. In a joint written submission, Modern Treaty Nations also articulated that concerns regarding overlapping territory need to acknowledge the distinction between treaty Rights and asserted Rights.

Process Improvements

First Nations also commented on **process improvements** related to the issue of decision-making. These comments recommended making changes to **address the burdensome permitting process**, and to **improve the timeliness of receiving permits, authorizations, and information requests** from the Archaeology Branch. 70% of survey respondents identified the HCA permitting process as administratively burdensome and complex to navigate. A couple of First Nations participants felt that the bureaucratic nature of provincial processes was very slow and resistant to change. First Nations also identified the **importance of sharing information freely and in a timely manner** with Nations. Survey respondents also endorsed the need to consider heritage sites at the earliest possible state of development review and land-use planning (85%).

Proposed Solutions (Survey Data) – Decision-Making

- Enhance First Nations' role in decision-making and develop clear processes, tools, and criteria (90%);
- Facilitate a greater role for First Nations to engage with local governments on project proposals involving heritage (70%);
- Modernizing tools and systems for heritage management (e.g., permitting, referrals, reports, etc.) (65%); and
- Considering tools and mechanisms to support earlier consideration of heritage values in the land-use decisions and project planning processes (65%).

Resourcing

The topic of **resourcing to support heritage conservation** was discussed in engagement sessions with First Nations, as well as written submissions and surveys from First Nations. Highlights within this topic included:

- **Resources are needed to support First Nations** in permit review, guardian programs (site identification, monitoring, management and protection), heritage conservation activities, and to build archaeological capacity within Nations; and
- **Insufficient resourcing at the Archaeological Branch** continues to have a major negative impact on First Nations, as well as private landowners, development and natural resource proponents (across industry/sectors), and archaeologists/heritage professionals, among others.

Resourcing to Support First Nations

A key sub-theme was the need for **more resourcing for First Nations**. 20 First Nations commented in engagement sessions on the need for resourcing to support work that they already undertake as part of ongoing heritage management, including permit reviews, guardianship programs, and reinterment and repatriation for ancestors and cultural belongings. This sub-theme was reiterated in written submissions and survey comments.

Reflecting the large number of concerns raised in the qualitative data around First Nations resourcing, three of the top four issues identified among survey respondents were related to **resourcing for First Nations' heritage management**:

- First Nations do not have adequate resources to effectively support heritage management (80%);
- First Nations require further resourcing, programs, and tools to safeguard, revitalize, and share their cultural heritage (75%); and
- The costs incurred by First Nations for repatriation and other cultural protocols when ancestral remains are disturbed (75%).

First Nations also voiced that resources and programs were needed to support First Nations and their community members engaging directly in archaeological work, so that they may be acknowledged and included as experts in the field for the purposes of permitting and other work. Commentors varied on the best path for achieving this goal – whether formal post-secondary education, some other form of credentialing system, or an approach that centers on traditional knowledge – but all agreed that

there needs to be a **formal space in the archaeology/heritage management process for knowledge keepers and Elders.**

Resourcing to Support the Archaeology Branch

First Nations also highlighted concerns about **Archaeology Branch resourcing**, emphasizing that the Archaeology Branch is significantly under-resourced. The lack of resourcing impacted First Nations ability to engage in archaeological assessment processes, receive requested information in a timely manner, as well as participate more broadly in conversations related to the conservation of their heritage sites. Other concerns raised by multiple First Nations included **delays and long timelines for permit issuance (as Nations are often applicants)**, and the fact that Archaeology Branch employees are not always experienced or knowledgeable in all regions where cultural/material differences exist. Survey respondents also highlighted that the inventory of heritage sites is incomplete (large backlog and not comprehensive) and that this leads to ongoing gaps in protection (75%).

Goals of Resourcing

While the lack of resources to support heritage conservation was raised, so were the **goals of resourcing**. Under this sub-theme, First Nations participants emphasized that **resourcing should support compliance and enforcement** and long-term **relationship building** among relevant parties, while exploring **incentivization options to encourage compliance and honesty about site presence or potential impacts**. Survey respondents also noted the lack of a clear framework, funding, or mechanisms to support the purchase of property with significant heritage sites, to offset unforeseen archaeological costs, and to support ceremonial protocols/practices when sites have been disturbed (75%).

Proposed Solutions (Survey Data) – Resourcing

- Develop sustainable, long-term funding to support First Nations in the stewardship of their cultural heritage (75%);
- Consider mechanisms and funding to support land purchases, compensation, restitution, site remediation, and ceremonial protocols/practices when heritage sites have been disturbed (70%);
- Address the backlog of site records in the Archaeology Branch's inventory to ensure up-to-date information (70%); and
- Identifying opportunities and resources to support increased First Nations capacity and involvement in heritage management (70%).

Compliance and Enforcement

The final topic area during engagement, Compliance and Enforcement, offered an opportunity for participants to share input on how site activities that may impact heritage values should be monitored and overseen and, if violations occur, how violations should be managed. Highlights discussed by First Nations included:

- **Inadequate compliance and enforcement tools** in the HCA;
- **First Nations involvement** in all aspects of compliance and enforcement;
- Challenges working with local governments and private property owners; and
- **Greater seriousness about protection** and enforcement is needed.

First Nations Involvement

The need for **greater First Nations involvement in all aspects of compliance and enforcement** was identified as a major sub-theme. First Nations noted there was a significant need to build or enhance relationships between government (compliance and enforcement) and communities. First Nations emphasized that **improved responsiveness and accountability for transgressors of the HCA was long overdue and that**, First Nations, with the necessary capacity funding, should be involved in the ongoing management, oversight, and protection of sites. Survey respondents also identified the desire for more **direct involvement in HCA investigations** as a priority (70%).

Local Governments and Private Owners

Challenges working with local governments and private property owners was also identified as a sub-theme. First Nations noted in engagement sessions that there is a need for better **collaboration with local governments** regarding development approvals and municipal infrastructure maintenance to ensure local governments are not contravening the HCA or inadvertently impacting a site.

Similarly, **challenges working with private landowners** were raised by multiple participants. Comments included the need to ensure landowners are both informed of, and accountable to, the HCA and are responsible for adherence to the HCA in relation to the documented or potential heritage objects on their property.

Provincial Responsibility

First Nations identified the need for the **provincial government to take their protection and compliance and enforcement responsibilities seriously**, highlighting ongoing impacts to sites and objects from industrial and development activities.

Increased Compliance and Enforcement

The need for **increased compliance and enforcement** is another major sub-theme. The top challenge identified by survey respondents was that there are **inadequate compliance and enforcement tools** in the HCA (75%). In engagement sessions, 16 First Nations strongly emphasized the need for a more robust and effective legislative and regulatory framework. Furthermore, some participants highlighted the need for the **alignment of protections across ministries and governments** related to the protection of both heritage protection and other natural resources.

This sub-theme speaks to the need for protections to be holistic in scope, recognizing that environmental protections are important to ensure that cultural practices can continue and be preserved for future generations (e.g., traditional uses of native plants, traditional hunting practices). First Nations also felt that there is a **need for greater clarity on the jurisdiction and responsibilities of enforcement** agencies as some respondents shared stories of enforcement issues being passed around multiple agencies and levels of government. Survey respondents also strongly recognized that there is **inadequate resourcing for compliance and enforcement** to support compliance checks and investigations where contraventions are reported (70%).

Proactive Protections

The final sub-theme of **proactive protections** emphasized the need to incentivize protection rather than penalize violations. While penalties are sometimes necessary and warranted, creating awareness and incentivizing protection should be prioritized.

Proposed Solutions (Survey Data) – Compliance and Enforcement

- Increasing First Nations involvement in monitoring, oversight, protection, investigation and enforcement (75%);
- Hold proponents and landowners accountable to adhere to professional recommendations (65%).

CONCLUSION AND NEXT STEPS

Phase 1 engagement on the Heritage Conversation Act Transformation Project received strong participation, underscoring the importance of this work to First Nations. We thank all participants for sharing their experiences and perspectives, and providing thoughtful contributions during this engagement process.

While new considerations, priorities, and potential solutions were identified during Phase 1 engagement, respondents reaffirmed many previously noted issues and concerns about the HCA and its administration, helping to underscore certain key items for near-term change. Findings from this report will inform proposed legislative, regulatory, policy and programmatic changes related to heritage conservation and management in B.C.

The HCATP is currently seeking executive and Cabinet endorsement to undertake Phase 2 work, including the advancement of a package of near-term changes to the HCA and its administration aimed for Spring 2024 legislative introduction.

APPENDIX 1: PARTICIPANT ORGANIZATIONS

First Nations (60)

1. ʔakisq̓nuk First Nation (Columbia Lake Indian Band)
2. ʔaq̓am
3. Blueberry River First Nations
4. Bonaparte First Nation
5. Champagne and Aishihik First Nations
6. Council of the Haida Nation
7. Cowichan Tribes
8. Ditidaht First Nation
9. Esk'etemc First Nation
10. Gitxsan Nation (Gitxsan Laxyip Management Office)
11. Homalco First Nation
12. Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations
13. Katzie First Nation (Katzie Development Limited Partnership)
14. Kitasoo/Xai'xais Nation (Kitasoo Xai'xais Stewardship Authority)
15. Kitsumkalum Band
16. K'ómoks First Nation
17. Kwantlen First Nation
18. Kwikwetlem (kʷikwə́ɬəm) First Nation
19. Lax Kw'alaams Band
20. Lheidli T'enneh First Nation
21. Lower Nicola Indian Band
22. Lower Similkameen Indian Band
23. Metlakatla First Nation (Metlakatla Stewardship Society)
24. Musqueam Indian Band
25. Nadleh Whut'en First Nation
26. Nak'azdli Whut'en First Nation
27. 'Namgis First Nation
28. Nisga'a Nation
29. Nuchatlaht First Nation
30. Penticton Indian Band
31. Quatsino First Nation
32. Seabird Island First Nation
33. Sekw'el'was (Cayoose Creek Band)
34. Semiahmoo First Nation
35. shíshálh Nation
36. Shxwhá:y Village (Skway First Nation)
37. Skwah First Nation

38. Skwlāx te Secwepemcúíecw (Little Shuswap Lake Band)
39. Snuneymuxw First Nation
40. Songhees Nation
41. Squamish Nation
42. Stelat'en First Nation (Toonasa Ne Keyah Stewardship Department)
43. T'it'q'et First Nation (Lillooet Indian Band)
44. Tk'emlúps te Secwépemc
45. Tla'amin Nation
46. Tl'azt'en Nation
47. Tlowitsis Nation
48. Tsal'alh (Seton Lake Band)
49. Tsartlip First Nation
50. Tsawwassen First Nation
51. Tseshaht First Nation
52. Tsleil-Waututh Nation
53. Uchucklesaht Tribe
54. Upper Similkameen Indian Band
55. We Wai Kai First Nation (Laich-Kwil-Tach Treaty Society)
56. Whispering Pines / Clinton Indian Band
57. Williams Lake First Nation
58. Xatśúll First Nation
59. Xaxli'p First Nation
60. Yuułuʔiłʔatḥ Government (Ucluelet First Nation)

First Nations Organizations (15)

1. Alliance of B.C. Modern Treaty Nations
2. British Columbia Assembly of First Nations
3. First Nations Leadership Council
4. First Nations Summit
5. Hul'qumi'num Treaty Group
6. Maa-nulth First Nations
7. Maiyoo Keyoh Society
8. N̓anwakolas Council
9. Northern Secwepemc te Qelmucw
10. S'ólh Téméxw Stewardship Alliance
11. St'át'imc Government Services
12. Stó:lo Nation
13. Stó:lo Tribal Council
14. T̓silhqot'in National Government
15. Wei Wai Kum Kwiakah Treaty Society

Other (11)

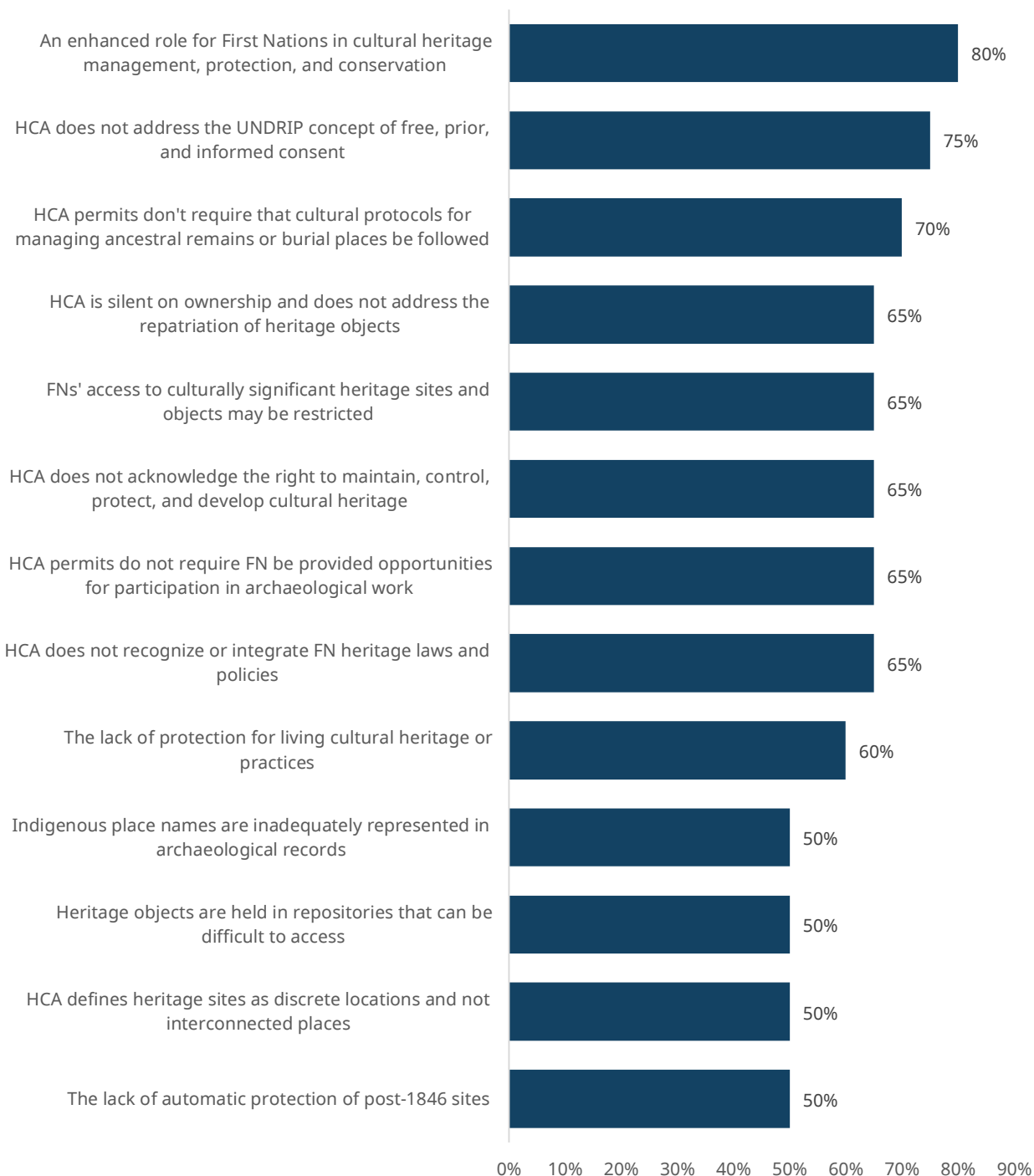
1. Dee Cullon, Consultant
2. Downtown Eastside Women's Centre
3. Haida Gwaii Museum Society
4. Indigenous Heritage Circle
5. Inlailawatash Limited Partnership
6. Jesse Morin, Researcher
7. JG Bones Consulting
8. Kelly Lindsay Law
9. LM Law Group
10. North West Indigenous Council Society
11. Ratcliff LLP

APPENDIX 2: ANALYSIS OF FEEDBACK

Indigenous Values and Rights Recognition

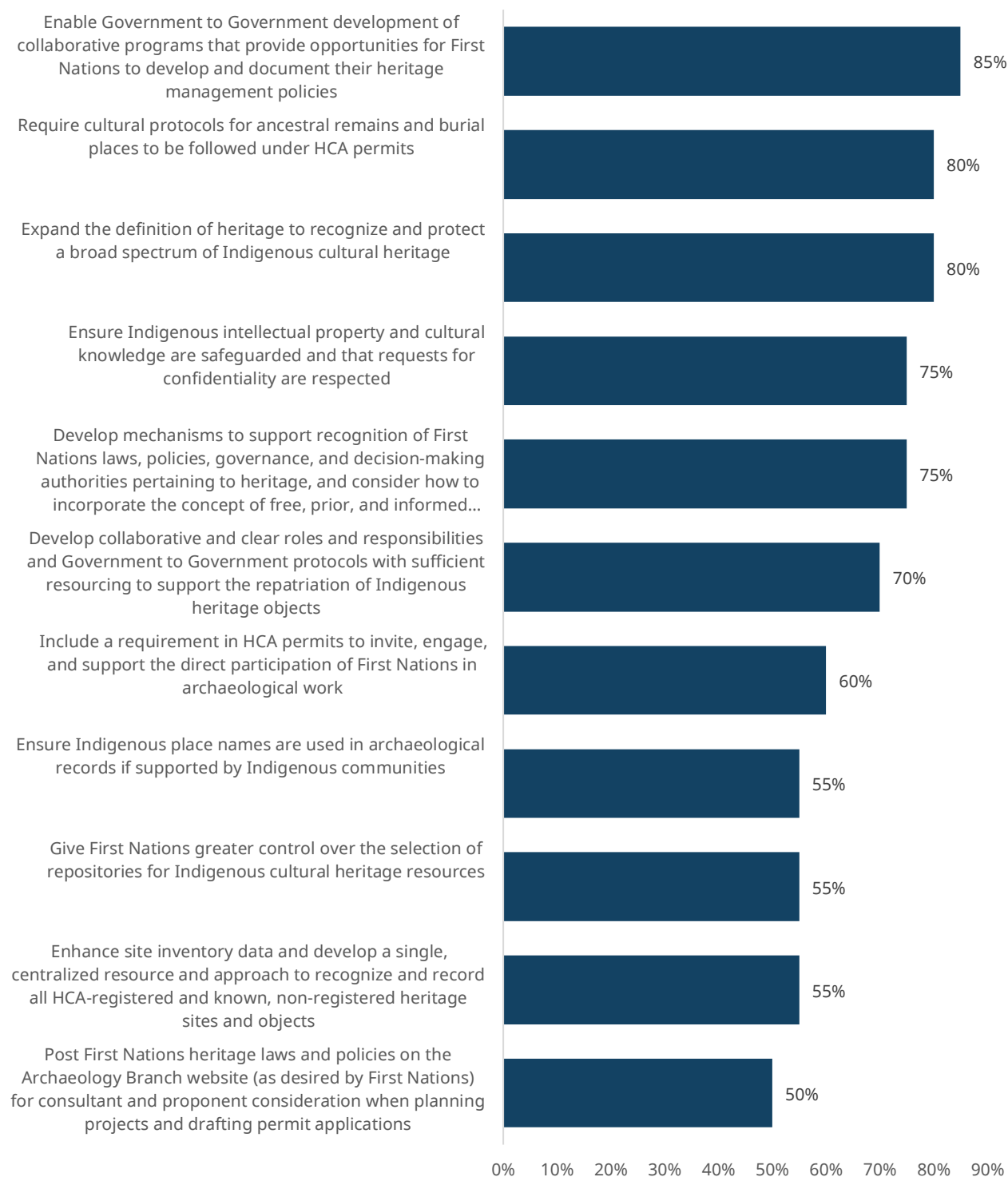
Theme	Engagement Session Transcripts		Written Submissions		Survey
	First Nations	First Nations with Modern Treaties	First Nations	First Nations with Modern Treaties	First Nations
Colonial Assumptions Underpin the HCA					
<i>Terra nullius</i> and 1846 date reinforce colonial narratives about what is assumed about history, how the historical record is kept	15	1	5	2	1
Archaeology work and assessments do not always reflect local First Nations' laws, values, knowledge	13	1	2	2	0
Engagement with First Nations must shift to be collaborative, co-equal partnerships	12	1	2	1	1
Transformation should prioritize assessment	4	0	1	0	0
First Nations Laws and Values Must be Reflected					
First Nations need the authority to define heritage, what is worthy of protection	25	2	3	2	8
HCA and other legislation must reflect First Nations' cultural laws	16	1	4	1	5
First Nations should have Rights to make final decisions	16	2	2	1	8
First Nations need to retain access to ancestors and artefacts	8	1	3	2	0
Education and shared understanding of First Nations' Rights among all stakeholders needed	5	0	2	0	0
Legislation and protocols must be responsive to individual Nations	3	0	3	1	0
Jurisdictional Issues, Rights and Title					
Need to address how First Nations Rights are recognized and addressed on private land	13	2	1	0	0
Greater clarity needed on intersection of Title and HCA	7	1	2	2	0
First Nations Rights under federal legislation and/or modern treaties supersede provincial legislation	5	1	1	1	0
Destructive activity has impacts on land Rights and Title claims	2	0	0	0	0

Figure 1.1: Issues or Challenges Related to Indigenous Values and Rights Recognition Rated “Most Important” by First Nations Participants



Bars in graph illustrate proportion of respondents selecting each option as “Most Important.”
Total base *n* is 20 across all items.

Figure 1.2: Proposed Solutions Related to Indigenous Values and Rights Recognition Rated “Most Important” by First Nations Participants

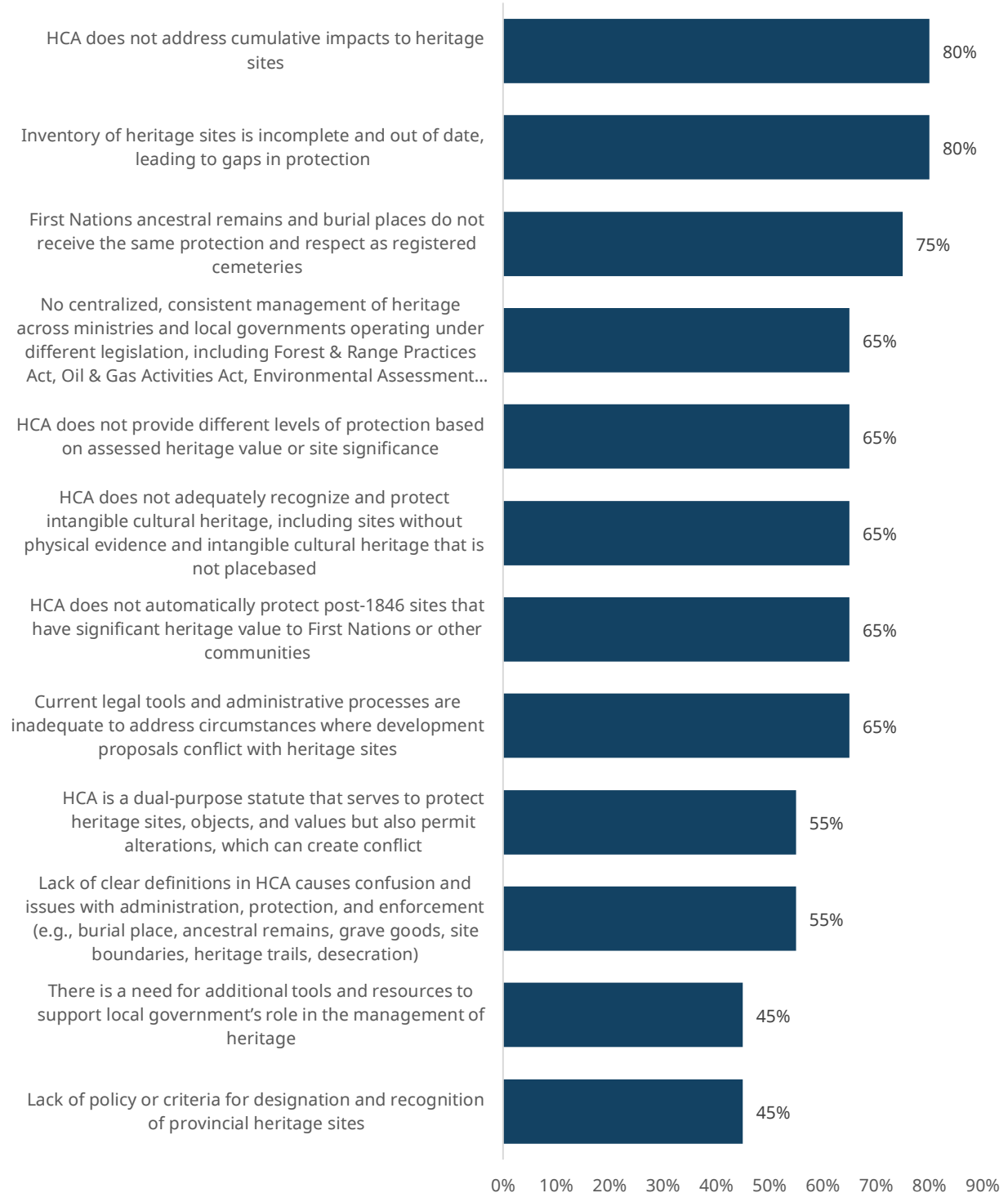


Bars in graph illustrate proportion of respondents selecting each option as “Most Important.”
Total base *n* is 20 across all items.

Protections

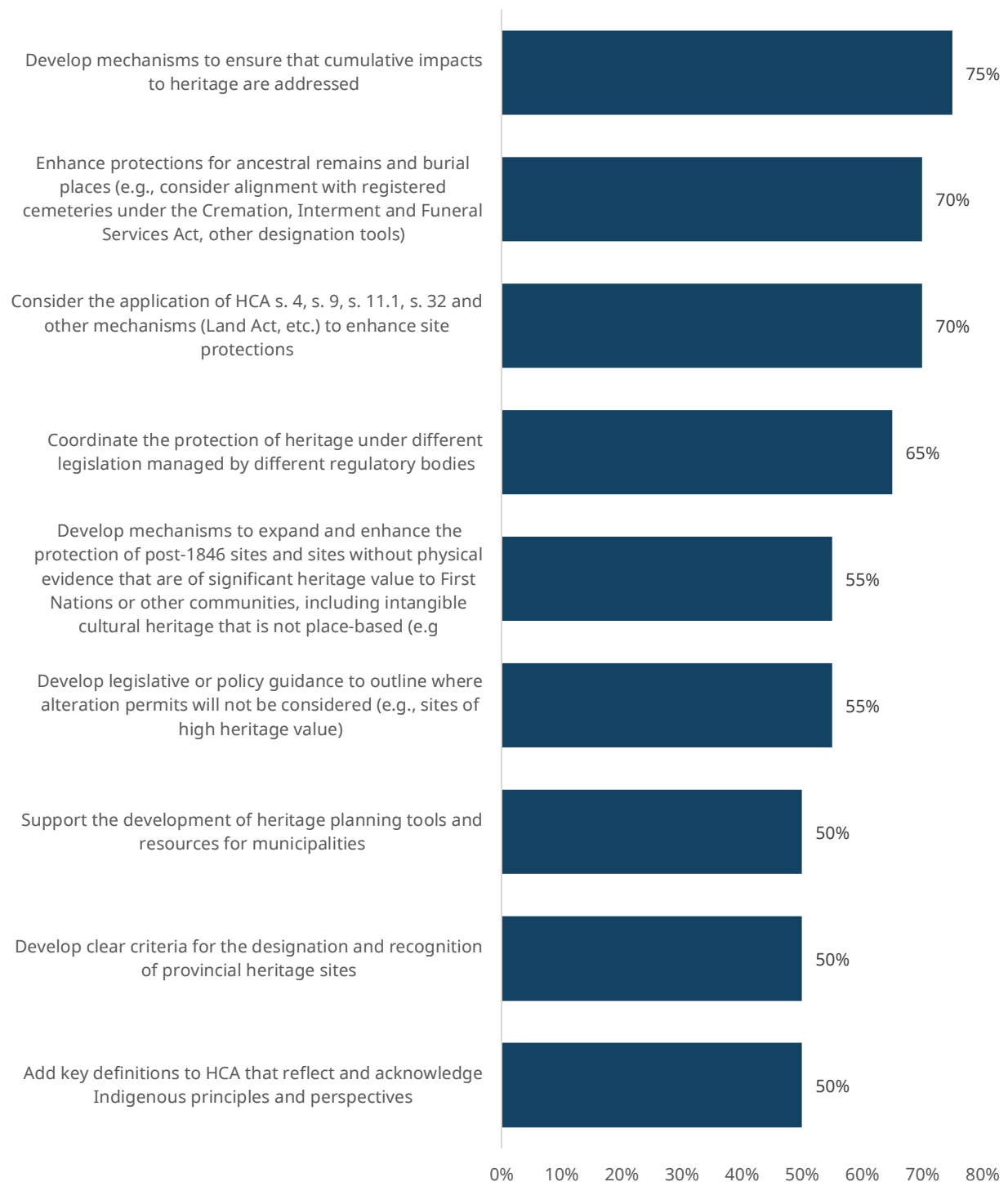
Theme	Engagement Session Transcripts		Written Submissions		Survey
	First Nations	First Nations with Modern Treaties	First Nations	First Nations with Modern Treaties	First Nations
First Nations Role in Defining Protections					
First Nations need to be able to define or set out areas of protection	7	0	4	0	5
Protections need to be holistic in jurisdiction and scope	5	2	0	0	0
Better protections needed for burial sites and ancestral remains	3	0	5	1	1
First Nations should be in charge of protections in their traditional territories	3	1	1	0	9
Permitting process currently does not reflect First Nations' voices	2	0	2	1	1
More Comprehensive Protections Needed					
Need protections for intangible heritage and culture	7	2	5	2	0
Protections need to consider cumulative effects of "low impact" activities	2	0	2	1	0
Protections needed to address private property or fee simple lands	2	0	2	1	0
Ensure sensitive sites are not shared publicly	0	0	1	0	0
Need to update inventory of heritage sites	0	0	1	0	1
Protections Must be Stronger to Achieve Conservation					
HCA is only reactive, needs more proactive measures	12	2	2	1	1
Protections of HCA not meaningful without proper oversight and enforcement	8	1	0	0	4
Right to restore, redress damage needs to be included in HCA	7	0	1	0	0
HCA ultimately prioritizes development over conservation	2	0	1	0	1
Provide tools to local government to support heritage management	0	0	2	1	0

Figure 1.3: Issues or Challenges Related to Protections Rated “Most Important” by First Nations Participants



Proportion illustrated is respondents rating each item as “Most Important.”
Total base *n* is 20.

Figure 1.4: Proposed Solutions Related to Protections Rated “Most Important” by First Nations Participants

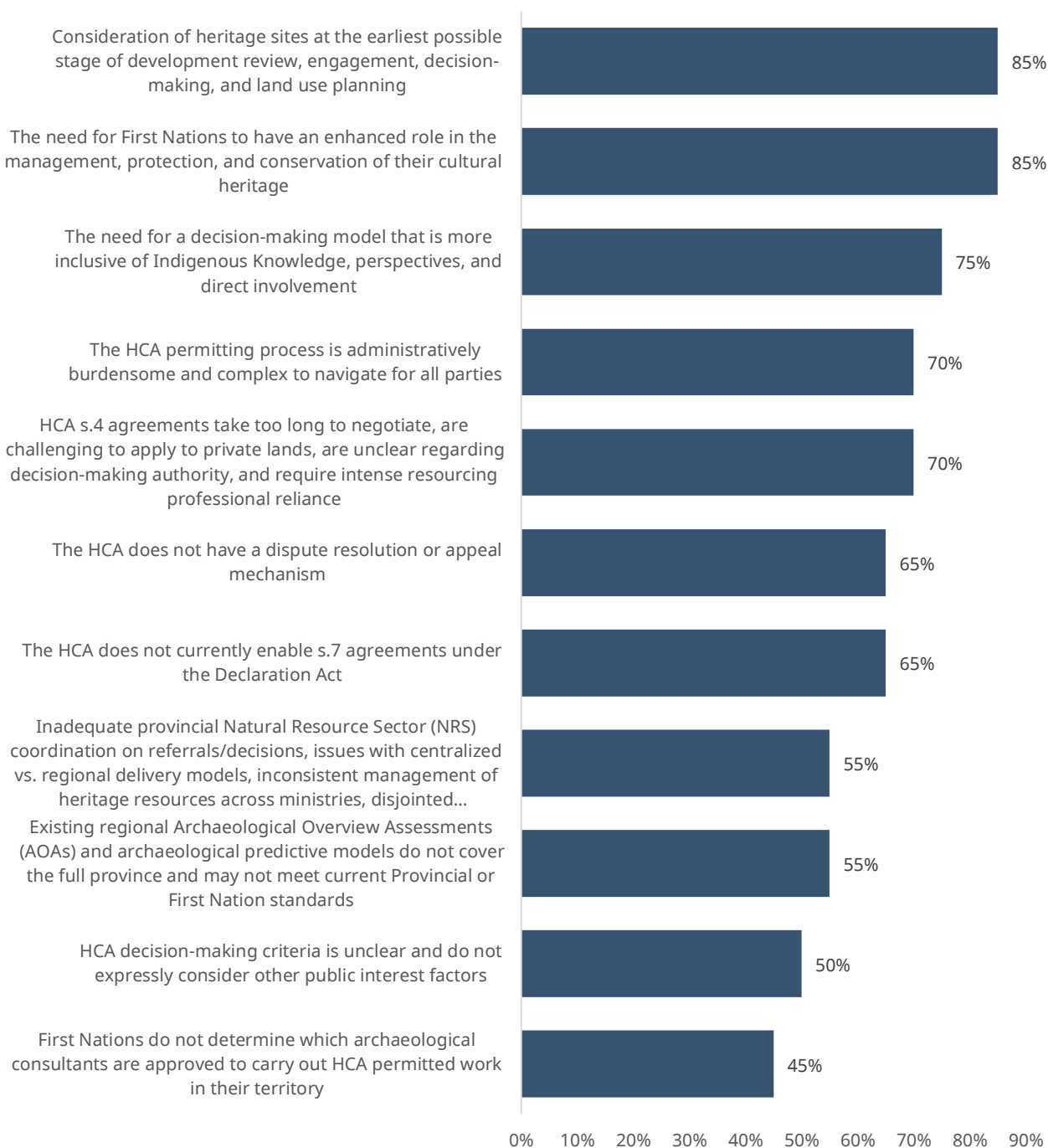


Proportion illustrated is respondents rating each item as “Most Important.”
Total base *n* is 20.

Decision-Making

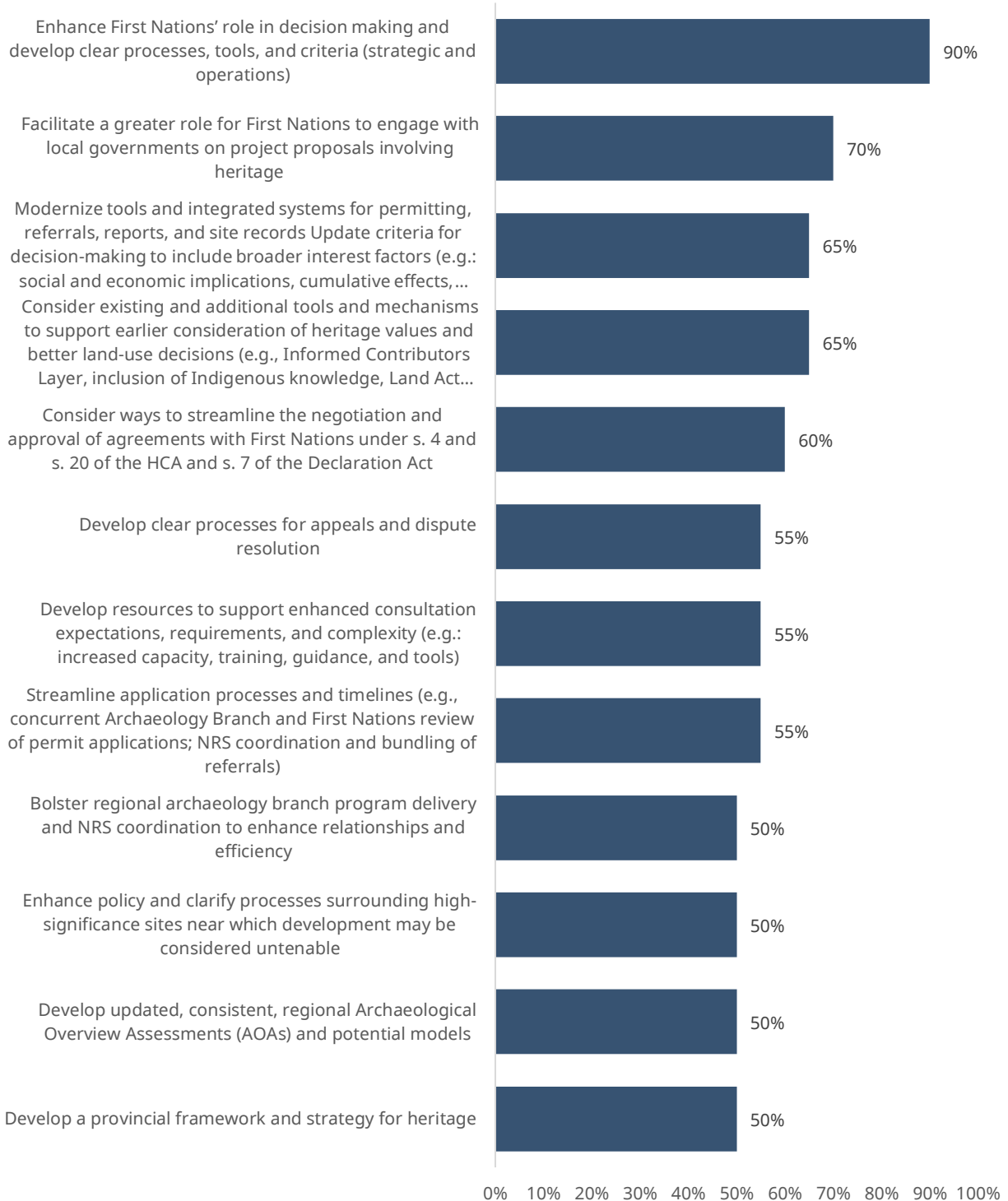
Theme	Engagement Session Transcripts		Written Submissions		Survey
	First Nations	First Nations with Modern Treaties	First Nations	First Nations with Modern Treaties	First Nations
Collaborative Relationships Needed Between First Nations and Province					
Shared decision-making needed with impacted First Nations	17	2	6	1	5
Decision-making basis needs to be more inclusive of local priorities, needs, public good	8	1	2	0	2
Information must be shared freely, in timely manner, with First Nations	5	1	2	1	1
Provincial bureaucracy, processes are slow or resistant to change	2	0	0	0	0
First Nations as Experts					
Elders and knowledge keepers should be authorities in research	12	2	5	2	8
Decision-making must ultimately lie with First Nations	11	0	2	0	11
First Nations need opportunity to shape and monitor proactive policy, not just reactive decision-making	1	0	1	0	8
Jurisdictional Issues					
Roles and policies of various governments, agencies not clear, do not support inclusion of First Nations in processes	7	2	0	0	0
Disputes between Nations can be addressed by themselves	5	2	2	1	0
Roles of local government and other parties unclear, need addressing	5	1	0	0	0
Process Improvements					
Improve timeliness for receiving authorizations, permits, and information requests	0	0	1	1	0
Address / reduce burdensome permitting process	0	0	1	1	0

Figure 1.5: Issues or Challenges Related to Decision-Making Rated “Most Important” by First Nations Participants



Proportion illustrated is respondents rating each item as “Most Important.”
Total base *n* is 20.

Figure 1.6: Proposed Solutions Related to Decision-Making Rated “Most Important” by First Nations Participants

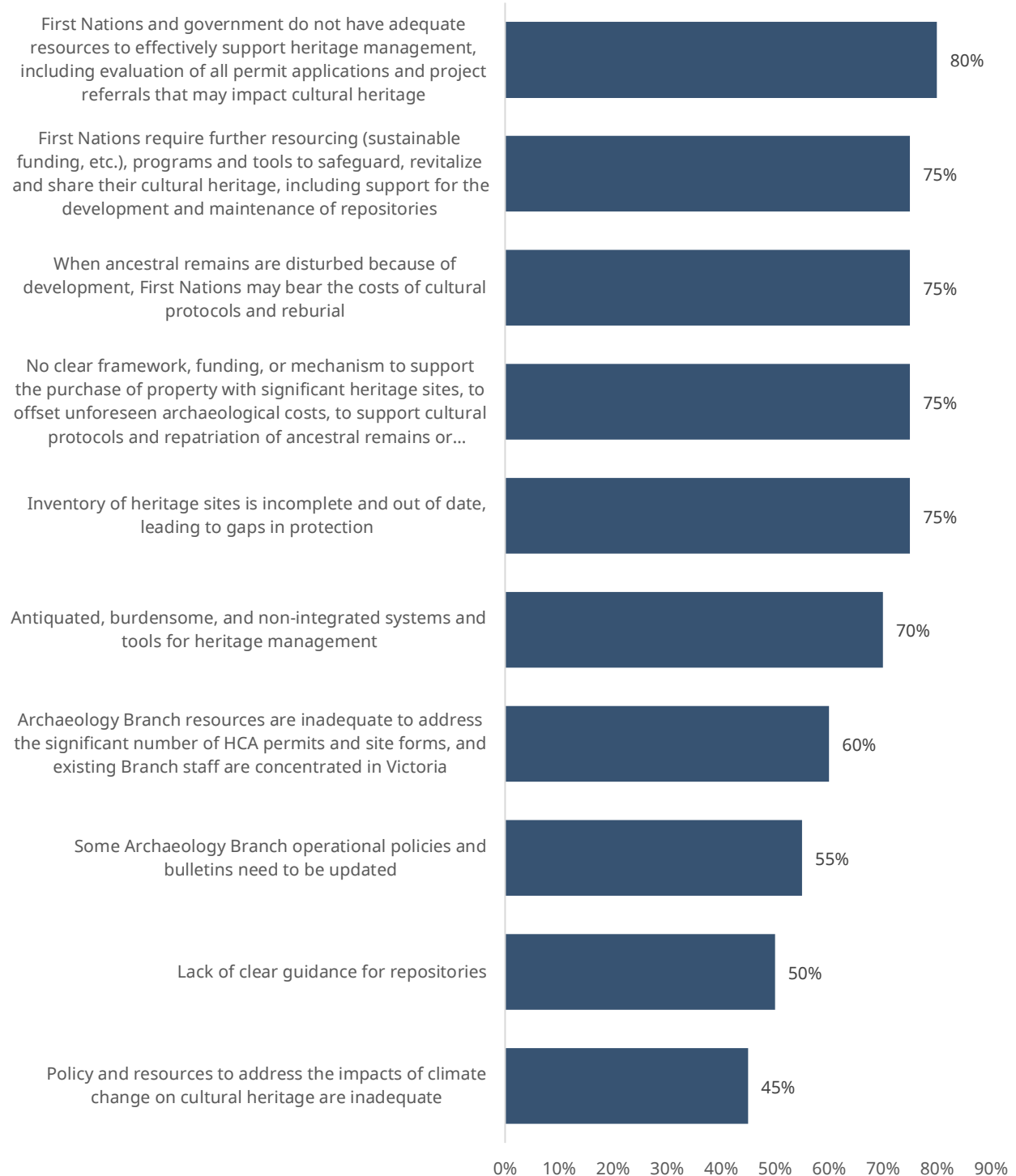


Proportion illustrated is respondents rating each item as “Most Important.”
Total base *n* is 20.

Resourcing

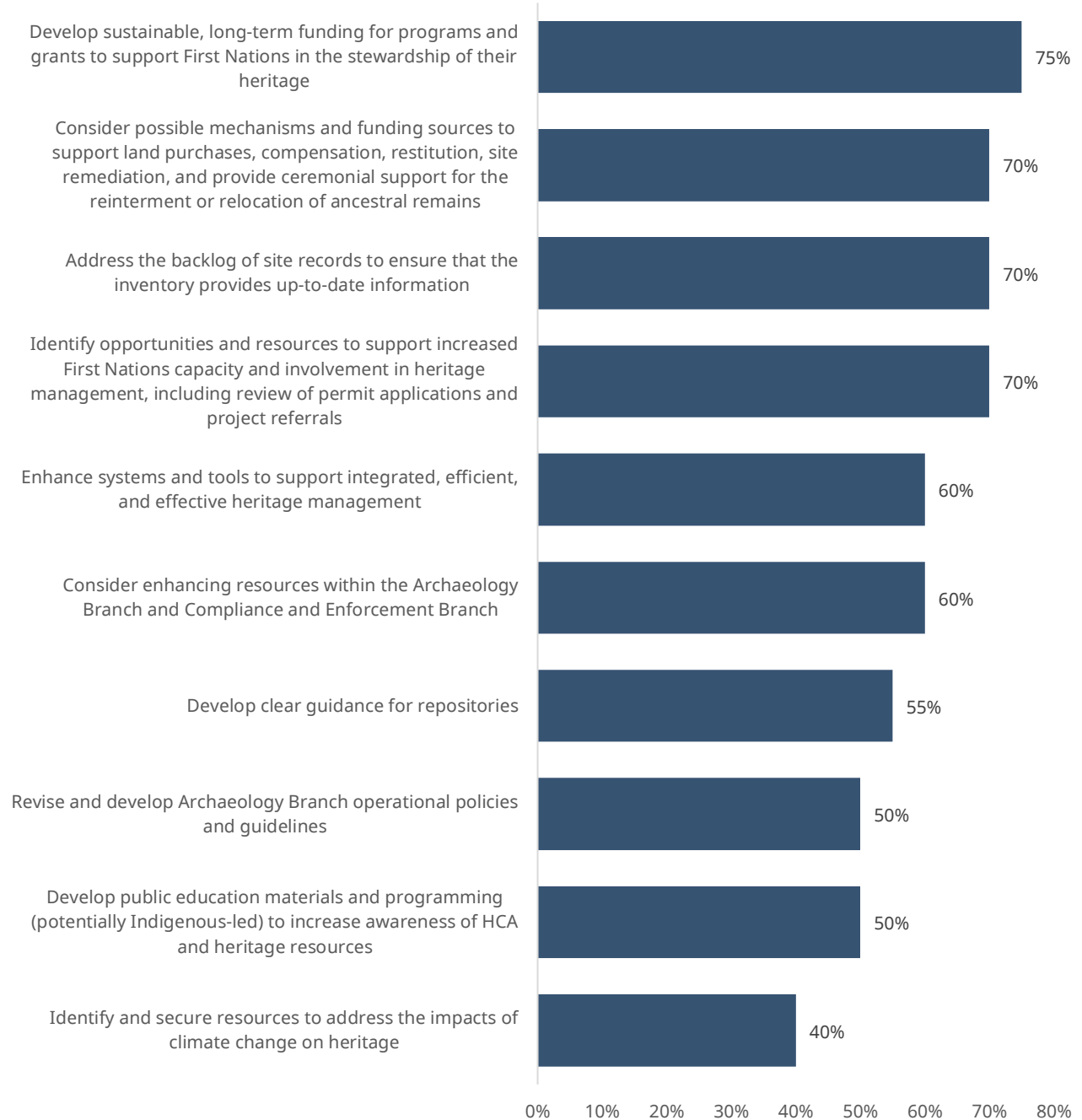
Theme	Transcripts		Written Submissions		Survey
	First Nations	First Nations with Modern Treaties	First Nations	First Nations with Modern Treaties	First Nations
Archaeology Branch Resourcing					
<i>Impacts of insufficient resourcing</i>					
Reduction in First Nations' abilities to engage with archaeological assessment process	4	1	0	0	0
Negative impacts on First Nations' abilities to preserve heritage, engage in cultural practices	3	1	0	0	0
Reduced compliance or protection efforts by developers, project owners	1	0	1	0	0
Insufficient resourcing at Archaeology Branch	8	1	4	1	5
Delays and long timelines for permit issuance	3	0	3	1	0
Archaeology Branch employees not knowledgeable or experienced in areas they work in	3	1	1	0	1
Regional offices needed	0	0	0	0	3
First Nations Resourcing					
Resourcing needed to support First Nations in heritage protection and conservation (i.e., permit review processes, guardian programs)	20	2	4	1	8
Resources and programs needed to support First Nations archaeology work	10	2	3	1	2
Goals of Resourcing					
Ensure enforcement and compliance	12	1	2	0	0
Support long-term relationship building among relevant parties	7	1	1	0	0
Support project owners, incentivize compliance and honesty	5	1	1	0	0
Improve records, tools, and resources to support archaeological assessment work	0	0	1	0	0
Educate public on value of heritage, obligations to protect it	0	0	2	1	2

Figure 1.7: Issues or Challenges Related to Resourcing Rated “Most Important” by First Nations Participants



Proportion illustrated is respondents rating each item as “Most Important.”
Total base *n* is 20.

Figure 1.8: Proposed Solutions Related to Resourcing Rated “Most Important” by First Nations Participants

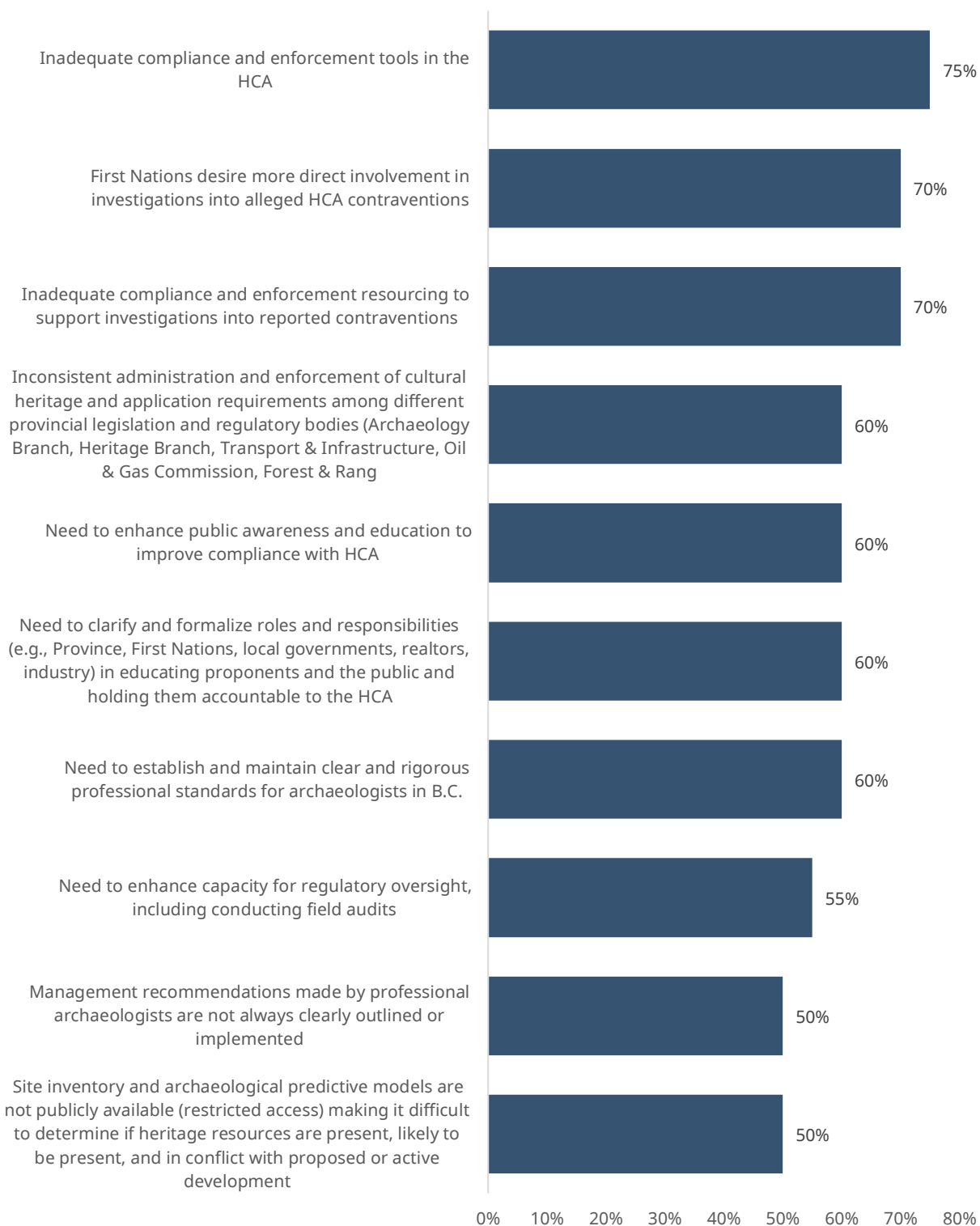


Proportion illustrated is respondents rating each item as “Most Important.”
Total base *n* is 20.

Compliance and Enforcement

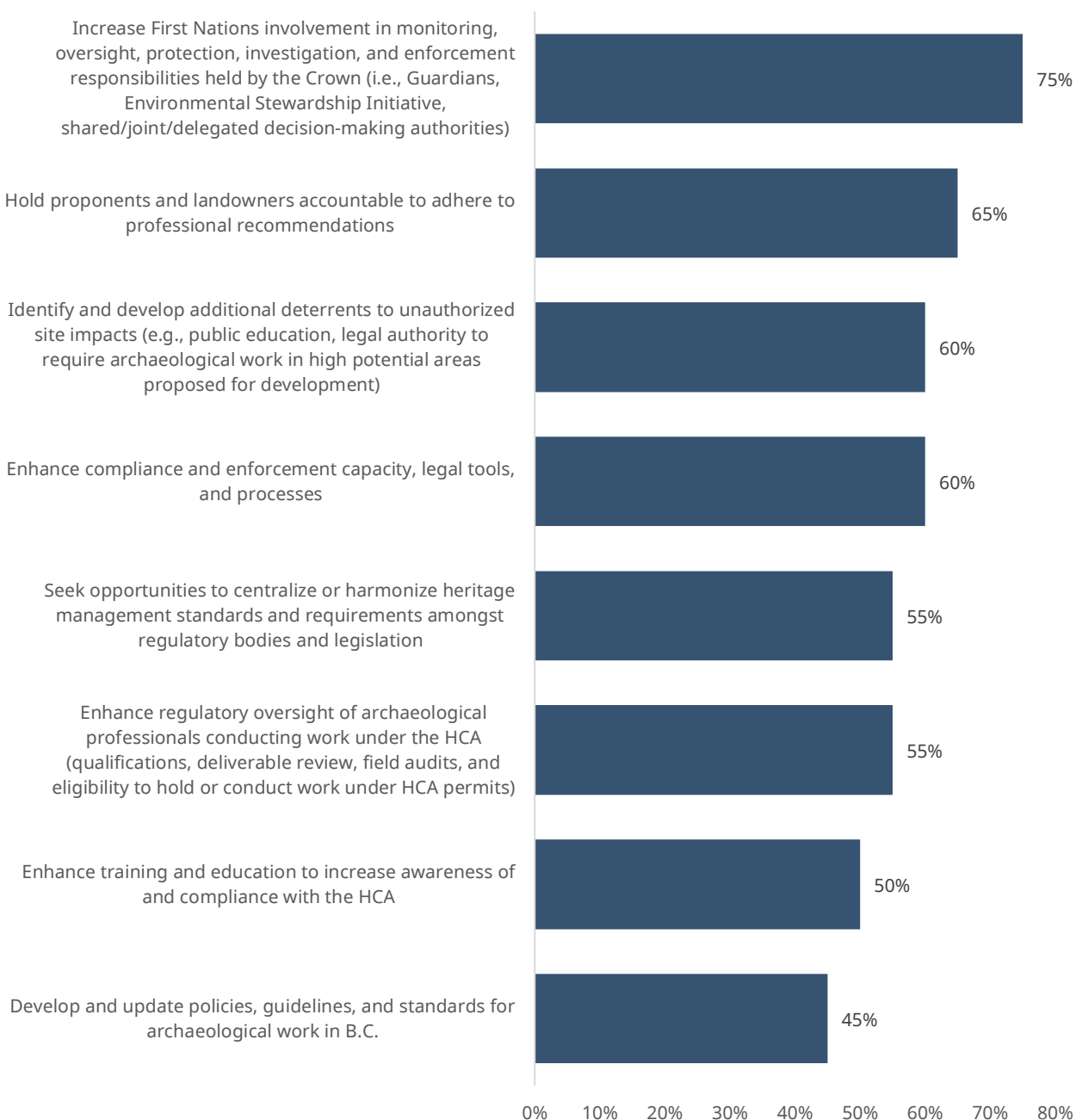
Theme	Transcripts		Written Submissions		Survey
	First Nations	First Nations with Modern Treaties	First Nations	First Nations with Modern Treaties	First Nations
Fuller Inclusion of First Nations in All Aspects of Compliance and Enforcement					
Improved responsiveness and accountability to First Nations needed	15	2	3	1	9
Capacity funding needed for First Nations to engage and monitor sites	13	1	2	1	7
Need to build relationships between government representatives and communities	9	2	0	0	6
Challenges Working with Third Parties					
Collaboration with local governments needed	4	2	0	0	0
Challenges with work on private property	2	0	0	0	0
Provincial Government to Take Responsibilities Seriously					
Provincial government does a poor job of limiting and overseeing industry	9	1	1	0	0
External evaluation and review of project owners' archaeological assessments, other work, needed	3	0	0	0	3
Greater Seriousness about Protection and Enforcement					
More teeth to legislation needed	16	2	2	1	5
Greater clarity on jurisdiction and responsibility for legal enforcement needed	8	0	2	2	0
Alignment of protections and legislation across ministries and governments	0	0	2	0	0
Clearer or higher standards for archaeologists needed	0	0	2	0	0
Proactive Protections					
Need to incentivize protection, not just penalize violations	6	1	0	0	1
More information needs to be public to better plan for conservation	0	0	0	0	1

Figure 1.9: Issues or Challenges Related to Compliance and Enforcement Rated “Most Important” by First Nations Participants



Proportion illustrated is respondents rating each item as “Most Important.”
Total base *n* is 20.

Figure 1.10: Proposed Solutions Related to Compliance and Enforcement Rated “Most Important” by First Nations Participants



Proportion illustrated is respondents rating each item as “Most Important.”
Total base *n* is 20.

Heritage Conservation Act Transformation Project



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, used with permission of the Family)

Phase 1 What We
Heard Report:
External
Stakeholders

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EXECUTIVE SUMMARY

Overview of the Heritage Conservation Act Transformation Project

First Nations and stakeholders (external and internal) in B.C. have consistently raised significant issues with the [Heritage Conservation Act](#) (HCA, the Act) and its administration over many years. First Nations continue to call for increased protection of culturally important sites and the implementation of the [Declaration on the Rights of Indigenous Peoples Act](#) (Declaration Act) to make the HCA consistent with, and to meet the objectives of, the [United Nations Declaration on the Rights of Indigenous Peoples](#) (UN Declaration). While there have been several initiatives undertaken over the years to review and improve the Provincial heritage conservation and management framework, there continue to be challenges with the HCA and its administration.

The [Declaration Act Action Plan 2022-2027](#), a five-year plan which commits the Province to advancing a number of initiatives, includes Action 4.35, which states that 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.” This commitment to working collaboratively with First Nations to reform the HCA is central to this transformative work.

The Joint Working Group on First Nations Heritage Conservation (JWGFNHC) has served as a primary conduit for collaboration between the Province and First Nations representatives on matters relating to heritage conservation and management since its inception in 2007 as mandated through resolutions of the B.C. Assembly of First Nations, First Nations Summit, and Union of B.C. Indian Chiefs (UBCIC). The JWGFNHC, which includes representatives appointed by the First Nations Leadership Council (FNLC) and the provincial government, in addition to consistent engagement between the Province and the Alliance of B.C. Modern Treaty Nations (ABCMTN), which serves as a direct connection to Modern Treaty Nations, have been the primary conduits for co-development of the Heritage Conservation Act Transformation Project (HCATP, the Project). The Province acknowledges and respects the unique and distinct relationship with the eight Nations with whom it has signed modern treaties and is committed to upholding all constitutional obligations and the principles outlined in the [Shared Priorities Document](#). The objective of this collaborative work is to align the HCA with the UN Declaration and transform the Act to better meet the needs of all British Columbians.

Beginning in July 2022, HCATP Phase 1 engagement with First Nations and external stakeholders (industry, heritage and archaeological professionals, local/regional governments, construction and land developers, etc.), and internal stakeholders (B.C. government employees who regularly interact with the HCA or are involved in broader cultural heritage management) was undertaken.

This report provides an overview of feedback received from participants during Phase 1 engagement with external stakeholders (September–October 2022), and is also informed by several written submissions received in early 2023.

Key Findings

- Consideration of heritage sites must be done **earlier in project and land use planning** processes to alleviate potential impacts but also to identify potential conflicts prior to significant investment.
- Need tools, inventories, and **support for local governments, public education** resources, and improve **publicly available information** on heritage sites.
- **Scale the levels of protection** based on heritage value and site significance.
- **Protections should be proactive** rather than reactive, by incentivizing a greater understanding of the probability of sites and rewarding effective stewardship.
- **Current permitting process is burdensome** and needs to be better coordinated amongst government agencies.
- **Insufficient resourcing at the Archaeology Branch** continues to have a major negative impact on First Nations, private landowners, developers, local government, and natural resource proponents.
- **Resources are needed to support First Nations** in permit review, guardian programs (site identification, monitoring, management, and protection), heritage conservation activities, and to build archaeological capacity within Nations.
- **Collaborative decision-making is required** between First Nations and the Province that is respectful of First Nations laws, protocols, and customs.
- **More holistic and comprehensive protections are needed**, to include sites identified as possessing intangible heritage and cultural importance.

- **Greater seriousness about compliance** and a more **comprehensive** enforcement toolkit.
- Evaluation and review of archaeological assessment work.

ACKNOWLEDGMENTS

The Joint Working Group on First Nations Heritage Conservation (JWGFNHC) gratefully recognizes the xʷməθkʷəy̓əm (Musqueam), Skwxwú7mesh (Squamish), and səliłwətał (Tsleil-Waututh) Nations upon whose lands the in-person engagement sessions were undertaken. We acknowledge and honour the past and present First Nations Elders, knowledge keepers, and stewards of these lands and reaffirm the importance of a robust conservation and management regime for heritage and culture B.C.

The JWGFNHC would like to thank its members and technical support staff from the Union of B.C. Indian Chiefs and the Province:

JWGFNHC Members:

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INTRODUCTION

Context

First Nations have governed and stewarded their cultural heritage resources since time immemorial. Colonialism in B.C. has resulted in the institution of laws, policies, and practices that do not properly recognize, respect, or protect First Nations cultural heritage resources and have severely limited the role of First Nations in their protection and management. Over time, the legacy of colonialism has resulted in the disturbance and destruction of cultural heritage resources and ancestral remains. Further, the ability of First Nations to engage in traditional protocols, ceremonies, and practices has been impacted and impeded. This has led to heightened land and resource development conflicts as well as significant and cumulative spiritual, cultural, social, and economic impacts on First Nations.

The purpose of the [*Heritage Conservation Act*](#) (HCA, the Act) is to encourage and facilitate the protection and conservation of heritage property in British Columbia. The HCA provides legal tools and mechanisms to establish and maintain a register of B.C.'s more than 60,000 currently known heritage sites and to authorize inspections and alterations of heritage sites. The HCA also authorizes various compliance and enforcement actions that may be taken against those who damage, desecrate, or alter heritage sites or objects without authorization. The Act also contains provisions authorizing the Province to enter into agreements with First Nations with respect to the conservation and protection of heritage sites and objects that represent their cultural heritage. The HCA has not been substantially changed since 1996, although in 2019 there were administrative amendments which added new compliance and enforcement tools.

For many years, First Nations and stakeholders (industry, landowners, professional archaeologists, etc.) have raised concerns with the HCA and its administration, while Nations specifically have called for an enhanced role in the management of their cultural heritage, increased protection of culturally sensitive sites, including ancestral remains, and implementation of the UN Declaration on the Rights of Indigenous Peoples (UN Declaration).

Overview of the Heritage Conservation Act Transformation Project

Mandate

In 2019, the Government of B.C. passed the [*Declaration on the Rights of Indigenous Peoples Act*](#) (Declaration Act), which requires that all measures must be taken to make laws in B.C. consistent with the UN Declaration. To this end, the Declaration Act [Action Plan](#) includes Action 4.35, which commits the Province to “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 November 2021, the Ministry of Forests received a mandate for Phase 1 of the Heritage Conservation Act Transformation Project (HCATP), a commitment reaffirmed in the [Minister of Forests' 2022 mandate letter](#). It is recognized that external stakeholders have also long sought improvements to the HCA and its administration; this mandate directs the transformation of the HCA and its administration for the benefit of all British Columbians.

While the HCATP is being undertaken collaboratively through the JWGFNHC and in partnership with Modern Treaty Nations through the ABCMTN, engagement with external stakeholders on potential near and long-term improvements to the HCA and its administration is an important component to HCATP's advancement and will continue throughout the project's lifecycle. This report summarizes feedback received from external stakeholders during Phase 1 engagement.

HCATP Timeline

Given the need for broad and meaningful engagement with First Nations and stakeholders, the HCATP is a multi-year process. The HCATP is proposed to be undertaken in three phases:

Phase 1 – Engagement on the HCATP Process and Priorities for Change: The proposed process was introduced to First Nations, including Modern Treaty Nations, and stakeholders. As part of this initial engagement, feedback on priorities for change to the HCA and its administration, feedback on the alignment of the HCA with the UN Declaration, and the proposed engagement process was sought. The co-development of the HCATP Consultation and Cooperation Plan with First Nations (HCATP CCP) was also completed.

Phase 2 – Policy Development: Develop options and solutions for the priorities for change. It is in this phase that substantive work will be done co-operatively to

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consider how the standards of the UN Declaration may be reflected in changed laws, policies, and practices.

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

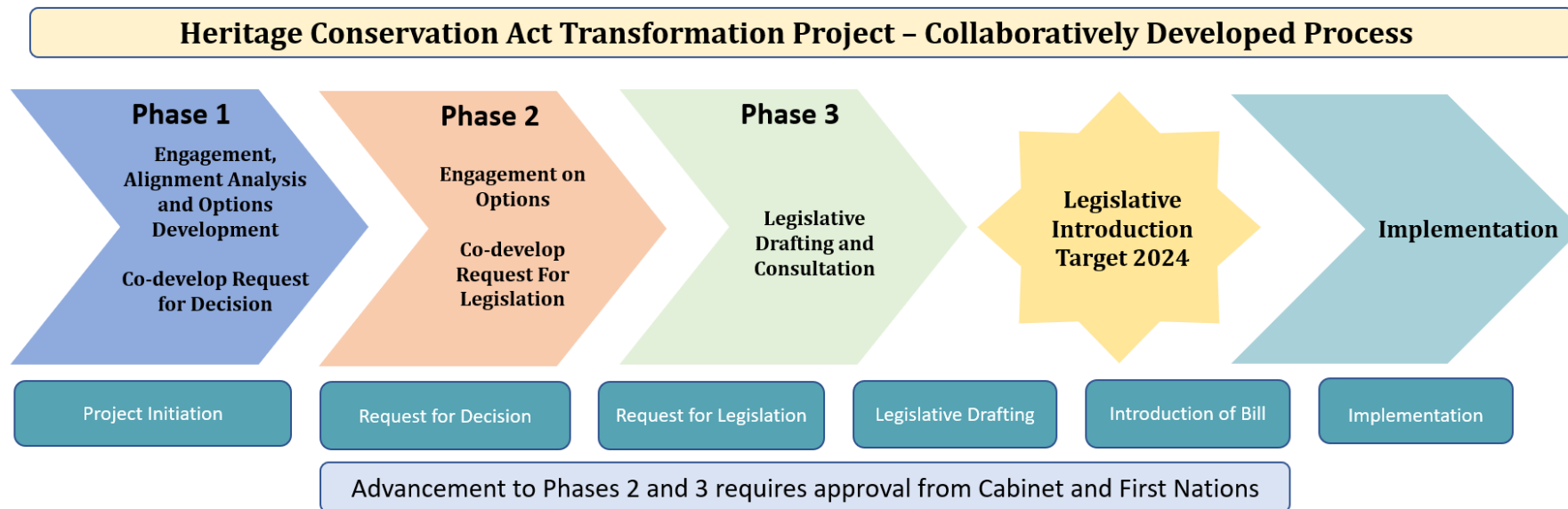


Figure 1: HCA Transformation Project Process (Consultation and Cooperation Plan, 2023)

ENGAGEMENT PRINCIPLES, METHODS, AND APPROACHES

The engagement on the HCATP took place within three streams: consultation and cooperation with First Nations, engagement with external stakeholders, and engagement with internal provincial government stakeholders. Engagement reports were developed for each partner group. This report summarizes what was heard from external stakeholders including industry, landowners, developers, local governments, archaeologists, and heritage professionals.

Engagement with external stakeholders was intended to generate meaningful feedback from those who work closely with the HCA, are impacted by its policies and administration, or who hold considerable expertise and interests in heritage management in B.C. To generate meaningful engagement with stakeholders on the HCA, an engagement approach was developed to ensure a wide representation of interested groups and organizations. Principles of transparency, accessibility, and inclusivity guided the engagement approaches, and a diversity of engagement options were provided to ensure all partners had an opportunity to participate. External notetakers produced the engagement transcripts and external data analysts conducted the qualitative analysis. The methods of engagement and analysis are described below.

Pre-Engagement Methods and Materials

The JWGFNHC sent an email invitation (dated August 23, 2022) to key external stakeholders across B.C. to introduce the HCATP and invite stakeholders who regularly interact with the HCA or are involved in broader cultural heritage management to participate in the Phase 1 engagement process.

To support meaningful engagement, a Backgrounder document on the HCATP was developed by the JWGFNHC to guide and inform dialogue. A key component of the Backgrounder was the priority Framework Table. This table was informed by several public policy and engagement initiatives, commissioned reports (internal and external to government), a literature review, and significant input by First Nations and stakeholders over many years. Its purpose was to summarize and honour previously received feedback on the HCA and to serve as a starting point for an updated discussion on transforming the HCA and its administration.

The **Framework Table** identified five **priority themes**:

- Indigenous Values and Rights Recognition (Government to Government topic)

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- Decision-Making
- Protections
- Resourcing to Support Heritage Conservation
- Compliance and Enforcement

Each theme summarized relevant issues and concerns while presenting potential solutions previously suggested by First Nations and stakeholders regarding improvements to the HCA. The Backgrounder also posed several questions intended to stimulate conversation.

The Backgrounder was used as the basis for all information shared about the project, presentations for stakeholder engagement sessions, and survey questions.

Phase 1 Engagement with External Stakeholders

Phase 1 engagement with external stakeholders included in-person sessions, online/virtual sessions, one-on-one meetings, and opportunities to provide feedback through written submissions or an online survey.

Ministry of Forests staff planned and facilitated the sessions. Nahatohkew Consulting (independent consultant) recorded participants' feedback and managed the online survey, which were used to develop the contents of this report.

Phase 1 external stakeholder engagement activities included:

- Three in-person engagement sessions held in downtown Vancouver targeted to specific audiences (September 2022)
- Nine virtual engagement sessions that were targeted to specific audiences (September to October 2022)
- Two one-on-one meetings with specific stakeholder organizations (August to October 2022)
- Fifteen written submissions, ranging from formal letters to informal emails
- Thirty-nine responses to the online survey.

In-person and Virtual Meetings with External Stakeholders

The external stakeholder engagement included three (3) in-person meetings and nine (9) online virtual meetings. All meetings included representatives from the JWGFNHC to field and process questions and hear directly from attendees. Meeting dates, locations, and audiences were:

- In-Person Sessions:

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1. September 13 (afternoon) – Archaeology and Heritage
 2. September 14 (morning) – Open
 3. September 14 (afternoon) – Land and Resource Development
- Virtual Sessions:
 1. September 20 (morning) – Heritage
 2. September 26 (morning) – Local Government
 3. September 26 (afternoon) – Planning, Construction and Real Estate
 4. September 27 (afternoon) – Land and Resource Development
 5. September 28 (morning) – Local Government
 6. October 3 (afternoon) – Archaeology
 7. October 5 (morning) – Federal Government
 8. October 6 (morning) – Local Government
 9. October 6 (afternoon) – Open

Two hundred and ninety-nine (299) individual participants, representing one hundred and eighty-eight (188) organizations, participated in various engagement activities (see Appendix 1).

Each engagement session was facilitated using a PowerPoint presentation and an enlarged priority Framework Table. The presentation used for First Nations engagement sessions was modified for stakeholder engagement.

One-on-One Meetings

The Provincial HCATP team held two (2) one-on-one meetings with key stakeholder organizations:

1. August 4, 2022– First Peoples’ Cultural Council
2. October 12, 2022 – Métis Nation of B.C.
3. March 14, 2023- Canadian Home Builders Association

Written Submissions

In addition to in-person and virtual engagement sessions, external stakeholders were encouraged to provide written submissions until October 15, 2022. Fifteen (15) written submissions were received from stakeholders, ranging from informal emails to formal recommendations for amendments to the HCA. The content of these submissions has been incorporated into this report’s analysis and findings.

Online Survey

Nahatohkew Consulting hosted an online survey with SurveyMonkey (www.surveymonkey.com). The survey was open between September 15 and October 15, 2022. A link to the survey was included in the invitation to the virtual sessions, and participants were provided with the survey link during the in-person and virtual sessions.

Thirty-nine (39) participants registered on SurveyMonkey. However, some respondents did not answer all questions.

The HCATP External Stakeholder Engagement Survey posed thirty (30) questions that followed the format of the in-person and virtual engagement sessions. This alternative response tool provided additional opportunities for participants to provide quantitative and qualitative feedback on the proposed HCATP process, the prioritization of previously recommended issues, and possible solutions for transforming the HCA, as well as to propose any previously unidentified priorities, concerns, or solutions. In addition, participants could rank issues and proposed solutions while having the latitude to provide open-ended qualitative responses. Finally, the survey concluded with evaluation questions to solicit feedback on Phase 1 engagement (pre-engagement materials/correspondence, session approach and content, communication, and reporting).

Analysis Methods

A quantitative and qualitative analysis of feedback was undertaken by R.A. Malatest & Associates Ltd. For analysis of qualitative data, Malatest used an inductive coding approach in which engagement session transcripts were reviewed and codes created as they emerged from the data. This process was iterative, with previously read content being re-read when a new code was identified to ensure that no content was missed during the coding process. Once saturation was reached (defined as reading through three full transcripts without identifying new codes or themes), the coding framework was considered final. This same coding framework was applied to the written submissions content, as well as open-ended comments included in the surveys.

Once all data was coded, queries were used to develop quantitative summaries (i.e., frequencies or counts) of the codes and themes found in the data. The codes applied and their relative frequency in the data are reported here.

Close-ended survey questions were reviewed and are provided as bar charts in Appendix 2. The recommendations presented for each theme reflect the proposed solutions that scored highest among survey respondents.

Limitations

While strong efforts have been made to support a rigorous analysis of the data collected during the engagement process, some research limitations exist. There was no control for single participants responding through multiple formats. If a single stakeholder participated by speaking during an engagement session, sending in a written submission, and completing a survey, their voice would potentially be represented up to three times in reporting in each section. Because data sources were collected and organized in different formats, it was not possible to fully account for these potential double-counts.

Additionally, stakeholder participants represent a diversity of perspectives from a range of industries, heritage and archaeological professionals, Indigenous organizations, local governments, and land developers. However, these groups had varying levels of representation and participant comments were not tracked according to stakeholder type. This may result in the disproportionate representation of views of some stakeholder groups and could introduce bias into the findings.

The survey was lengthy and required participants to spend thirty to forty minutes to complete. As a result, some survey respondents did not complete all the questions.

FINDINGS AND ANALYSIS

The data analysis is reported out according to priority themes from the Framework Table used during engagement. Additional feedback on the engagement approach is reported here as well.

Key Findings

Highlights from the external stakeholder engagement include:

- Consideration of heritage sites must be done **earlier in project and land use planning** processes to alleviate potential impacts but also to identify potential conflicts prior to significant investment.
- Need tools, inventories, and **support for local governments, public education** resources, and improve **publicly available information** on heritage sites.
- **Scale the levels of protection** based on heritage value and site significance.
- **Protections should be proactive** rather than reactive by incentivizing a greater understanding of the probability of sites and rewarding effective stewardship.
- **Current permitting process is burdensome** and needs to be better coordinated amongst government agencies.
- **Insufficient resourcing at the Archaeology Branch** continues to have a major negative impact on First Nations, private landowners, developers, local government, and natural resource proponents.
- **Resources are needed to support First Nations** in permit review, guardian programs (site identification, monitoring, management, and protection), heritage conservation activities, and to build archaeological capacity within Nations.
- **Collaborative decision-making is required** between First Nations and the Province that is respectful of First Nations laws, protocols, and customs.
- **More holistic and comprehensive protections are needed**, to include sites identified as possessing intangible heritage and cultural importance.
- **Greater seriousness about compliance** and a more **comprehensive enforcement toolkit**.
- **Evaluation and review** of archaeological assessment work.

Feedback on Engagement Approach

Stakeholders were invited to provide feedback on the proposed engagement approach for the HCATP. While many participants agreed that the proposed engagement process will support the transformation of the HCA, concerns were raised, including:

- **Timing** of the HCATP in relation to the provincial election cycle.
- The **wide scope** of issues to be resolved.
- The need to work collaboratively with **archaeological practitioners and industry proponents** in developing changes.
- The importance of near-term improvements.
- The need to involve a range of **cultural communities**.

Participants expressed strong interest in further engagement opportunities, including:

- Regular email updates
- Online surveys
- In-person and virtual engagement sessions and meetings targeted to specific regions, interest groups, and industries
- Specialized technical working groups to develop solutions as part of Phase 2
- Reviewing draft legislation

Thematic Framework

Most respondents (78%) agreed that the five proposed priority themes in the Framework Table reflected the core priorities for change. While specific feedback from external stakeholders was not sought on the topic, Indigenous Values and Rights Recognition was consistently rated the most important theme, followed by Resourcing to Support Heritage Conservation.

External stakeholders highlighted the importance of addressing the following issues as part of the HCATP:

- Definitions
- Intangible heritage
- Protection of post-1846 sites
- Capacity funding
- Conflict resolution
- Education for the public, industry, and business
- Legal and policy framework for local governments
- Access to archaeological information

Indigenous Values and Rights Recognition

Indigenous Values and Rights Recognition was not a topic explored in the engagement sessions with external stakeholders as the nature of the topic was appropriately discussed at the Government-to-Government level with First Nations. Questions on this theme were not included in the survey targeting external stakeholders, though a single open-ended text field was available to respondents who wished to share potential solutions or reinforce its importance and some respondents provided comments related to this theme within written submissions. Responses supported the need for First Nations to retain access to their ancestors and artifacts and for greater involvement of First Nations in defining heritage and appropriate protections.

Protections

External stakeholders raised a number of sub-themes related to protections. Key points include:

- **More holistic and comprehensive protections are needed** to include sites identified as possessing intangible heritage and cultural importance.
- Need **supports and education** for property owners, developers, other parties in cases of heritage finds.
- **Improve tools, inventories, and other resources** to support better management and protection of sites.
- **Scale the levels of protection** based on heritage value and site significance.

Holistic and Comprehensive Protections

Within the topic area of **more holistic and comprehensive protections needed**, the top concerns related to the **need for protections for intangible heritage** and culture (e.g., place names and language). Respondents also recommended that protections should be **more holistic in jurisdiction and scope**, noting that broader historic or cultural land use practices are not currently reflected within the automatic protection regime. Concerns were also raised regarding the limitations of protections being tied to specific site boundaries as opposed to understanding the broader cultural landscape.

Stakeholders reflected **that the current heritage management system does not reflect First Nations voices**. The most highly rated survey response is that First Nations ancestral remains and burial places do not receive the same protection and respect as registered cemeteries (61%). However, survey comments reflected more

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caution, noting that First Nations burial sites are more widely distributed than non-Indigenous cemeteries which have defined boundaries and that additional rules around burial sites may have unintended consequences on development. Respondents also noted the need to **update the inventory of heritage sites** to support protection efforts, and the fact that protections and legislation need to **address heritage and artifacts that exist on private property** or fee simple lands.

Stronger Protections

Discussions and submissions from external stakeholders were also largely supportive of the sub-theme that **protections must be stronger to achieve conservation**. The most discussed topics among external stakeholder participants included:

- **Need for tools and support for local governments** to support heritage management. This was also strongly endorsed by survey respondents (56%).
- **Protections should be proactive** rather than reactive, by incentivizing a greater understanding of the probability of sites and rewarding effective stewardship.
- The HCA ultimately **prioritizes development over conservation**.
- Protections within the HCA are not meaningful without proper **oversight (compliance audits) and enforcement**.

Scaled Protections

External stakeholders also discussed suggestions to **reduce or ease protections for certain sites** based on significance. While a couple of stakeholders in sessions and written submissions advocated for an **overall reduction in protections** or the number of sites to be protected, these discussions mostly focused on **the need to scale the levels of protection** applicable to a site based on its heritage value.

Proposed Solutions (Survey Data) – Protections

- Support the development of **heritage planning tools** and resources for municipalities (56%)
- Add **key definitions** to HCA that reflect and acknowledge First Nations principles and perspectives (56%)
- Develop mechanisms to **expand and enhance the protection of post-1846 sites** and sites without physical evidence that are of significant heritage value (50%)
- Develop **clear criteria for the designation and recognition** of provincial heritage sites (50%)

Decision-Making

The topic area of Decision-Making included a diversity of sub-themes. Some called for more collaborative relationships between First Nations, project proponents, local governments, and the Province while others called for improvements to provincial permitting processes and timeliness. Key highlights include:

- **Collaborative decision-making is required among First Nations and the province** that is respectful of First Nations laws, protocols, and customs.
- Consideration of heritage sites **must be done earlier in project and land use planning processes** to alleviate potential impacts but also to identify potential conflicts prior to significant investment.
- Current **permitting process is burdensome** and needs to be better coordinated amongst government agencies. **Improved coordination, transparency and communication** between decision-makers and applicants is important.

Collaborative Relationships and Jurisdictional Issues

Participants consistently raised the **need for coordination and consistency amongst government agencies** to reduce confusion and administrative burden on First Nations and stakeholders. In particular, stakeholders noted that the intersection of various interests, roles and responsibilities of First Nations, the Province, local governments, private landowners, and project developers can be a challenge to navigate.

Further, external stakeholders, outlined the need for an enhanced role for **First Nations** in decision-making. Participants identified the importance of **sharing information with First Nations early in the permitting process**. Stakeholders also noted that decision-making processes need to be more inclusive of the priorities and needs of First Nations and local governments, rather than rigidly adhering to standards set at a provincial level.

First Nations Are Experts

Within the sub-theme of **First Nations are experts**, stakeholders reflected on the importance and **authority of Elders and knowledge keepers** and the need to reflect First Nations knowledge alongside archaeological research. Additionally, a few participants noted that First Nations need the opportunity to shape the development policy regarding heritage management rather than only respond to referrals.

Process Improvements

External stakeholders discussed **process improvements** extensively, in both engagement sessions and the survey. The most commonly noted process improvement proposed was the need to address and **reduce the burdensome permitting process**. Some participants felt that the bureaucratic nature of provincial processes was very slow and resistant to change and expressed concern that changes to the HCA may result in even further permitting delays and impacts to development project schedules.

Numerous participants also identified the need for **earlier consideration of heritage sites in project and land use planning processes**. This was also highly endorsed by survey respondents (62%). Participants suggested that local governments need improved access to archaeological information to be better able to integrate consideration of heritage into land use planning and policies in order to inform strategic land use and investment decisions.

Other comments noted the **limitations of predictive models**, including Archaeological Overview Assessments (AOAs), the **need for a formal dispute resolution process**, the need for **improved timeliness and transparency** in how permits are received, authorization processes, and responsiveness to information requests.

Stakeholders also raised concerns regarding the desire for First Nations to approve the archaeologists working in their territories. Participants cited that First Nation-supported archaeologists do not always have capacity to conduct the volume of work required while others suggested that archaeologists should be hired based on expertise and not based on potential bias toward a specific result.

Proposed Solutions (Survey Data) – Decision-Making

- Enhance policy and clarify process surrounding high-significance sites near which development may be considered untenable (65%)
- Consider existing and additional tools and mechanisms to support earlier consideration of heritage values and better land-use decisions (58%)
- Streamline application processes and timelines (55%)

Resourcing

The topic area of resourcing to support heritage conservation discussed the **impacts of insufficient resourcing** for the Archaeology Branch and First Nations as well as some of the potential **goals of resourcing**. Key responses include:

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- **Insufficient resourcing at the Archaeology Branch** continues to have a major negative impact on First Nations, as well as private land-owners, development and natural resource proponents (across industry/sectors), local governments, and archaeologist/heritage professionals, among others.
- **Resources are needed to support First Nations** in permit review, guardian programs (site identification, monitoring, management, and protection), heritage conservation activities, and to build archaeological capacity within Nations.
- Need additional **tools and resourcing** to support compliance, enforcement, and decision-making.
- Need for tools and **support for local government** heritage management.

Resourcing to Support the Archaeology Branch

Within the sub-theme of **Archaeology Branch resources**, insufficient resourcing at the Archaeology Branch was consistently raised as an overarching complaint. External stakeholders identified some of the impacts of **insufficient resourcing at the Archaeology Branch**, including employment impacts to both archaeologists and First Nations, and commonplace project delayed leading to potential cancellation altogether. Survey respondents noted similarly that **Archaeology Branch resources are inadequate to address the significant number of HCA permits** and site form submissions (59%).

Additionally, participants highlighted issues of **reduced protection or compliance efforts by project owners**, and the negative effects of insufficient resourcing on First Nations' ability to preserve heritage and engage in cultural practices. Additional issues identified include delays and **long timelines to obtain permit decisions**. Concerns around the **concentration of branch staff in Victoria** was raised by several external stakeholders who proposed de-centralization and the creation of regional Archaeology Branch offices/decision-makers.

First Nations Resourcing

External stakeholders largely recognized the importance of properly **resourcing First Nations** to fully participate in heritage management, with the issue being raised 13 times in engagement sessions and 7 times in survey comments. The need to **support First Nations' participation in archaeological and other cultural heritage work** was also extensively discussed by external stakeholders.

Goals of Resourcing

The third and final sub-theme discussed by external stakeholders was the **goals of resourcing**. External stakeholders heavily emphasized the **need to support and educate the public on heritage conservation**. Comments related to these sub-themes generally indicated a belief that the public would be more cooperative, and heritage would be better preserved if property owners were better informed and supported regarding their obligations under the HCA and the process for addressing potential finds. Ideas included creating a public fund for private property owners to conduct archaeological work and grants to support local repatriation efforts.

The need to **improve records, tools, and resources** to support archaeological assessment work was also noted by some participants as an important goal of resourcing. This challenge was also noted by survey respondents, highlighting the antiquated, burdensome, and non-integrated systems and tools for heritage management (63%).

Proposed Solutions (Survey Data) – Resourcing

- Enhance systems and tools to support integrated, efficient, and effective heritage management (69%)
- Resourcing to address the backlog of site records to ensure that the inventory provides up-to-date information (63%)
- Consider possible mechanisms and funding sources to support land purchases, compensation, restitution, site remediation and provide support for repatriation (56%)

Compliance and Enforcement

The final topic area during the engagement, Compliance and Enforcement, offered an opportunity for participants to share input on how site activities that may impact heritage value should be monitored and overseen and, if violations occur, how violations should be managed. Highlights include:

- **Greater seriousness about compliance and a more comprehensive enforcement toolkit.**
- Need for **public education** as well as comprehensive, publicly available information on the HCA and heritage sites.
- External **evaluation and review** of assessment work needed.
- More **proactive protections** are needed.

Greater Seriousness about Enforcement

A need for **greater seriousness about protection and enforcement** was noted among many external stakeholders. The desire for “**more teeth**” in the legislation to punish violations was raised consistently, identifying the need to **enhance the compliance and enforcement toolkit**. Some participants raised that development proponents are simply choosing to violate the HCA because the costs of permitting delays are significantly more than the costs of a violation.

A need for clearer or **higher standards for archaeologists** was also raised repeatedly. This was also noted in the survey with respondents endorsing the need to establish and maintain clear and rigorous professional standards for archaeologists in B.C. (56%).

The need for the **provincial government to take its responsibilities seriously** was discussed several times, particularly in relation to the need for **external evaluation and review** of archaeological assessments and other work. A few comments from external stakeholders also noted that the provincial government in general does a poor job of **limiting and overseeing industry**.

First Nations Involvement

A few external stakeholders discussed the need for **greater First Nations involvement in compliance and enforcement**, particularly the need for capacity funding to First Nations to support monitoring and engagement at sites. A few participants also noted there is a need for **increased responsiveness and accountability to First Nations** in compliance and enforcement.

Local Governments and Private Owners

Challenges working with local governments and private property owners was also identified as a sub-theme. The most-discussed issue was a need for **education for property owners and project proponents** regarding their HCA obligations. Comments on this topic tended to assume that a lack of knowledge and/or appreciation for heritage conservation was a major challenge to getting owners and proponents to cooperate with archaeological work. Proposed solutions include proactively notifying property owners of **heritage sites on title**; providing property owners with **better access to information** about heritage sites; and **clearly outlining the steps** required for property owners and proponents to comply with the HCA.

Proactive Protections

Finally, some external stakeholders discussed **proactive protections**. The most common topic raised in this sub-theme was the need to **incentivize protection, and not just penalize violations**, through legislation and other tools; this relates to the sub-theme noted earlier in this section regarding **education for private landowner and developers**.

Proposed solutions (Survey Data) – Compliance and Enforcement

- Develop and update policies, guidelines, and standards for archaeological work in B.C. (63%)
- Identify and develop additional deterrents to unauthorized site impacts (50%).

CONCLUSION AND NEXT STEPS

Phase 1 engagement on the Heritage Conversation Act Transformation Project received strong participation, underscoring the importance of this work to external stakeholders. We thank all participants for sharing their experiences, perspectives, and for providing thoughtful contributions during this engagement process.

While new considerations, priorities, and potential solutions were identified during Phase 1 engagement, respondents reaffirmed many previously noted issues and concerns about the HCA and its administration, helping to underscore certain key items for near-term change. Findings from this report will inform proposed legislative, regulatory, policy and programmatic changes related to heritage conservation and management in B.C.

The HCATP is currently seeking executive and Cabinet endorsement to undertake Phase 2 work, including the advancement of a package of near-term changes to the HCA and its administration aimed for Spring 2024 legislative introduction.

APPENDIX 1: PARTICIPATING ORGANIZATIONS

Indigenous Organizations (9)

1. First Peoples' Cultural Council
2. Katzie Development Limited Partnership
3. Kwikwetlem (kʷɪkʷəɬəm) First Nation
4. Skwlāx te Secwepemcúlecw (Little Shuswap Lake Band)
5. Splat sin Development
6. Métis Nation of B.C.
7. Tse'k'wa Heritage Society
8. Upper Similkameen Indian Band
9. Williams Lake First Nation

Federal Government (5)

1. Canada Energy Regulator
2. Department of Canadian Heritage
3. Department of Fisheries and Oceans
4. Justice Canada
5. Parks Canada, Indigenous Affairs and Cultural Heritage Directorate

Archaeology and Heritage (79)

- | | |
|---|---|
| 1. 4 Seasons Heritage Consulting | 42. Kilby Historical Site |
| 2. Ance Building Services | 43. Klahanee Heritage Research |
| 3. Antiquus Archaeological Consultants Ltd. | 44. Kleanza Consulting |
| 4. Aquilla Archaeology Ltd. | 45. Kwantlen Polytechnic University, Department of Anthropology |
| 5. Archaica Archaeological Consulting | 46. Landsong Heritage Consulting Ltd. |
| 6. Archer CRM Partnership | 47. McLean Heritage Planning & Consulting |
| 7. Architectural Institute of B.C. | 48. Millenia Research Limited |
| 8. Archive Association of B.C. | 49. Mountain Heritage Consulting |
| 9. Barkerville Historical Town | 50. Norcan Consulting Ltd. |
| 10. Baseline Archaeological Services | 51. Nupqu Resource Limited Partnership |
| 11. B.C. Association of Professional Archaeologists | 52. Pathways Archaeological Consulting |
| 12. B.C. Museums Association | 53. Point Ellice House Museum & Gardens |
| 13. B.C. Society of Landscape Architects | 54. Roy Northern Land and Environmental |
| | 55. Sandi Ratch, Consultant |
| | 56. Similkameen Consulting |
| | 57. Simon Fraser University, Department of Archaeology |

14. British Columbia Historical Federation
15. Brown & Oakes Archaeology
16. Canadian Association of Heritage Professionals
17. Carr House Community Society
18. Circle CRM Group Inc.
19. Core Heritage Consulting Ltd.
20. Crossroads CRM
21. Cummer Heritage Consulting
22. Donald Luxton and Associates
23. Ecoarc Consulting Ltd.
24. Ecofish Research Ltd.
25. Ecologic Consultants Ltd.
26. Ember Archaeology
27. ERM
28. Fox Cultural Research
29. H3M Environmental
30. Hallmark Heritage Society
31. Heritage Abbotsford Society
32. Heritage B.C.
33. Heritage Vancouver Society
34. Horizon Archaeological Consulting
35. Ian MacLennan, Consultant
36. Ian Sellers, Consultant
37. ICOMOS Canada
38. Indo-Fijian Cultural Society of Canada
39. Inlailawatash Ltd.
40. ISL Engineering & Land Services
41. K. VanderMeer Archaeology
58. Simon Fraser University, Department of Indigenous Studies
59. Simon Fraser University, School of Resource & Environmental Management
60. Stantec Consulting Ltd.
61. Tashme Historical Society
62. Terra Archaeology
63. Two Crow Consulting Inc.
64. Underwater Archaeological Society of British Columbia
65. University of British Columbia, Department of Anthropology
66. University of British Columbia, Laboratory of Archaeology
67. University of British Columbia – Okanagan, Interdisciplinary Graduate Studies
68. University of Northern British Columbia, Department of Anthropology
69. University of Victoria, Cultural Resource Management Program
70. University of Victoria, Department of Anthropology
71. University of Victoria, School of Environmental Studies
72. Ursus Heritage Consulting
73. Vancouver Heritage Foundation
74. Vancouver Island University, Department of Anthropology
75. Victoria Historical Society
76. Wayne Choquette, Consultant
77. Wolf & Crow Research Services
78. Wood Environment and Infrastructure Solutions
79. WSP Golder

Industry, Land, and Resource Management (40)

- | | |
|---|---|
| 1. A&A Trading Ltd. | 22. Fortis B.C. |
| 2. Ashcroft Terminal | 23. Gorman Bros. Lumber Ltd. |
| 3. Association for Mineral Exploration | 24. Guide Outfitters Association of B.C. |
| 4. B.C. Construction Association | 25. Interior Logging Association |
| 5. B.C. Council of Forest Industries | 26. Marine Plan Partnership for the North Pacific Coast |
| 6. B.C. Ferries | 27. Mercer International Inc. |
| 7. B.C. Hydro | 28. Port Alberni Port Authority |
| 8. B.C. Utilities Commission | 29. Port of Nanaimo |
| 9. Canadian Forest Products Ltd. | 30. Private Forest Lands Association |
| 10. Canadian Homebuilders Association of B.C. | 31. Ryder Architecture |
| 11. Canoe Forests Products | 32. Sinclair Group Forest Products Ltd. |
| 12. Capacity Forest Management | 33. Synergy Land and Environmental Services Ltd. |
| 13. Carrier Lumber Ltd. | 34. Tourism Industry Association of B.C. |
| 14. CN Rail | 35. Trans Mountain Canada Inc. |
| 15. C+S Planning Group | 36. TransLink |
| 16. Cyberlink | 37. Transportation Investment Corporation |
| 17. D.S. Cunliffe Engineering Services | 38. Urban Systems Ltd. |
| 18. Engineers and Geoscientists B.C. | 39. West Fraser Timber |
| 19. Federation of B.C. Woodlot Associations | 40. Western Forest Products |
| 20. First Nations LNG Alliance | |
| 21. Fortec Consulting Ltd. | |

Local Governments (55)

1. Capital Regional District
2. City of Armstrong
3. City of Chilliwack
4. City of Colwood
5. City of Courtenay
6. City of Dawson Creek
7. City of Delta
8. City of Fort St. John
9. City of Kamloops
10. City of Kelowna
11. City of Maple Ridge
12. City of Mission
13. City of Nanaimo
14. City of Nelson
15. City of New Westminster
16. City of Port Moody
17. City of Prince George
18. City of Revelstoke
19. City of Richmond
20. City of Vancouver
21. City of Victoria
22. City of Williams Lake
23. Columbia Shuswap Regional District
24. Comox Valley Regional District
25. District of Invermere
26. District of North Vancouver
27. District of Squamish
28. District of Summerland
29. District of Taylor
30. District of Vanderhoof
31. Metro Vancouver
32. Municipality of North Cowichan
33. North Coast Regional District
34. Peace River Regional District
35. qathet Regional District
36. Regional District of Bulkley-Nechako
37. Regional District of Central Kootenay
38. Regional District of East Kootenay
39. Regional District of Kitimat-Stikine
40. Regional District of Okanagan-Similkameen
41. Squamish-Lillooet Regional District
42. Sunshine Coast Regional District
43. Town of Creston
44. Town of Gibsons
45. Town of Golden
46. Town of Ladysmith
47. Town of Princeton
48. Town of View Royal
49. Township of Langley
50. Township of Spallumcheen
51. Union of B.C. Municipalities
52. Village of Burns Lake
53. Village of Granisle
54. Village of Telkwa
55. Village of Warfield

APPENDIX 2: ANALYSIS OF FEEDBACK

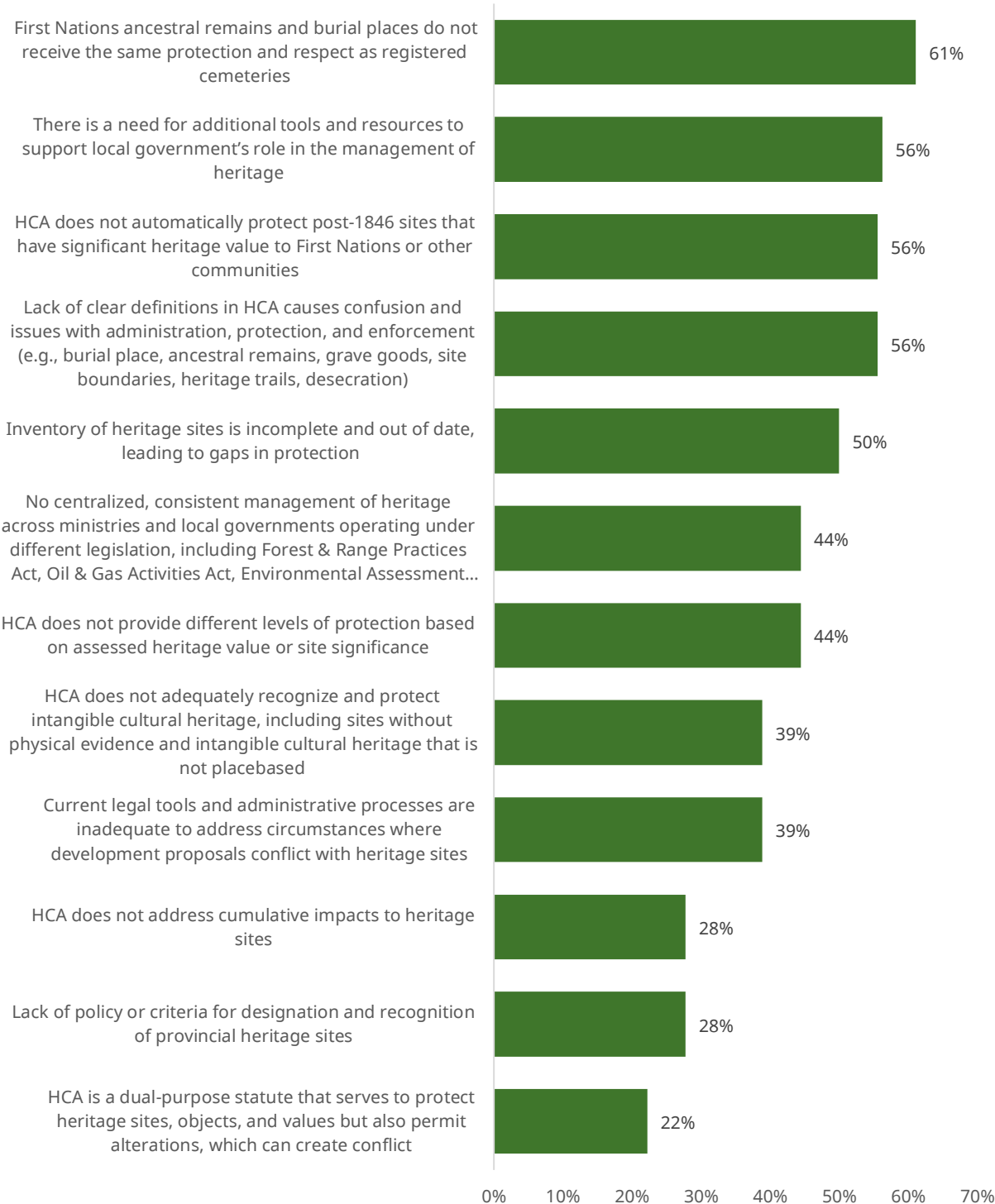
Indigenous Values and Rights Recognition

Theme	Transcripts	Written Submissions	Survey
	External Stakeholders	External Stakeholders	External Stakeholders
Colonial Assumptions Underpin the HCA			
<i>Terra nullius</i> and 1846 date reinforce colonial narratives about what is assumed about history, how the historical record is kept	-	3	0
First Nations Laws and Values Must be Reflected			
First Nations need to retain access to ancestors and artefacts	-	3	6
First Nations need the authority to define heritage, what is worthy of protection	-	1	7
First Nations should have Rights to make final decisions	-	1	6
Legislation and protocols must be responsive to individual Nations	-	1	2

Protections

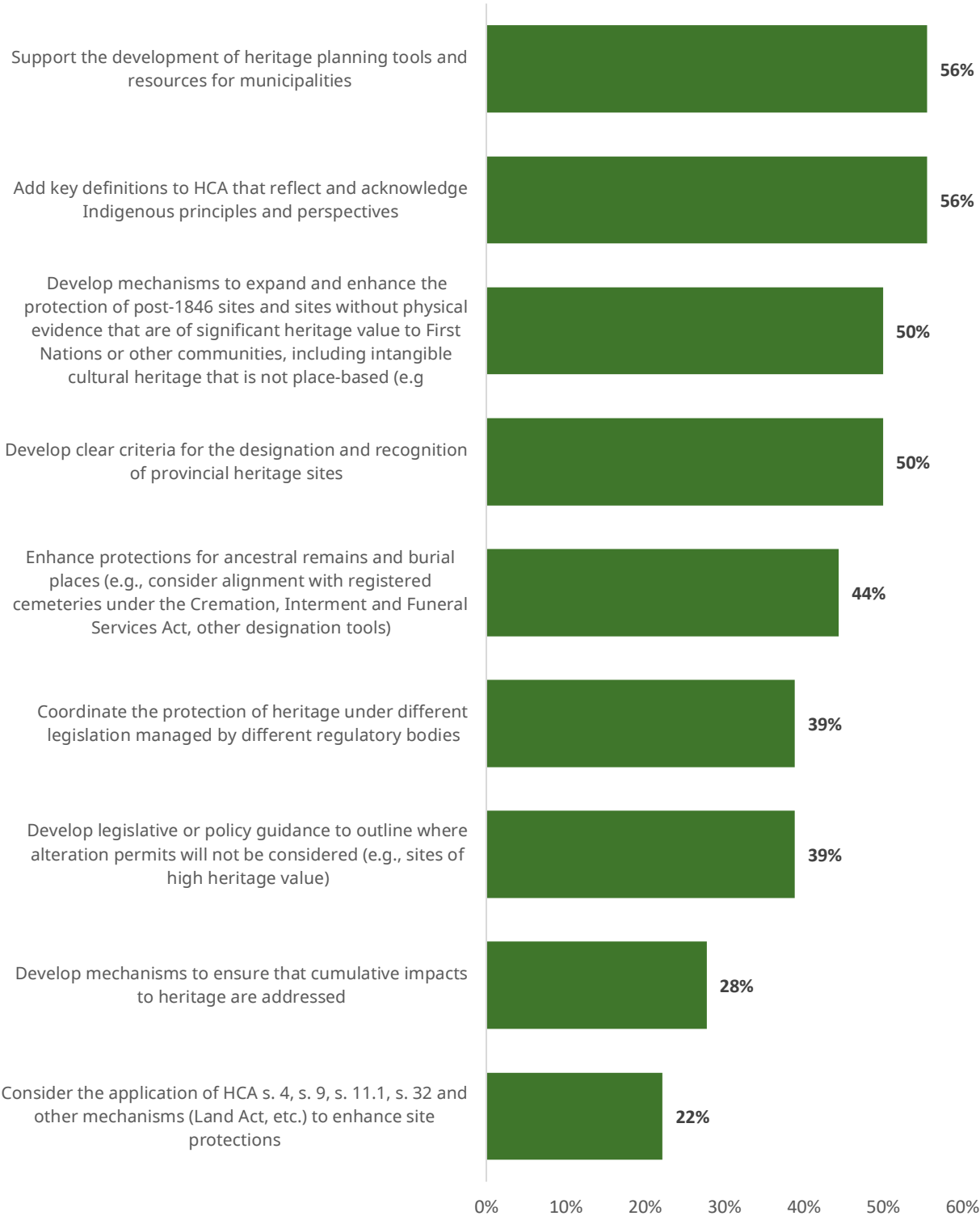
Theme	Transcripts	Written Submissions	Survey
	External Stakeholders	External Stakeholders	External Stakeholders
More Holistic and Comprehensive Protections Needed			
Protections need to be holistic in jurisdiction and scope	13	0	1
First Nations need to be able to define or set out areas of protection	11	2	2
First Nations should be in charge of protections in their traditional territories	2	1	0
Permitting process currently does not reflect First Nations' voices	1	0	0
Need protections for intangible heritage and culture	19	2	2
Need to update inventory of heritage sites	10	1	1
Protections needed to address private property or fee simple lands	8	0	1
Ensure sensitive sites are not shared publicly	6	0	0
Protections need to consider cumulative effects of "low impact" activities	5	0	0
Protections Must be Stronger to Achieve Conservation			
Provide tools to local government to support heritage management	14	0	2
HCA is only reactive, needs more proactive measures	11	0	5
HCA ultimately prioritizes development over conservation	8	2	1
Protections of HCA not meaningful without proper oversight and enforcement	5	0	0
Right to restore, redress damage needs to be included in HCA	1	0	0
Legislation specific to protection of Indigenous heritage needed	0	1	0
Reduction in or Easing of Protections			
Scaling or levels of protection relative to site importance needed	7	0	1
Reduce regulatory requirements overall	1	1	0
Limit scope of protections to smaller set of heritage sites	0	1	0

Figure 1.1: Issues or Challenges Related to Protections Rated “Most Important” by External Stakeholders



Proportion illustrated is respondents rating each item as “Most Important.”
Total base *n* across all items is 18.

Figure 1.2: Solutions or Proposals Related to Protections Rated “Most Important” by External Stakeholders

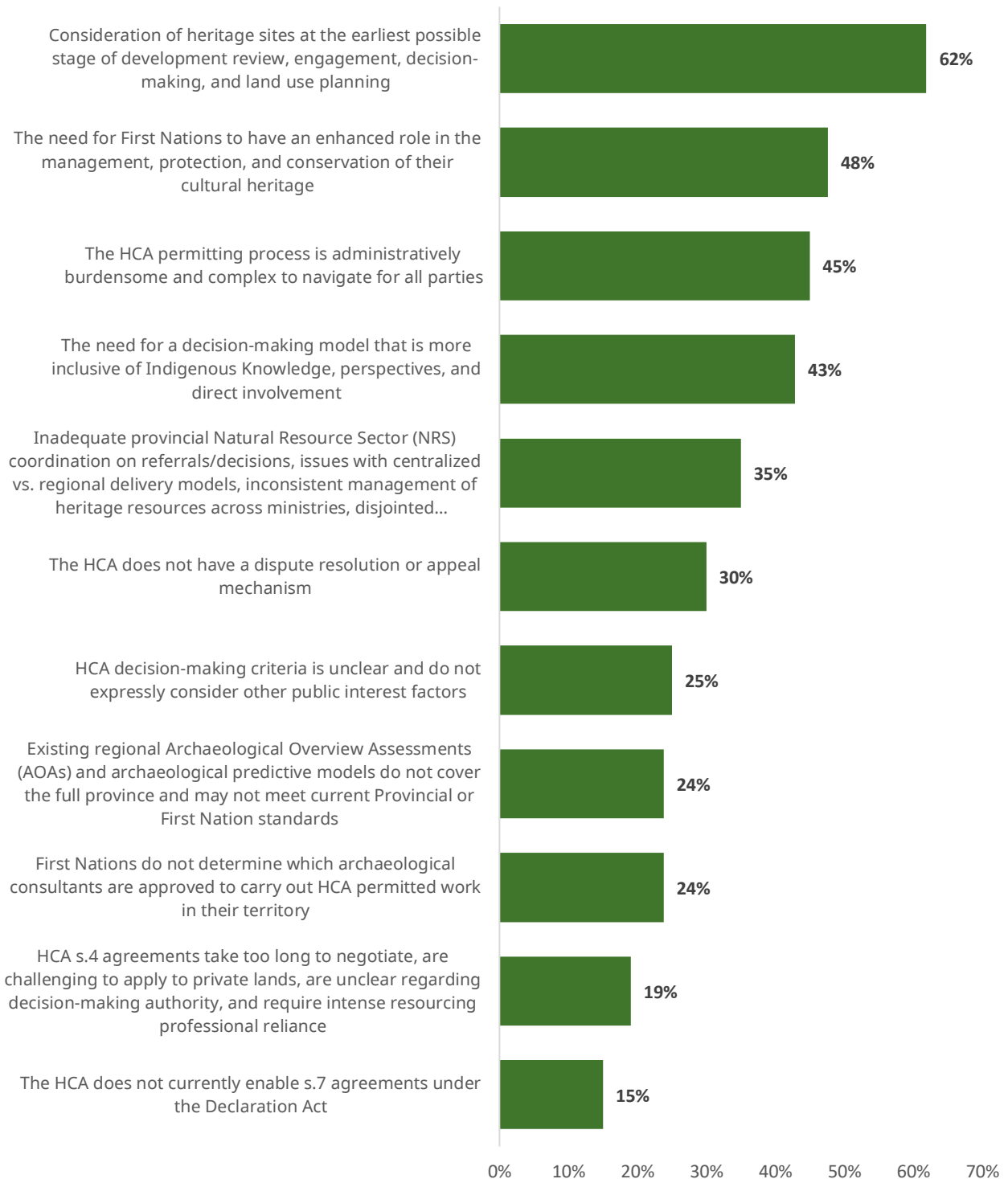


Proportion illustrated is respondents rating each item as “Most Important.”
Total base *n* across all items is 18.

Decision-Making

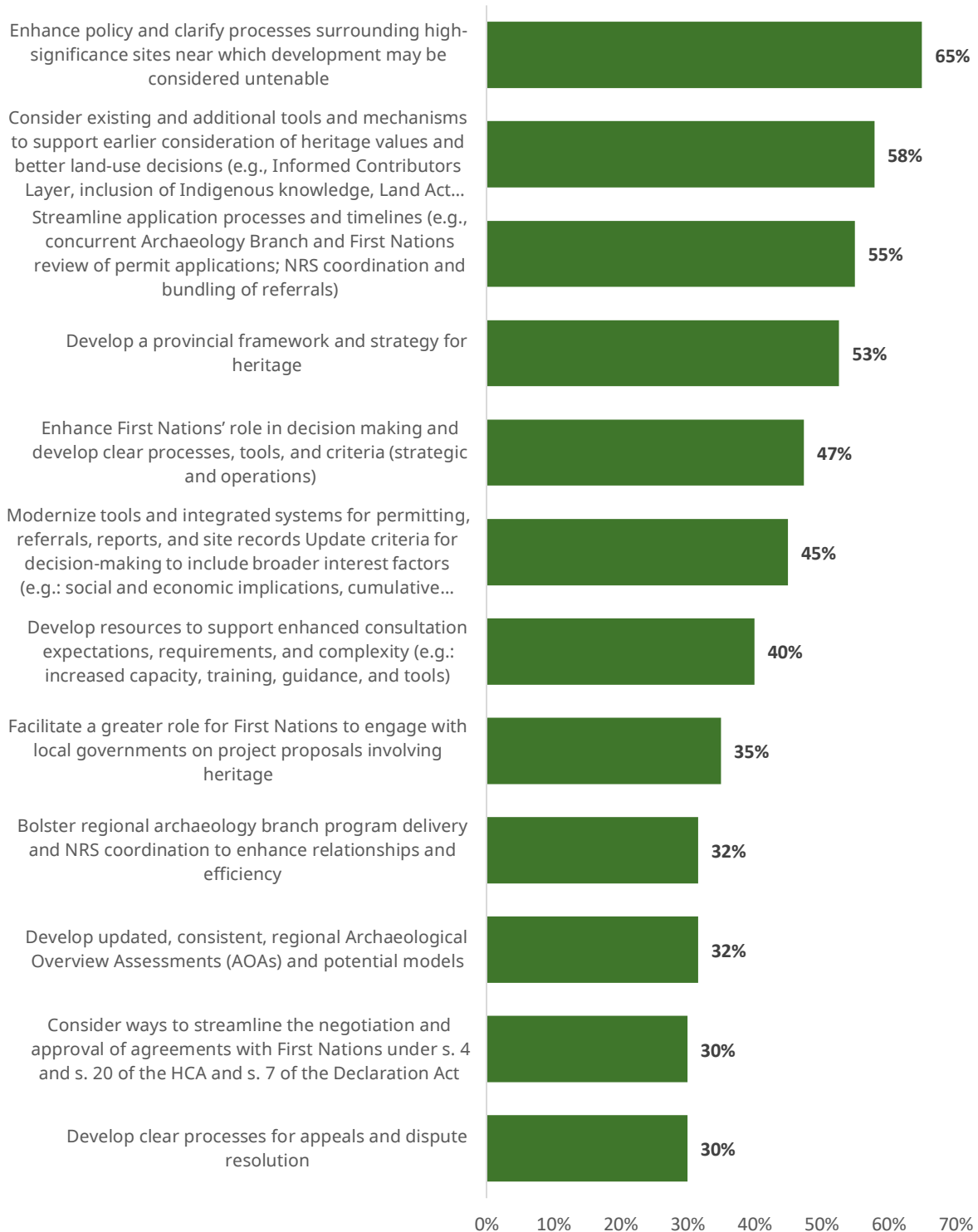
Theme	Transcripts	Written Submissions	Survey
	External Stakeholders	External Stakeholders	External Stakeholders
Collaborative Relationships Needed Between First Nations and Province			
Shared decision-making needed with impacted First Nations	16	2	2
Decision-making basis needs to be more inclusive of local priorities, needs, public good	8	2	0
Information must be shared freely, in timely manner, with First Nations	8	0	0
Provincial bureaucracy, processes are slow or resistant to change	4	0	1
First Nations as Experts			
Decision-making must ultimately lie with First Nations	15	0	3
Elders and knowledge keepers should be authorities in research	8	2	3
First Nations need opportunity to shape and monitor proactive policy, not just reactive decision-making	4	0	1
Jurisdictional Issues			
Roles of local government and other parties unclear, need addressing	8	0	0
Roles and policies of various governments, agencies not clear, do not support inclusion of First Nations in processes	1	0	0
Process Improvements			
Address / reduce burdensome permitting process	18	0	1
Earlier consideration of heritage sites in planning process	9	0	4
Limitations of AOAs and predictive models	4	0	6
Dispute resolution process needs to be created and codified	4	1	1
Section 4 agreements not a tenable solution for all	2	0	0
Improve timeliness for receiving authorizations, permits, and information requests	1	1	5

Figure 1.3: Issues or Challenges Related to Decision-Making Rated “Most Important” by External Stakeholders



Proportion illustrated is respondents rating each item as “Most Important.”
Total base *n* across all items is 18.

Figure 1.4: Proposed Solutions Related to Decision-Making Rated “Most Important” by External Stakeholders

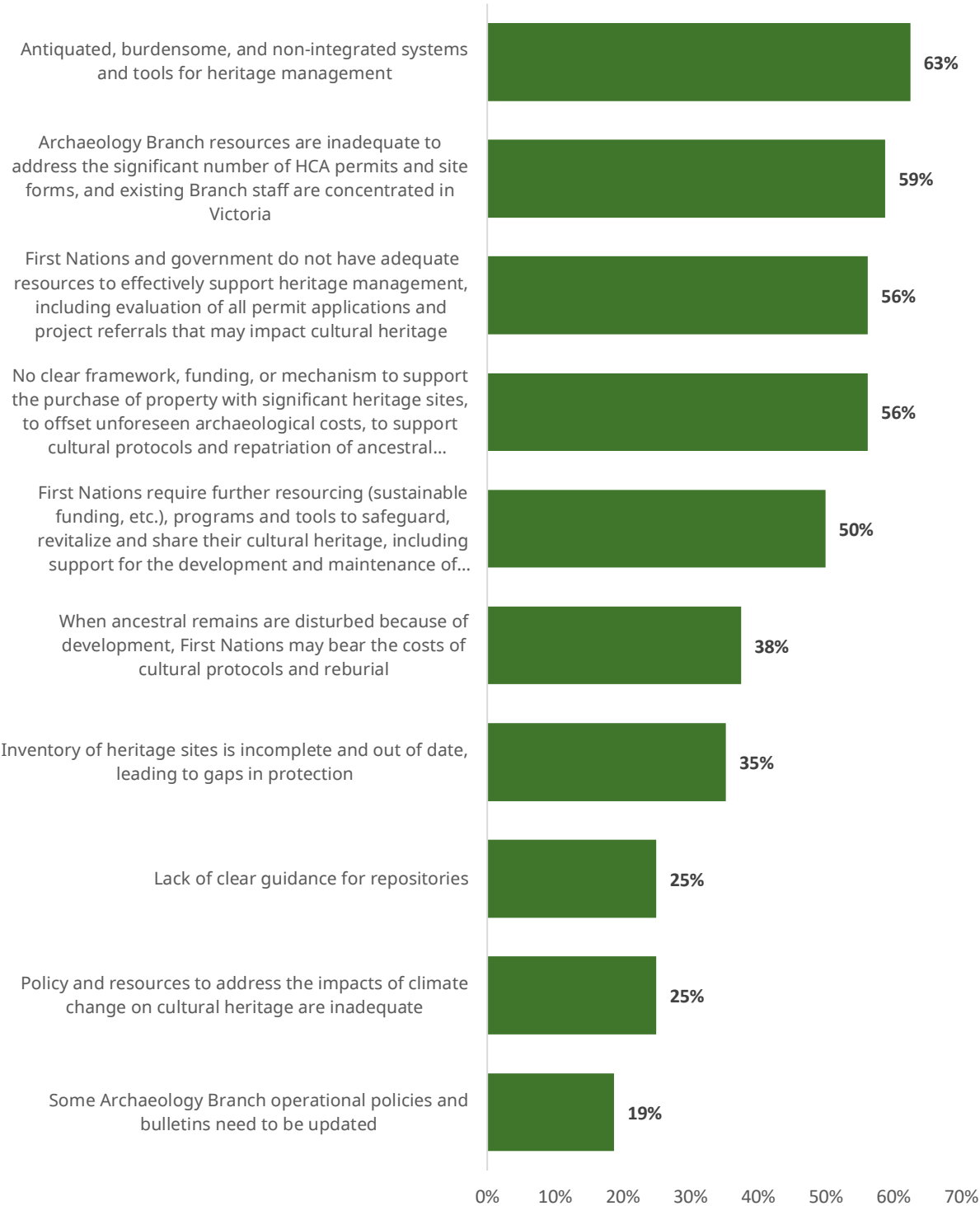


Proportion illustrated is respondents rating each item as “Most Important.”
Total base *n* across all items is 18.

Resourcing

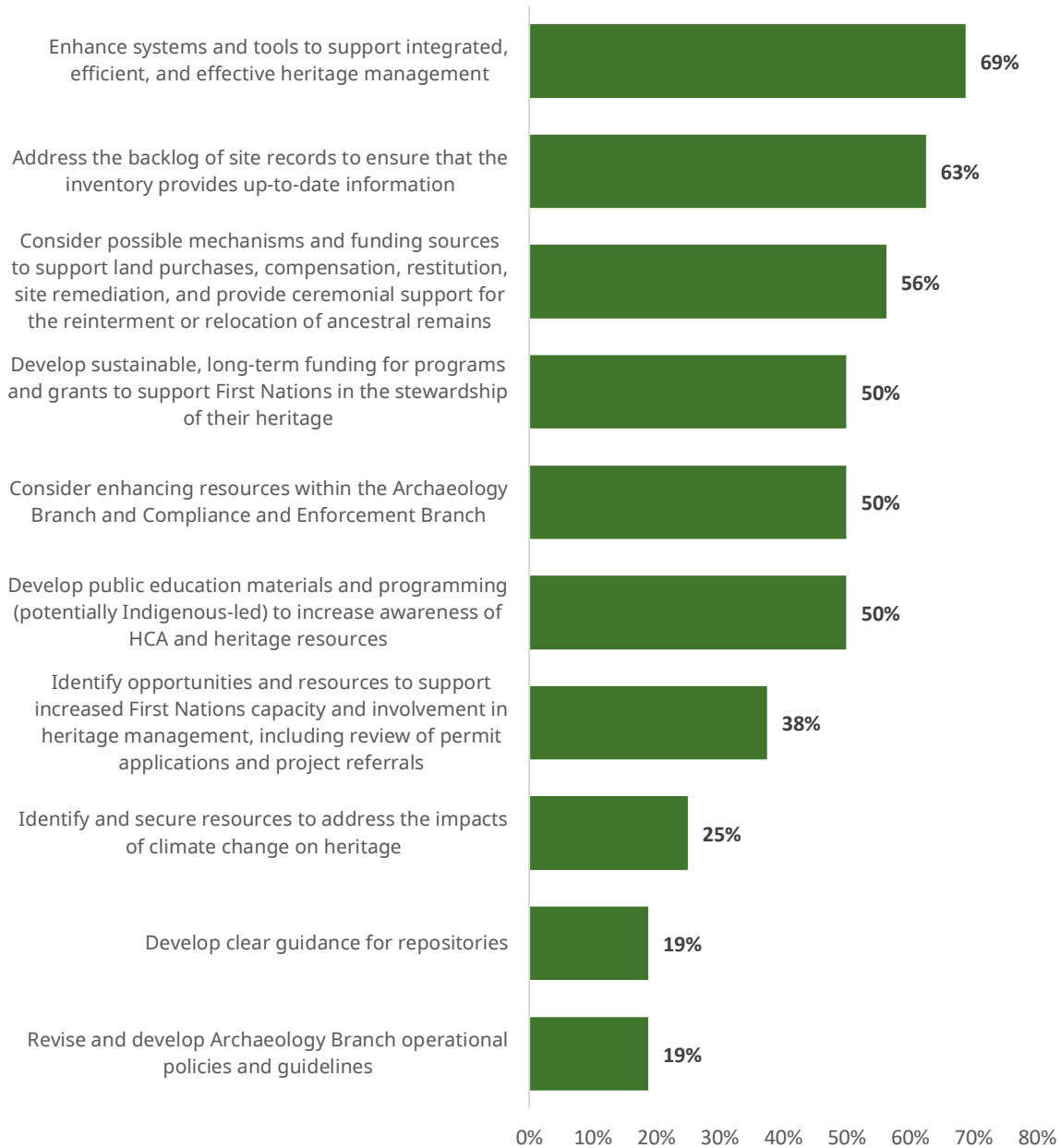
Theme	Transcripts	Written Submissions	Survey
	External Stakeholders	External Stakeholders	External Stakeholders
Archaeology Branch Resourcing			
Insufficient resourcing at Archaeology Branch	14	7	5
<i>Impacts of insufficient resourcing</i>			
Employment impacts on archaeologists, First Nations	1	1	0
Inability to hire qualified professionals for projects	2	2	0
Canceled, delayed, or abandoned projects	1	3	0
Reduced compliance or protection efforts by developers, project owners	2	2	0
Reduction in First Nations' abilities to engage with archaeological assessment process	0	1	0
Negative impacts on First Nations' abilities to preserve heritage, engage in cultural practices	0	2	0
Delays and long timelines for permit issuance	6	3	1
Archaeology Branch employees not knowledgeable or experienced in areas they work in	6	3	2
Regional offices needed	4	1	1
First Nations Resourcing			
Resourcing needed to support First Nations in heritage protection and conservation (i.e., permit review processes, guardian programs)	13	4	7
Resources and programs needed to support First Nations archaeology work	9	3	1
Goals of Resourcing			
Educate public on value of heritage, obligations to protect it	9	0	3
Support project owners, incentivize compliance and honesty	8	2	1
Improve records, tools, and resources to support archaeological assessment work	5	0	1
Ensure enforcement and compliance	1	0	0
Support long-term relationship building among relevant parties	0	2	1

Figure 1.5: Issues or Challenges Related to Resourcing Rated “Most Important” by External Stakeholders



Proportion illustrated is respondents rating each item as “Most Important.”
Total base *n* across all items is 18.

Figure 1.6: Proposed Solutions Related to Resourcing Rated “Most Important” by External Stakeholders

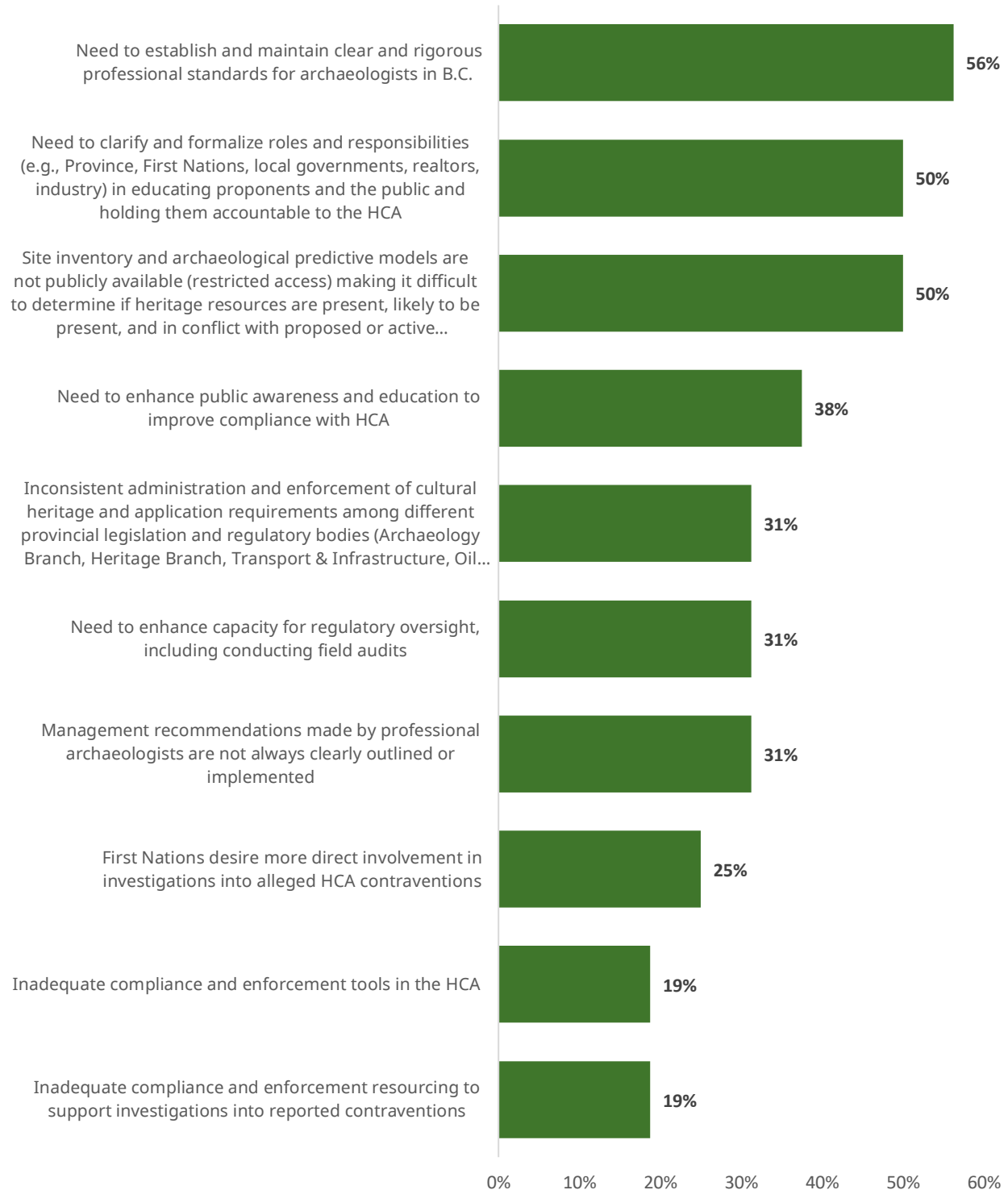


Proportion illustrated is respondents rating each item as “Most Important.”
Total base *n* across all items is 18.

Compliance and Enforcement

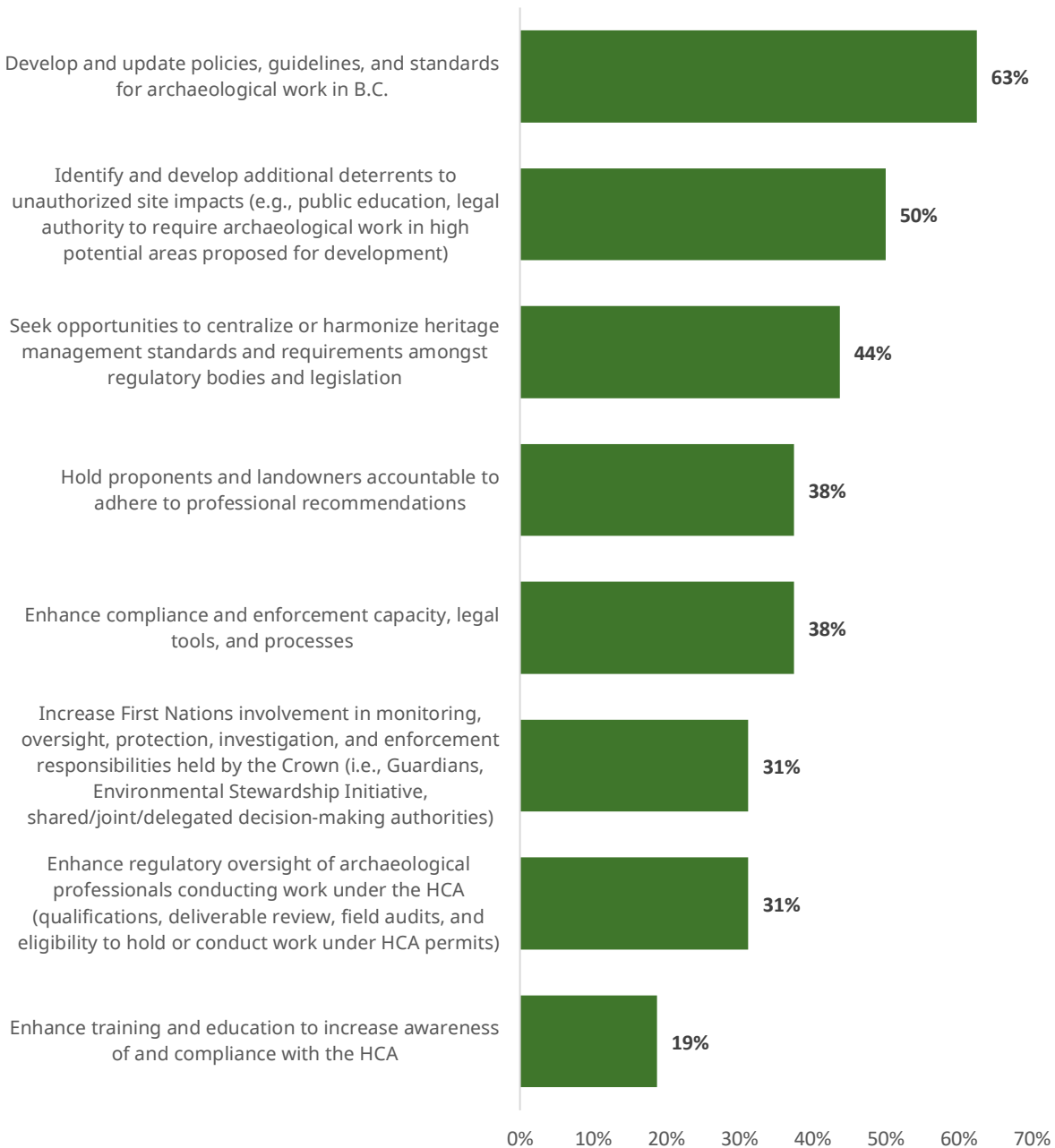
Theme	Transcripts	Written Submissions	Survey
	External Stakeholders	External Stakeholders	External Stakeholders
Fuller Inclusion of First Nations in All Aspects of Compliance and Enforcement			
Capacity funding needed for First Nations to engage and monitor sites	3	0	1
Need to build relationships between government representatives and communities	2	0	0
Improved responsiveness and accountability to First Nations needed	1	1	2
Challenges Working with Third Parties			
Education needed for project owners, developers	16	0	0
Challenges with work on private property	9	0	0
Collaboration with local governments needed	1	0	0
Provincial Government to Take Responsibilities Seriously			
External evaluation and review of project owners' archaeological assessments, other work, needed	8	0	1
Provincial government does a poor job of limiting and overseeing industry	3	1	5
Greater Seriousness about Protection and Enforcement			
More teeth to legislation needed	9	0	6
Clearer or higher standards for archaeologists needed	9	2	0
Greater clarity on jurisdiction and responsibility for legal enforcement needed	4	0	2
Alignment of protections and legislation across ministries and governments	3	2	0
Proactive Protections			
Need to incentivize protection, not just penalize violations	6	1	1
More information needs to be public to better plan for conservation	4	0	0

Figure 1.7: Issues or Challenges Related to Compliance and Enforcement Rated “Most Important” by External Stakeholders



Proportion illustrated is respondents rating each item as “Most Important.”
Total base *n* across all items is 18.

Figure 1.8: Proposed Solutions Related to Compliance and Enforcement Rated “Most Important” by External Stakeholders



Proportion illustrated is respondents rating each item as “Most Important.”
Total base *n* across all items is 18.



MALATEST



Photo caption: The long range rated canoe Luuplex - a fibreglass facsimile of the Haida masterpiece Luu Taas (Wave Eater) - gazes out at Gud K'aaGwas (Jewell Island) from the shores of Kay Lnagaay in Haida Gwaii (<https://www.istockphoto.com/photo/haida-boat-on-the-shoreline-of-haida-gwaii-gm531252727-55191392>)

Heritage Conservation Act Transformation Project

Summary of Phase II Engagement Data Analysis

February 2024

Prepared for: Union of British Columbia Indian Chiefs and the Ministry of
Forests

Prepared by: R.A. Malatest & Associates Ltd.



Executive Summary

In the fall of 2023, a total of four virtual engagement sessions were organized and hosted by the Joint Working Group on First Nations Heritage Conservation (JWGFNHC) regarding the second phase of the Heritage Conservation Act Transformation Project (HCATP). R.A. Malatest and Associates Ltd. was contracted to support note taking, data analysis, and reporting. Two engagement sessions were held with First Nation participants and two with external stakeholders from various industries. These engagement sessions focused on sharing findings and results from Phase 1 engagement and sought feedback and discussion on proposed priority areas of change.

Proposed policy options and changes were grouped into five overarching themes that were co-developed by the JWGFNHC for Phase 1 of the HCATP:

1. Indigenous values and rights recognition (IVRR)
2. Decision-making
3. Protections
4. Compliance and enforcement
5. Resourcing

Engagement Process

During engagement sessions, participants were asked to indicate their level of support for the proposed options and to provide comments in discussion as well as online through Mentimeter (Menti). Each session began with an overview of the HCATP and a summary of engagement to-date, followed by a presentation of proposed amendments under each of the overarching themes. In stakeholder sessions, participants were assigned to breakout rooms according to the sector they represented. Breakout room sessions were approximately 10 minutes long and focused on one theme area each. In the First Nations sessions breakout rooms were not used and participants engaged in a full group discussion.

Findings

Support for the proposed options varied by theme and, to some extent, between First Nation and external stakeholder participants (see Table A). Across all sessions, the highest level of support was for policy options related to protections. Most First Nation participants also supported policy options under IVRR and resourcing, two themes that stakeholders were not asked to indicate their level of support for.

Table A. Participants who “mostly support” or “fully support” Proposal Options

Topic Area	First Nation Participants	Stakeholder Participants
IVRR	78%	N/A
Decision-making	39%	68%
Protections	42%	67%
Compliance and enforcement	44%	61%
Resourcing	85%	N/A



Discussions primarily focused on participants concerns and questions about the proposed policy options.

Summary of Key Themes in First Nation Engagement Sessions

First Nation participants were invited to discuss the theme Indigenous values and rights recognition. The primary concerns raised were:

- there is a lack of recognition of title, rights and ownership of cultural heritage;
- racism and colonialism are a key inhibitor to progress; and
- concerns with the language used in the proposals.

These concerns are related to the key themes that emerged from discussions on decision-making, which included a desire to see increased authority for First Nations in the decision-making process and issues or concerns related to permits being issued without free prior and informed consent.

First Nation participants showed a low level of support for proposed policy options related to protections, the key themes noted in discussions highlighted the desire for protections to focus on First Nations values, as well as concerns related to data sharing and protection of First Nations burial sites.

The proposed options under compliance and enforcement received a similar level of support. Participants from First Nations engagement sessions discussed concerns around the effectiveness of penalties, concerns about timelines, and questions about who would have authority to conduct enforcement.

Finally, there was consensus that resources (staffing, funding, education and capacity building, etc.) are needed for the successful implementation of many of the proposed options. First Nation participants discussed the need for resources for First Nations to develop methods and policies to protect heritage sites and artifacts.

Summary of Key Themes in Stakeholder Engagement Sessions

Stakeholders discussed four of the five main topic areas; they were not invited to discuss proposed options under IVRR. During discussions around decision-making, stakeholders' main concerns included HCA process efficiencies, the need for better or additional mapping and information sharing to facilitate site management, and related to that, the need for early identification of sites.

Despite relatively high levels of support for proposed options under the protections theme, stakeholders voiced some concerns including questions about how intangible cultural heritage would be protected and whether the current proposals would reduce the burden on proponents. Stakeholders felt that public education would be a key component to protections and recommended a wide range of audiences, including the general public, developers, municipalities, regional districts, realtors, contractors, property owners, industry, and more.

Top concerns related to compliance and enforcement centred on the effectiveness of penalties, especially monetary fines. Stakeholders expressed a desire for more clarity on the proposed duty to report and who would have authority to conduct enforcement.

Finally, similar to feedback from the First Nations sessions, stakeholders voiced concern about the overall adequacy of funding and the shortage of archaeologists and related professionals to support this work in the province.



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SECTION 1: INTRODUCTION

1.1 Engagement Process

In the fall of 2023, a total of four virtual engagement sessions were organized and hosted by the Joint Working Group on First Nations Heritage Conservation (JWGFNHC) regarding the second phase of the Heritage Conservation Act Transformation Project (HCATP). R.A. Malatest and Associates Ltd. was contracted to support note taking, data analysis, and reporting. Two sessions were for First Nations participants (September 27 & October 3) and two were for external stakeholders (September 26 & September 28) from various industries. In total, 63 individuals representing 43 First Nations and 8 First Nation organizations participated in the First Nations sessions. The external stakeholder sessions were attended by 258 participants representing 176 different organizations. Industries involved in the stakeholder sessions included; First Nation organizations (n=9 attendees from 8 organizations), archaeology professionals, heritage professionals, and academia (n=92), local government (n=89), energy, mines and utilities, planning, construction, real estate, and related industries (n=63), and federal government (n=5). Engagement in phase II of the HCATP focused on sharing findings and results from Phase 1 engagement and sought feedback and discussion on proposed priority areas of change. The overall goal of the project is to “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,” as outlined in Action 4.35 of the Declaration Act Action Plan.

1.2 Policy Options and Priorities

For consistency, Phase II engagement sessions remained structured around the five overarching themes that were co-developed by the Joint Working Group on First Nations Heritage Conservation for Phase 1 of the HCATP:

1) Indigenous Values and Rights Recognition (IVRR)

The proposals under the IVRR theme included:

- The implementation of a Principles Statement to guide the interpretation and administration of an amended HCA;
- First Nations rights recognition and expanded authorities for shared and joint decision-making, including for protections and compliance and enforcement (C&E);
- Ensuring the use of First Nation place names in archaeological records; and
- Safeguarding First Nations’ intellectual property, cultural knowledge and confidentiality.

2) Decision-making

The proposals under the decision-making theme centered around an expanded agreements framework. This includes enabling joint and consent-based decision-making with First Nations under sections 6 and 7 the Declaration Act as well as improved access and expanded scope to section 4 and 20 (HCA) agreements. Additionally, proposals included improvements to the HCA permitting process such as bolstering statutory decision-making criteria and reducing the administrative burden in the permitting process through enhanced policy, requirements, terms and conditions for certain HCA permits, and addressing shortfalls affecting responsiveness, consistency and timeliness of permit administration. Lastly, modernizing heritage recognition practices in the HCA was also discussed with participants.



3) Protections

Proposals under the protections theme included creating efficiencies in the heritage designation process by empowering the Minister, rather than the Lieutenant Governor in Council (LGIC) to designate heritage sites and approve provincial heritage policies - enhancing protection of significant sites, such as First Nations cemeteries, improved public education and awareness relating to the HCA, and amendments to provide for the collection of at-risk and voluntarily forfeited heritage objects.

4) Compliance and Enforcement

Options proposed under the Compliance and Enforcement theme focused on enhancing the role of First Nations in compliance and enforcement and augmenting the enforcement tools within the HCA. These options included the introduction of ticketing and administrative monetary penalties, an enhanced compliance and enforcement toolkit, better oversight and regulation of Archaeological professionals through an enhanced auditing program, and enhanced information sharing and collaboration with First Nations.

5) Resourcing

The proposed options under the Resourcing theme included investments in the Archaeology, Heritage, and Compliance and Enforcement Branches; resources for First Nations; and investments in inventory, systems, and tools.

Each session began with an overview of the HCATP and a summary of engagement to-date. Following a presentation of proposed amendments under each of the above-noted themes, session participants were invited to provide feedback and were asked to indicate their level of support for the proposed options and anything else that needs to be considered for ongoing transformation. In stakeholder sessions, participants were assigned to breakout rooms according to the sector they represented. Breakout room sessions last approximately 10 minutes and focused on one theme each. In First Nation sessions, breakout rooms were not used and participants engaged in a full group discussion. Further, the online tool, Menti, provided another means of responding and providing for voting on level of support for the proposed suite of improvements.

1.3 Analysis Approach

For analysis of qualitative data (i.e., notes and transcripts from four engagement sessions and supplemental Menti comments), an inductive coding approach was used in which notes and transcripts were reviewed, and themes were identified as they emerged from the data. This process was iterative, with previously read content being re-read when a new code was identified to ensure that no content was missed during the coding process. The draft coding framework was shared with the project team for review and approval. The same coding framework was applied to session notes and Menti comments. Once all data was coded, queries were used to develop quantitative summaries (i.e., frequencies or counts) of the codes and themes found in the data (see **Appendix A**). Where possible, counts of codes were broken down by stakeholder group/sector. The codes applied and their relative frequency in the data are reported here.

For analysis of quantitative data from Menti, summary statistics were generated. This data is presented graphically throughout the report and, where possible, broken down by sector.



1.4 Report

This report presents a summary of findings from qualitative analysis of four engagement sessions. Limited qualitative and quantitative analysis of data collected through Menti is also presented. The report is organized into two main sections: the first reporting on findings from First Nations engagement sessions and the second reporting on findings from stakeholder engagement sessions. The findings are organized into five subsections, each representing an overarching theme or topic area: Indigenous Values and Rights Recognition (First Nations sessions only); Decision-making; Protections; Compliance and Enforcement; and Resourcing. Each subsection begins with a statement of the overall level of support for the proposal options (as assessed by Menti poll data), followed by a summary of the main themes that emerged in discussion.

1.5 Limitations

It is important to note the following limitations in this project in the interpretation of the findings that are presented in this report.

- **Engagement Session mode:** The use of a virtual medium for the engagement sessions meant that some participants experienced technical difficulties, and subsequently could not fully participate in activities (e.g., breakout sessions or Menti polls). Furthermore, the composition of the breakout groups did not incorporate the nuances of participant's roles, and there were some incongruences with breakout groups (i.e., a project archaeologist in the industry breakout group).
- **Comment control:** Respondents were able to provide the same comments through multiple forums (e.g., engagement session discussion and Meti comment). It was not possible to account for the same respondent making similar comments across multiple forums because Menti comments were anonymous.
 - **Menti data:** While the data provided through Menti activities can help provide additional explanation or context, it cannot be combined with data generated from other activities in the engagement sessions (e.g., breakout groups). Furthermore, comments are anonymous, and data is not linked to any previous responses, therefore it is not possible to provide a breakdown of Meti comments by sector or to provide counts of themes across the Menti data as a whole.
- **Response Rate:** Engagement sessions had good representation from First Nations and stakeholder groups, however, not all attendees participated in the Menti activities. For example, stakeholder engagement sessions saw 207 responses that were received in response to the first question (what sector do you represent), but only 60 participants endeavoured to leave a comment on Menti.



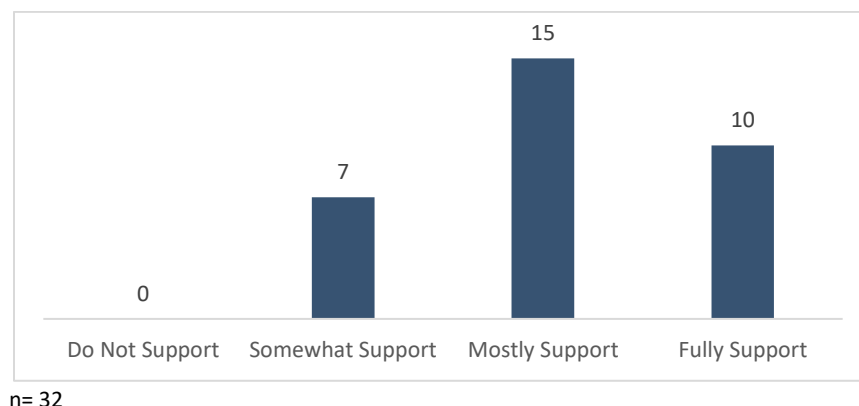
SECTION 2: FEEDBACK FROM FIRST NATIONS ENGAGEMENT SESSIONS

This section presents a summary of the themes that emerged through analysis of First Nations' engagement session notes and transcripts. They are categorized under the main thematic areas: Indigenous Values and Rights Recognition (IVRR); decision-making; protection; compliance and enforcement; and resourcing.

2.1 Indigenous Values and Rights Recognition (IVRR)

Participants were asked to indicate their level of support for the suite of proposals related to Indigenous Values and Right Recognition. Nearly half (47%) of participants reported that they mostly supported the suite of proposals, and over a quarter (31%) reported that they fully support the suite of proposals related to Indigenous Values and Right Recognition. Under a quarter (22%) of participants reported somewhat supporting the suites of proposals.

Figure 2.1: Do you support the suite of proposals related to Indigenous Values and Right Recognition?



While most participants supported the proposal options, the major themes identified through analysis of engagement session notes highlighted participants primary concerns. These concerns (or main themes) were that there is a *lack of recognition of title, rights and ownership of cultural heritage* (14 mentions), *racism and colonialism are a key inhibitor to progress* (14 mentions), and *concerns with the language used in proposals* (eight mentions).

Some comments discussed concerns related to private land or private landowners. Due to the small number of mentions compared to other themes, this topic is not discussed in the sections below.

Lack of Recognition of Title, Rights, and Ownership

Lack of recognition of title, rights, and ownership of cultural heritage was an issue discussed frequently by First Nations participants, and is intrinsically linked to the sub-theme, racism and colonialism as a key inhibitor to progress, which was discussed with the same frequency. Respondents were frustrated that these issues are still present in the proposed amendments; given that colonial assumptions underpin the HCA was a major theme in Phase I, many respondents thought that it would have been addressed by Phase II. Discussion of the current lack of recognition of title, rights, and ownership often focused on the need for First Nations to be recognized as Nations, equal to the federal government, with commensurate jurisdiction and rights.



"We're talking about reconciliation, but it [HCA] doesn't respect our initiative to regain authority on our lands, connection to land, our values and beliefs."

"Until the province and feds recognize us as a government, it will all be just a consideration."

Many comments related to this theme emphasized that unless First Nations have the right to say no to projects, their title and rights are not being recognized.

"If the Archaeology Branch is working towards meaningful consultation, it seems concerning to me that First Nations are not able to stop a permit moving forward unless they are in a Section 4 agreement. Is that meaningful consultation? As you said, 90% of cultural heritage sites are First Nations' and yet Nations are not able to protect those sites. This feels like the definition of a colonial structure."

Racism and Colonialism as a Key Inhibitor to Progress

Continued inclusion of colonial policies, or colonial assumptions underpinning proposed policies in the HCA, were noted by First Nations participants in the discussion sessions. Comments highlighted that these assumptions and approaches to conservation and development play out a number of different ways, but all share the same base assumptions that settler priorities and uses of land are more valuable than those of First Nation people.

Some comments noted that compensation for loss of land or land use is one-sided and does not address the impacts of settler colonialism on First Nations. These participants felt that Nations were not being fairly compensated for the sale of their traditional land or not adequately compensated for resources extracted from their traditional territories.

"...I was told by a former director at the Archaeology Branch that if we denied a private landowner a permit to put a pool in their backyard...we would have to compensate that private landowner. But on the other side, First Nations are not given the same deference."

"For 150 years our resources have been taken and used and everyone is getting rich off our resources except us."

Other comments noted that the proposed changes to the HCA still centre colonial government structures by giving the provincial government more power in decision-making than First Nations.

"Always government with the final say?"

"What I see as the government's solutions to this broken system that is the HCA is further agreements. The issue that is not being addressed is, the government is standing between the First Nation and their cultural heritage. Further empowering the Branch isn't addressing the issue, the province should be getting out of the way."

Finally, some comments indicated that there has been a lack of progress in the government's understanding and application of reconciliation and true government-to-government partnership.



"It's pretty offensive for our people to hear about issuing of a permit to impact our sacred sites. If we're going to have a respectful relationship we need to walk our talk."

"I would like to continue these discussions, but this is still supporting and maintaining colonial authority on our lands. It says in the Protections section, amend the HCA to empower the Minister to designate heritage sites. This is already an existing policy that undermines Aboriginal rights. Secondly, empower the Minister to approve provincial heritage policies, which is also an already existing mechanism that undermines Aboriginal rights."

Concerns with Language Used in Proposals

The third major theme, the language used in proposals, was extensively discussed as there were concerns about the choice of certain words that are perceived to undermine First Nations jurisdiction as well as a lack of language that explicitly states their authority. Specific areas in the proposed amendments that were concerning to respondents included the principles statement in the IVRR recommended options ("could" include the recognition of First Nations inherent rights to self-government" instead of 'should') and a lack of specific language that reflects the authority of First Nations, rather than focusing on provincial authorities in the proposed policy changes to empower the Minister, as opposed to the LGIC to designate sites, approve provincial heritage policy, and approve in the Section 4 agreements.

"I want to have more clarity on the meaning of consideration. I have heard a lot of 'we will consider,' 'your comments will be considered.' I need to know that our comments and questions are taken seriously. Equalizing First Nations as governments with the province."

"In relation to the language, when engaging with First Nations, the assumption is that you're engaging with us to ensure that we are aware that this is taking place and that there is no doubt that our language and input is there. I am kind of offended. I can't say enough that there is so much disconnect, and working in this, working with the ministries for so long."

"How the wording is in the previous Act, and how it goes to the LGIC, it doesn't say anything about the First Nation. And we are still not being recognized. I disagree with what has been put forward. Until our title and rights are recognized, then it will be one-sided."

2.2 Menti Comments

Across both sessions, 31 participants provided comments related to things that need to be considered for continued transformation related to Indigenous values and right recognition. These comments most often focused on the balance between absolute authority for First Nations versus shared decision-making between the Province and First Nations (n=7), the language used in the proposals (n=5), and the need for different government to be aligned to facilitate cooperation (n=5).



Some comments questioned what the ideal balance of authority is in terms of decision-making as it related to First Nations cultural heritage. Participants had mixed opinions about whether First Nation government should be given ultimate authority or equal authority (shared with the Province) over decisions relating to First Nations cultural heritage.

“Final decisions regarding Indigenous cultural heritage and its management cannot rest with the Crown.”

“It needs to be First Nations making the decisions about our Ancestors.”

“Short answer is that First Nations have equal decision-making rights as the Archaeology Branch. Decisions are made with meaningful discussions and decision-making inclusive of the ones being affected ...”

Some participants made comments about the language used in the proposals. They voiced concern about the use of words like “could”, “contemplated”, and “considered.” Participants felt these words did not convey a strong commitment to working collaboratively with First Nations governments and communities.

“Would like to see more direct language that reflects true commitment instead of words such as “could” include recognition or are “contemplated...”

Finally, some participants commented that better alignment and coordination across governments was needed. Specifically, comments focused on the need to consider First Nation laws and procedures, including understanding that different Nations have different laws and procedures. They also commented on the need to bring consistency to regulations across levels of government, for example by introducing a duty to consult at the municipal level.

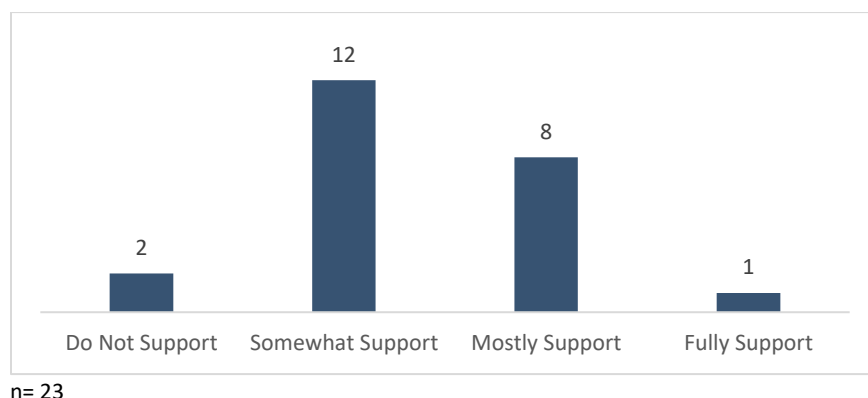
“Government needs to improve the Local Governments Act to actually bring in rights recognition. Municipalities do not have the duty to consult and development often goes without assessment.”

2.3 Decision-making

When asked to indicate their level of support for the suite of proposals related to Decision-making, 39% of participants who responded to the poll reported that they fully or mostly supported the suite of proposals related to decision-making, while about one-half (52%) reported that they somewhat support the suite of proposals. A few respondents shared that they did not support (9%) these proposals.



Figure 2.2: Do you support the suite of proposals related to Decision-making?



Top themes that emerged from discussions on decision-making included *absolute authority versus shared decision-making* (16 instances of this theme in the data), and *no permits without free prior and informed consent* (11 instances in data). Other themes that arose somewhat frequently included *recognition of treaty rights and title*, and *definitions of heritage sites* (five mentions each in the data).

A variety of other themes emerged in discussions as well, at relatively lower counts. These included *alignment with other acts* (three mentions), *HCA process efficiencies* (three mentions), *extending protections to post-1846 sites* (two mentions), and *mapping and information for site management* (one mention).

Absolute Authority versus Shared Decision-making

Many participants noted that the proposed changes to the HCA did not represent substantial changes to authority and decision-making powers. As a respondent highlighted, “Can you speak to how the decision-making agreement thematic overviews represent any kind of reform. How is this a reform over just existing legislation?”

First Nation participants were concerned that they are not able to stop a permit moving forward unless they are in a Section 4 agreement, and many do not see the province demonstrating willingness to enter into agreements. As one participant noted, “Section 4 was introduced in 1996 and the first Section 4 agreement is still in its pilot stage.”

Within this theme of absolute authority versus shared decision-making, a common thread of discussion was the importance of consent in the permitting process. Comments emphasized that permits should not be issued without the free, prior, and informed consent of impacted Nations. Participants felt that, in practice, this would prevent the issuing of blanket permits and increase the standards for achieving free, prior, and informed consent for First Nations.

“...I would hope there would be some really stringent considerations and to include Indigenous people in the decision-making process and that these permits are not just given out. There should be some real processes for people to go through to get one. Needs to be a high standard for permitting of these types of impacts, would speak to a respectful relationship.”



"It would be good to see the ability of a First Nation to say 'no' and the principles of FPIC incorporated into the general decision-making process within the HCA."

Recognition of Treaty Rights and Title

Several mentions in discussion sessions raised the issue of proposals needing to align with, or leave space for, the exercise of treaty rights over land and heritage. Participants believed that more needs to be done with the HCA proposals to ensure that there is space left in the legislation to work with current, and potential future, treaties and associated jurisdiction of First Nations in the province.

"These [burial sites issues] are serious matters of Indigenous rights and basic human rights. Not sure what it's going to take to get some movement. We've made many submissions to the minister and at our treaty table. We've been trying to get changes but the rights of private landowners trumps it every time."

"We've been trying to deal with this issue for many years now and have made a number of recommendations and have been pushing to have as part of the treaty reconciliation process, finding ways to deal with the large number of heritage sites that are located on privately held land."

"What I didn't hear was, how is this going to change within the bands that have treaties and those that don't? How do the three acts and the provincial government deal with that?"

Defining Heritage

Questions about how heritage is defined, and the powers of First Nations to make those definitions, were raised in the discussion sessions. This is an issue that was raised in Phase I of the Transformation Project as well, with participants at that time supporting a shift towards First Nation communities having powers to define what constitutes a heritage site or heritage object under the HCA. This continued to be a concern in Phase II discussions, with continuing calls for First Nations to be empowered to identify and define what heritage is important to them for conservation.

"We need a bigger say in archaeological sites in our territories. If that is what is being presented, I support. Significance of the site – we as First Nations need to be involved in this process."

"Who is determining significance for these sites? Archaeologists or First Nations? Both? Can we view and veto proposed criteria for site significance?"

"I was going to ask about the definition. And defining all of those categories. Right now, we have a church that is designated as a heritage site. We were trying to get one building turned into a heritage site, but it is going to be turned into a resort, so it doesn't fit the definition."

Related to this, concerns around the cut-off date for automatic protections were raised twice in discussions, with First Nations participants interested in seeing changes to the pre-1846 criteria for automatic protections.



2.3.2 Menti Comments

Participants who provided comments regarding what else needs to be considered for continued transformation related to Decision-making (n=25) tended to raise questions about the balance of authority in decision-making (n=11). Participants questioned what shared decision-making would look like in practice and whether the Province should have a role in decision-making concerning First Nation heritage. Some participants also commented on the need for clear policy guidelines to clarify the balance of authority in decision-making, for example, which jurisdiction has the final say, who has authority to dispute a decision, is there a process in place for disputing decisions?

Other themes that emerged from these comments were related to decision-making and the question of where authority should lie. A few comments mentioned the colonial influence that is inherent to the HCA and questioned whether Act can be revised in a way that respects First Nations values and right recognition. Other comments voiced concern about permits being granted with free informed prior consent of the traditional landowners.

“Need to ensure that true joint, consent based decision-making is prioritized, not just co-management.”

“Full autonomy to decision-making on all traditional sacred sites.”

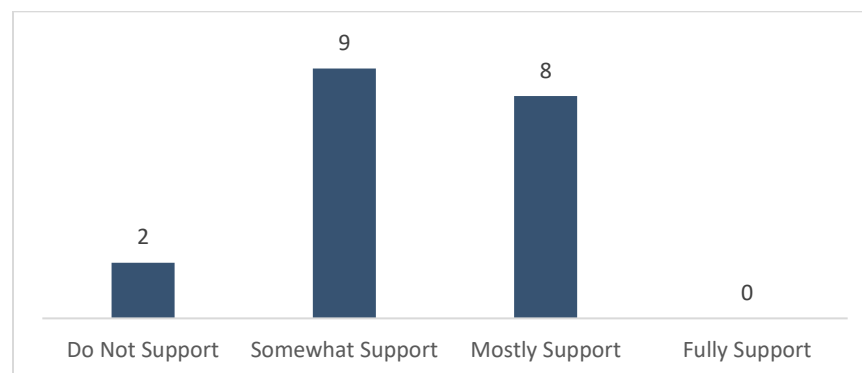
“B.C’s entitlement to continue to manage First Nation heritage is absurd. The support of the HCA continues this colonial legacy.”

“There is currently no dispute resolution mechanism in the HCA...”

2.4 Protection

A majority of participants who responded to the Menti poll indicated that they supported the suite of proposals related to protections somewhat (47%) or mostly (42%). No participants fully supported the proposed options.

Figure 2.3: Do you support the suite of proposals related to protections?



n= 19

A few major themes emerged from discussion notes related to protections. The most common themes noted were *protections to focus on First Nations values* (nine mentions), *data sharing concerns* (seven mentions), and *protection of First Nations burial sites* (seven mentions).



A couple of additional themes were noted in the data, but were not mentioned often and are not discussed below. These included *protection of intangible heritage* (three mentions), *intellectual property rights* (two mentions) and *proactive, rather than reactive, protections* (one mention).

Protections to Focus on First Nations Values

Related to earlier discussions about the influence of colonial assumptions on the HCA, discussions under protections frequently raised concerns that protections need to take into account First Nations worldviews and values, and build protections from there. Comments that were coded to this theme noted both challenges with the current approach not aligning with their Nation's values, as well as a desire to see changes that center First Nation communities' values.

"When non-Indigenous people talk about history they call it historic when it's only a few hundred years old. We have history that is thousands of years old and it's deemed insignificant. How will the Act address this?"

"In terms of reconciliation and all the words that have been used in the past, like truth and reconciliation. I'm just thinking of the respect for our culture and respect for who we are as a people and incorporating that. It's pretty offensive for our people to hear about issuing of a permit to impact our sacred sites."

"I appreciate the question, the days of our ancestors belongings being for the purpose of western science is a colonial mindset. We need to be given the opportunity to care for our ancestors' belongings in a safe manner with our laws and for our own people to care for them."

"There are cultural monitors who have been working on archaeological sites for years, and have generations of cultural knowledge, but because they do not have an undergraduate degree and don't have the documented hours that the Archaeology Branch deems are required, are not able to hold a permit. This limits First Nations from participating in the field. The Archaeology Branch needs to broaden its perspective from a strictly western science approach to equally value First Nations' ways of knowing."

Data Sharing Concerns

Several participants noted concerns related to information not being shared back with their communities after investigations have been completed. A few shared stories where information was not given back to the community, despite the site or find being culturally or spiritually important to them. Most comments noted that this is a pattern of behaviour on the part of project owners and archaeologists that do work in their communities, and they want to see this meaningfully addressed to support First Nations' rights to know and be involved in knowledge creation processes around heritage sites.

"It [burial site] was taken over by the Archaeology Branch and archaeologists were brought in and made us move the graves. We didn't feel good about it but we did it and had our ceremony. We also weren't happy that the archaeology company...that came in had ownership of



that report and we couldn't use the pictures any way we wanted to or share that with members of our community."

"There have been some significant sites in our territories that have been investigated. The results of these investigations haven't been shared with us. There was a logging company that disturbed a burial site. They cleaned their hands of it and walked away and the investigator helped them do it. We encounter this on a daily basis."

A couple of comments noted the need to make all stakeholders, including those in the private sector, aware of heritage information that is available and their obligation to seek it out when dealing with sites.

"How can we make them [landowners] know they need to do a data request?"

"This information should be disclosed by realtors and/or landowners so they are aware they have a responsibility to uphold."

There was also a comment that noted the work that First Nations communities are doing on archaeological work themselves, and concerns they had around whether, and how, to share this information with the province. The comment appeared to indicate some skepticism around whether the province would be more effective in protecting these sites than the communities that are already aware of them.

"We need to work with you to develop something that makes sense to us. We do have definitions of sacred places but won't share locations with the province. I am working with our nation right now to look at the archaeological artifacts that we have in that location. We are looking to repatriate."

Protections of First Nations Burial Sites

Protecting First Nations burial sites was raised a number of times in discussions. Comments on this theme shared painful stories of ancestors being disturbed or disrespected, and expressed a desire for this to stop happening through better legal protections for these sites. A need for protections of burial sites to be equivalent to the protections provided under the *Cemeteries Act* was noted in a couple of comments.

"I'm also referring back to a grave site that was on record from old studies and passed down orally. Where the Hudson Bay post currently sits, there used to be a grave site there and it was pushed into the river to make room for development. When we speak of these areas there is no ongoing discussion. To this day we are still trying to find answers and this stuff still happens."

"We need much stronger laws in protecting our ancestors' resting places. Equality for First Nations cemeteries and settler cemeteries."

"There was a fish hatchery putting in their business and they had to trench through an area on the beach into the water. The area was a heritage site and a burial area. We again went through the



environmental review board and the finding was that this area had already been impacted in the past so the scientific value was diminished. But this isn't about scientific value and if the Act emphasized that, it's way off base. This is about protecting Indigenous people's values."

2.4.2 Menti Comments

Participants who commented on things that need to be considered for continued transformation related to protections (n=37) tended to focus on the need to revise the definition of "sites of significance" (n=10), whether intangible cultural heritage was going to be considered in future iterations of the HCA (n=3), and whether First Nations would be provided with resources to help protect their cultural heritage and sites of significance (n=3).

Some participants raised questions about whether there was an agreed upon definition for "sites of significance" and wanted to know how the definition was developed. Other participants specifically wanted to see changes to automatic protection for pre-1846 sites.

"Sites of special significance – who determines these and is there an agreed upon definition?"

"How will sites of significance determination be aligned with DRIPA?"

"Removal of the date 1846 needs to be a priority, it is an arbitrary and colonial date that has no significance to the value of cultural sites."

Further, some participants commented that the current HCA and definition of sites of significance does not include or account for intangible heritage.

"Cultural landscapes and intangible heritage is not included in the HCA."

"Archaeology Branch values and views are solely focused on tangible heritage and management of things without understanding their values to living heritage and cultural identity."

Finally, some participants commented on the need for funding to help First Nations build capacity to protect their heritage and sites of significance.

"Provide Nation staff with training and authority to enforce the HCA."

"Capacity funding is required to get Nations the support they need to have their voice heard."

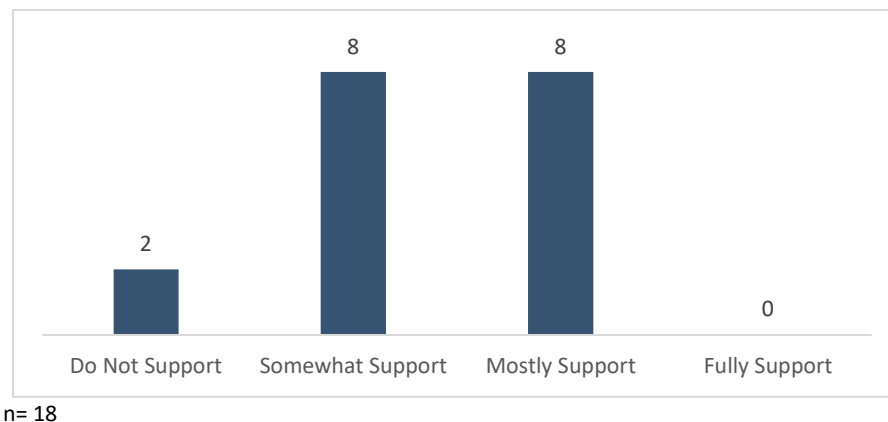
A couple of comments also noted that heritage sites should be protected because of their value to First Nation peoples and not because they might have some scientific value as assessed by Western science and standards (n=2).

2.5 Compliance and Enforcement

Participants were asked to indicate their level of support for the suite of proposals related to compliance and enforcement. The majority of participants who responded to the Menti poll reported that they somewhat (44%) and mostly (44%) supported the suite of proposals related to compliance and enforcement.



Figure 2.4: Do you support the suite of proposals related to compliance and enforcement?



Participants from First Nations engagement sessions discussed three key themes related to compliance and enforcement: *concerns around the effectiveness of penalties* (eight mentions in discussions), *concerns about the timelines* (eight mentions), *authority to conduct enforcement* (four mentions).

Effectiveness of Penalties

There were concerns that there is a lack of enforcement of the HCA. Penalties like fines were viewed as a “slap on the wrist”, particularly for large corporations. Participants expressed concern that breaches will continue to happen unless there is greater enforcement and fines to contravening parties. It was mentioned a few times that archaeology is a non-renewable resource, which helped to convey the severity of impacting heritage sites, and the distress this causes First Nations – “once it is removed, you remove our existence”.

“What about ticketing as a cost of doing business that some are willing to swallow in order to get their work done?”

“Cost of doing business. Deterrents need to be effective.”

“Fines need to be substantial enough. Tied to the archaeology cost?”

Concerns about Timelines

Participants raised concerns about timelines, including the delay in responding to HCA violations, stalled Section 4 agreements¹, the lag-time to proceed with a charge when a contravention of the Act is reported, and that permits are given out too quickly.

“Reaction time for compliance and enforcement to investigate a reported violation. If it takes months, then it [the contravention] is seen as not serious.”

“We can see some challenges with timing.”

¹ It should be noted that while not directly related to compliance and enforcement, frustration related to the lack of negotiated section 4 agreements was observed within the context of this discussion.



“The faith that we have in these agreements, Section 4, introduced in 1996, and the first section 4 agreement is in a pilot project stage. S.4 has taken over two decades and still isn’t available.”

Authority to Conduct Enforcement

While contemplated as improvements under Decision-making (allowing for the delegation of certain Compliance and Enforcement authorities through s.4 HCA to First Nations), First Nations participants expressed desire for expanded authorities to allow First Nations governments to conduct enforcement and issue stop work orders to any activities (e.g., developments; exploratory, information-gathering assessments) that occur on their territories.

“Expanded authorities. I would like to see if the expanded authorities includes First Nation governments.”

“And regarding compliance and enforcement, we have four guardians, then our guardians should be able to enforce our laws for us.”

“I think the First Nations should have some kind of authority to give fines to those that are destroying their cultural sites, and burial sites.”

2.5.2 Menti Comments

Participants were asked “what else needs to be considered for ongoing transformation related to Compliance and Enforcement?”, 28 comments were received. Participants questioned who would be responsible for enforcement (n=7), had concerns about the ineffectiveness of fines (n=5), and questioned whether resources like funding and training would be provided to support compliance and enforcement activities (n=5).

When asked who ought to be responsible for, or have the authority to conduct enforcement, some participants felt that only First Nations should have enforcement authority. Other comments suggested that Nations should have some say in enforcement, including determining the outcome or consequence for contraventions.

“Provide a meaningful role for Nations in decisions related to enforcement.”

“Only Nations will know what enforcement needs to happen.”

“Nations should be part of deciding what the outcome will be to individuals that are harming sites.”

Participants also voiced concerns that fines are not effective, in that they do not prevent the destruction of heritage sites. Some participants shared similar concerns that fines and enforcement are reactive rather than proactive measures and preferred that the focus be on protection of heritage sites.

“Proponents have threatened to destroy burial grounds because the fines are cheaper than the cost of waiting for permits.”

“How do you remediate an archaeological site? Archaeology is a non-renewable resource”.

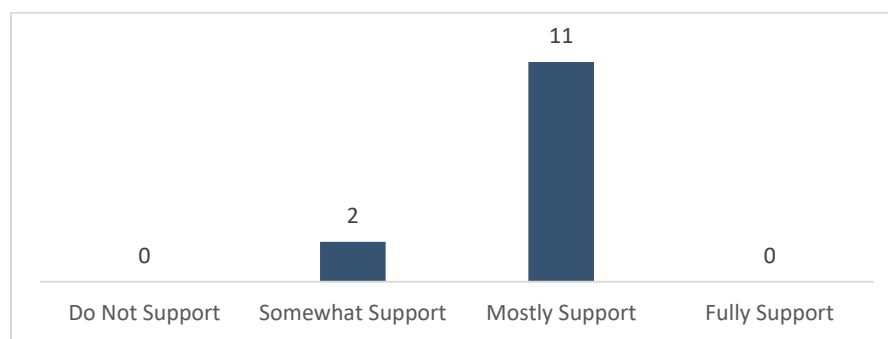


Finally, some comments mentioned that governments need to be aligned in their policies and procedures related to compliance and enforcement (n=2), including recognition of First Nation governments and laws.

2.6 Resourcing

When asked to share their level of support for the suite of proposals related to resourcing, the majority of participants (85%) reported that they mostly supported these proposals. Few participants (15%) supported these proposals somewhat.

Figure 2.5: Do you support the suite of proposals related to resourcing?



n= 13

Participants from the First Nation engagement sessions discussed three key themes related to resourcing: *repatriation* (eight mentions in discussions), the need for *resourcing for First Nations to develop methods and policies to protect heritage sites and artifacts* (seven mentions), and *none of the proposal options are achievable without adequate funding and resourcing* (four mentions). While this discussion occurred at the end of the engagement session, it is important to note that the overarching theme of resourcing was discussed throughout the session in response to each suite of proposal options that were presented. There was consensus that resources (staffing, funding, education and capacity building, etc.) are needed for the successful implementation of many of the proposed options.

Repatriation and Repositories

While repatriation was not presented as part of the proposed policy changes to be addressed in the near-term, many participants made comments on the theme. Most comments regarding repatriation were participants asking whether there would be funding provided for Nations to develop and maintain repositories of heritage artifacts. Participants noted that there is a high cost associated with securely and appropriately storing artifacts and that many Nations are not currently equipped to store their own artifacts.

“Regarding repatriation – acknowledging that these items may be illegally possessed in the first place. Curious to know more about that conversation. Are there any tools in the proposed option to help with repatriation of heritage objects?”

“Do you think First Nations would be given any capacity funding to hold some of our artifacts?”

“Great point - it is very costly to develop secure displays/storage for material heritage.”



“Repository funding for First Nations use within First Nations Shared areas that are more accessible. Return of all artifacts associated with ancestral remains to the Nations for respectful and culturally important processes to be followed by each nation.”

Resourcing for First Nations to Develop Methods and Policies to Protect Heritage Sites and Artifacts

Participants also called for resources, including funding and training, to help Nations develop methods and policies to protect heritage sites and artifacts. Comments highlighted that many sites of significance are First Nation sites and communicated the desire for funding for First Nations involvement with the HCA. In addition to commenting on the need for funding to facilitate greater involvement of nations in the protection of heritage sites and related decisions, some commentors also asked for funding to support the development of training programs to increase Nation’s capacity for compliance and enforcement.

“[Resources for] First Nations to take on the work within the territory.”

“[There is] a total lack of capacity for FN to respond to what proponents want to get done.”

“If 90% of sites [of significance] are FN then 90% of the funding needs to flow directly into communities.”

“In respect to First Nation resourcing, funding should also be provided to Nations to develop methods and policy for First Nation compliance and enforcement training programs.”

None of the Proposals are Achievable without Adequate Funding and Resourcing

Finally, some comments mentioned that funding and resources are needed to support all of the proposed options. Feedback also highlighted the need for resources to support Section 4 agreements and at the Archaeology Branch, and the need for enhanced capacity before more permits are approved.

“Without capacity funding there should be absolute no permits going out in our reserves.”

“The Archaeology Branch has said they don’t have sufficient resources to do the work and therefore couldn’t go out into the field and do work in the field. So definitely support resourcing for them”

2.6.2 Menti Comments

Participants were asked “what else needs to be considered for continued transformation related to Resourcing?”, to which 11 comments were received. Common responses involved responsibility for protection of heritage sites (n=5), support for communities (n=4), and collaboration with the Archaeology Branch and other Government agencies (n=4).

“Nations need to be able to care for their own belongings. What resources will be provided for this?”

“...funding could be better used in the communities to develop frameworks.”



“Increased capacity funding is needed... [as] well as clearer consultation between ministry [representatives], branch [representatives] and [First Nation] staff.”



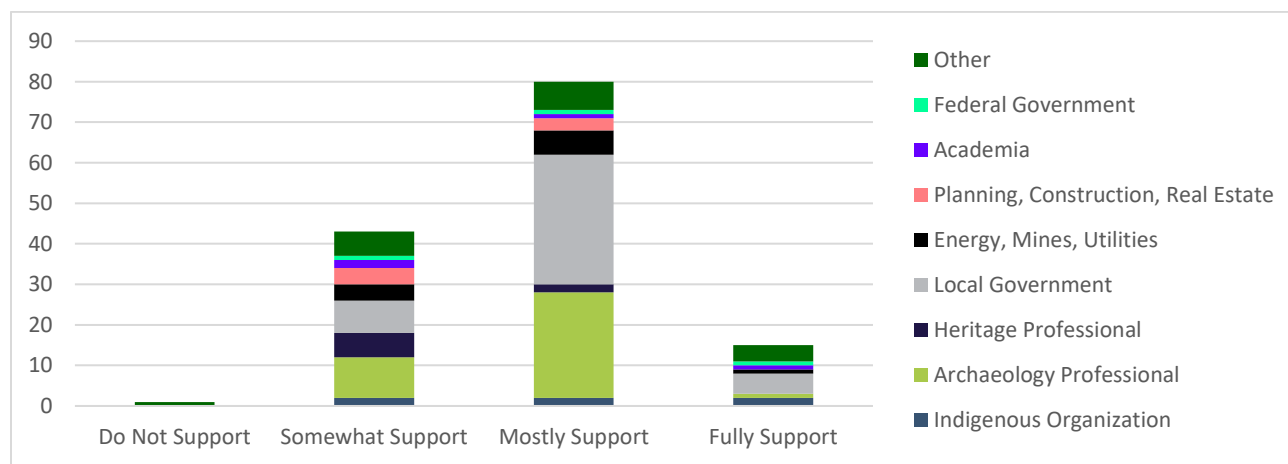
SECTION 3: FEEDBACK FROM STAKEHOLDER ENGAGEMENT SESSIONS

This section presents a summary of feedback received from stakeholder engagement sessions. Data has been analyzed for the entire group and broken down by sector group, where possible. Findings are discussed under the main thematic areas: decision-making; protections; compliance and enforcement; and resourcing. Stakeholders were not invited to discuss Indigenous Values and Rights Recognition as a theme, but some made comments on the theme; these are included in the coding counts presented in **Appendix A**.

3.1 Decision-making

Over one-third of participants (68%) reported fully or mostly supporting the suite of proposals related to decision-making. Additionally, 31% of participants reported somewhat supporting the suite of proposals.

Figure 3.1: Do you support the suite of proposals related to decision-making?



n= 134

Top concerns emerging from external stakeholder related to decision-making included, *HCA process efficiencies* (23 mentions in discussions), *mapping and information sharing for site management* (13 mentions) and *for early identification of sites* (12 mentions), and *definitions* (10 mentions).

Other themes that emerged but were discussed less often, and not explored in depth below, included *alignment and coordination across agencies and between different levels of government*, and *absolute authority vs shared decision-making*.

HCA Process Efficiencies

Across all sector groups, opportunities for improving efficiency of HCA processes were a key concern. Respondents suggested ways to improve efficiency, or asked questions about how the amendments will improve efficiency. Some stakeholders suggested giving BC 1 Call access to archaeology sites or engineering changes that could minimize impacts.

Several respondents spoke of improving efficiencies in the permitting process, through combining or updating permits (e.g., combining Heritage inspection permits with Site Alteration Permits (SAPs)). Similarly local government stakeholders discussed the use of multi-assessment permits, which, they



mentioned, has been trialled by several municipalities and has been successful. Finally, other respondents asked about updates to the memorandum of understanding and B.C. Energy Regulatory applications, or enhanced capacity within the Archaeology Branch to process the archaeological impact assessments and site alteration permits in a timelier manner.

“Reducing burden – what is the problem to be solved”

“Is there any process for incentivizing municipalities to use multi-assessment permits ... rather than having to go to the Heritage Branch, to reduce the burden”

“Combine HIP and SAP into 1 permit.”

“One stop project assessment integration would be helpful,”

“Some of the administrative burden is the vagueness.”

Mapping and Information Sharing for Site Management

Archaeology and heritage professionals and local governments discussed mapping and information sharing as a conduit to improve efficiency and collaboration while also potentially mitigating impacts to archaeological sites. Participants proposed many ways that archaeological site management could be improved with better access to mapping data that identifies sites of significance and potential sites of significance. Similarly, several respondents spoke of identifying sites of significance on Remote Access to Archaeological Data (RAAD) so that project planners can incorporate them into their timelines and buffer zones can be mapped around significant sites where issuance of SAPs would likely be rejected. Local governments had concerns around not using the same mapping software as others and the extra work that might be involved because of this. Several respondents also suggested using geographic information systems story maps, instead of plaques, to disseminate information about the history of sites. B.C. is investing \$38 million in a new program over the next six years to collect light detection and ranging (LiDAR) elevation data, a respondent suggested the Archaeology Branch should utilize this investment in regard to the HCA and improved inventory of cultural heritage values.

“Some of our challenges are around us (city) not using the mapping software that others use. Concerned that there will be extra work here.”

“Will these be identified on RAAD, so if we’re doing project planning we are aware of sites with significance”

“Federal national commemoration criteria. Plaques – different ways of disseminating information – story maps - GIS. Reviewing designations.”

Early identification of sites of significance was a related concern emphasized by all sector groups. Respondents noted that all parties benefit from earlier identification of sites of significance in terms of keeping to timelines, efficient use of resources, and preventing or mitigating impacts to heritage sites.

“Early studies should be a requirement for all major capital projects.”

“The earlier we can identify these sites, the better.”

“Consultants try to give developers an early warning about issues they might encounter.”



Definitions (what is a heritage site or site of significance?)

Questions or concerns about the definition of a heritage site or site of significance was another key discussion point raised by stakeholders. Respondents noted that there can be large discrepancies between what different stakeholders perceive as having heritage value or significance. While the presenters noted that definitions are an item that is slated for longer-term transformation, participants highlighted the importance of definitions and many asked for clarification on the criteria used to define heritage value and how it is being redefined in the HCA transformation process. Some respondents commented that the current definition of heritage site is inconsistent with UNDRIP.

"The term "Heritage objects" seems a bit out of sync with UNDRIP."

"Must presume all landscapes have heritage value."

"Is there discussion of adding sites to the provincial heritage registry?"

"Discussions around criteria for sites of special significance"

3.1.2 Menti Comments

Comments from participants (n=43) were varied, some participants were voicing their general support for the proposals (n=11) or indicating that they felt the proposals would help to enhance the role of First Nations in decision-making (n=7). Some respondents were skeptical that the proposals related to decision-making would enhance heritage protection in B.C. (n=8).

"Enhancing the role and authority of First Nations in great."

"The proposals are a step in the right direction towards achieving FPIC in heritage decision-making in BC but at this stage feasibility and clarity on implementation are poorly defined."

"I'm not sure it will. There is no mention of the rights of fee simple landowners."

"Looks Ok but concerned about conflicts regarding a reduction in administration to resolve conflicts between stakeholders."

When asked what else needs to be considered for ongoing transformation (n=30), participants comments tended to focus on the need for resources (long-term funding and staff) to support the proposed options (n=6). Participants also discussed the need for different levels of government to be aligned in their policies and ensure that laws do not contradict one another (n=5). A few comments also mentioned revisiting and revising the definition of "site of significance" (n=3), creating pathways for communication and ensuring continued engagement with First Nations and stakeholders (n=3), considering ways to improve timelines and make decision-making more efficient (n=3), and concerns around whether enforcement would be effective (n=3).

"Interagency and inter governmental participation."

"There needs to be a framework to recognize and empower coordination with First Nations who pass laws or assert jurisdiction in this area, work together!!"



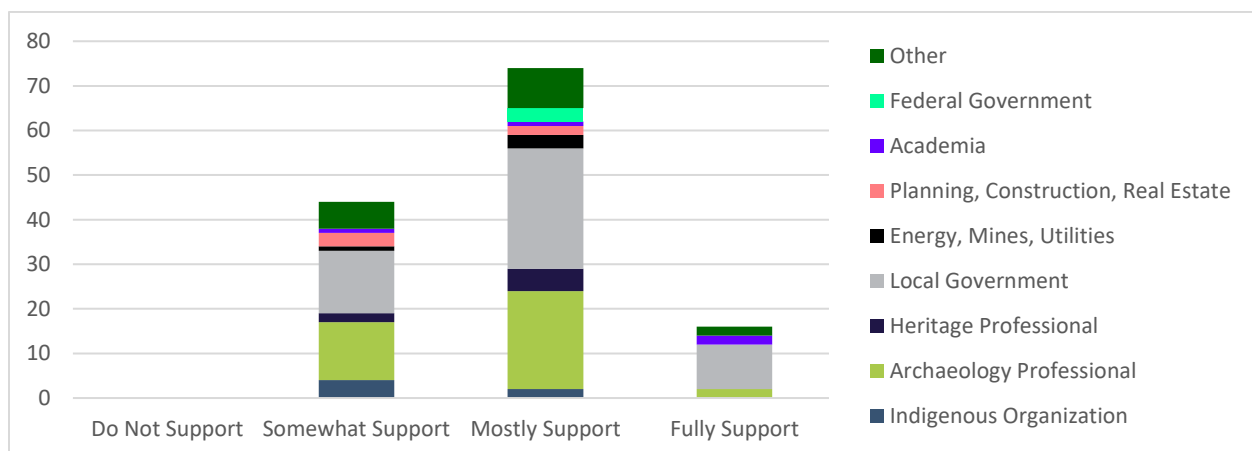
“More resources to increase capacity to do the work at the Branch, at local governments, and in the Nations. Also more archaeologists”

Similarly, when asked what supports and tools are needed to implement these proposals participants comments (n=20) focused on the need for resources (n=8), which included general comments about funding for staff and capacity building. Comments also recommended a focus on public education (n=3), creating clear policy guidelines (n=3), and providing governments with access to maps to help identify and locate heritage sites (n=2).

3.2 Protection

About one-third of participants (67%) reported mostly or fully supporting the suite of proposals related to protections. Additionally, 33% of participants reported somewhat supporting the suite of proposals.

Figure 3.2: Do you support the suite of proposals related to protections?



n= 139

Top concerns among external stakeholders related to protections included public education (10 mentions), *intangible cultural heritage protections* (five mentions in discussions), *reducing burdens on proponents* (four mentions), *data sharing concerns* (four mentions), and *protection of First Nations burial grounds* (four mentions).

Other themes that were noted in the data but discussed less frequently, and not examined in depth below, included *data gaps*, the *need for proactive rather than reactive measures*, and *prioritizing First Nation value for heritage sites*.

Public Education

Archaeology and heritage professionals raised the topic of public education more often than other sector groups. Respondents expressed that building a culture of stewardship or changing public attitudes would be an important first step in enhancing heritage protection in BC. Stakeholders felt that the public is generally unaware of the HCA, or if they are aware, they “appreciate it, except when it’s in their backyard”.



"I think building that culture of stewardship will be really important as well in terms of the first step."

"Improving public awareness, I think there is quite a lot of confusion about the process."

Different groups were noted as being in need of education in these comments and in the Menti data, including: the general public, developers, municipalities, regional districts, realtors, contractors, property owners, industry, and more.

Members of the archaeologist stakeholder group emphasized the need for education among industry stakeholders and project owners, who would be impacted by changes to the HCA and expected to do more to protect heritage sites.

"I think one of the things as an industry that might be part of the education piece is really being able to communicate the risk associated with encountering archaeological sites in project areas that have the potential for archaeology."

"Emphasis [is] on compliance and enforcement, and not enough on education."

Stakeholders from local government and industry groups noted that there should be more emphasis on education about First Nation cultures and the importance of heritage preservation, to support the HCA and improve compliance or support for the act among citizens.

"I wonder if it would be better to go back to education and start education in school about why this stuff is important and educate people about Indigenous history."

"The public isn't going to read the HCA so how do we educate them and enforce?"

Intangible Cultural Heritage Protections

Archaeology and heritage professionals indicated the most concern over protections for intangible cultural heritage, representing four of the five mentions of this theme in the notes (one coming from an industry stakeholder). Discussions on this topic emphasized the need to include intangible heritage in protections for several reasons including alignment with UNDRIP, respect of First Nations protocols and cultural laws, and a general progressive approach to thinking of cultural heritage.

"Intangible heritage – [include] cremation sites? Requirements to follow First Nations protocols? Currently there is no requirement."

Reducing Burden on Proponents

All three stakeholder groups contributed to the discussion of reducing burdens on proponents. The theme was raised twice in the archaeology and heritage professional stakeholder groups, and once each among industry representatives and local government representatives.

Archaeologists and local government representatives noted concerns around the costs and impacts borne by individual property owners and project developers. These comments noted that the costs of



archaeological work, and/or the costs of a halted project, can be quite challenging for an individual or one company to bear and supports should be made available in such circumstances.

“Grants and other funding sources for private landowners because of costs to do the heritage survey [should be available].”

“Resources for homeowners who cannot afford the cost of mitigating heritage sites on their property [should be available].”

“If you’re a proponent and have a private property you wish to develop, if your permit is denied will government offer compensation if you can’t develop the land?”

The only comment on this issue that came from industry was related to challenges with getting approvals and moving through multiple review processes with multiple provincial and/or federal government agencies.

“Overlapping requirements that get put onto the proponent (Rogers, Telus, etc.). Can’t it be streamlined?”

Data Sharing Concerns

Issues related to data sharing were raised by all three stakeholder groups: twice by local government, and once each by industry representatives and archaeology and heritage professionals. Two comments requested additional guidance on what information is, or should be, publicly available versus confidential. The other two comments indicated a need for greater information sharing through regular updates, newsletters, and better connections among stakeholder and regulatory groups.

Protection of First Nations Burial Sites

Comments on First Nations burial sites and their treatment under the HCA came from all three stakeholder groups. Three of the comments coded to this theme raised concerns with the need for greater protections for First Nations burial sites, equal to the protections afforded under the *Cemeteries Act*. One comment, which was raised under a discussion of resourcing for HCA, also noted that reburials and repatriation ceremonies after disruption of a burial site should be funded or resourced.

3.2.2 Menti Comments

Several key themes emerged among comments (n=41) provided in response to the question “How do you think this suite of proposals related to Protections will enhance heritage protection in BC?”. Participants were mixed as to whether they felt that the proposals would enhance protection for heritage sites in BC (n=23) or not (n=18). Some respondents who felt that the proposals would help to enhance heritage protection in BC commented that public education and public awareness component was most likely to have an impact on protections (n=14).

“...area/region specific education will have more impact.”

“Include municipal bylaw staff in public education so they know how/when to report an issue. They are great eyes on the ground.”

“More awareness of what is considered heritage – and implications for meddling with it.”



Questions about the definition of a site of significance and who determines significance were also raised (n=10).

“First Nations will need to be involved in making decisions about which sites make the cut for ‘special significance’ designation.”

“Will post 1846 CMTs be protected?”

“Who determines what are heritage objects?”

Participants also shared concerns about the availability of information, like maps of heritage site locations, to support the suite of proposals introduced under Protections (n=6)

When asked what else needs to be considered for ongoing transformation (n=47) the issue of information sharing and specifically mapping data was again raised (n=5). Participants also commented on the need to establish a definition of “site of significance”, in collaboration with First Nations, to include and protect intangible cultural heritage, burial grounds, and post-1846 sites (n=6). Some comments also expressed a desire for improved alignment between different levels of government (n=4), public education to enhance public buy-in (n=4), resources to support the proposals (n=4), or questioned whether there were opportunities to streamline the process and shorten timelines.

“Possibly providing other government ministries with the mapping areas needed (i.e., MOTI) for their regions so they can be another layer of protecting areas.”

“Knowledge sharing. Build capacity at LG level. Key conduit between provincial level and public.”

“Focus on bringing the public into it.”

“Private landowner education is essential.”

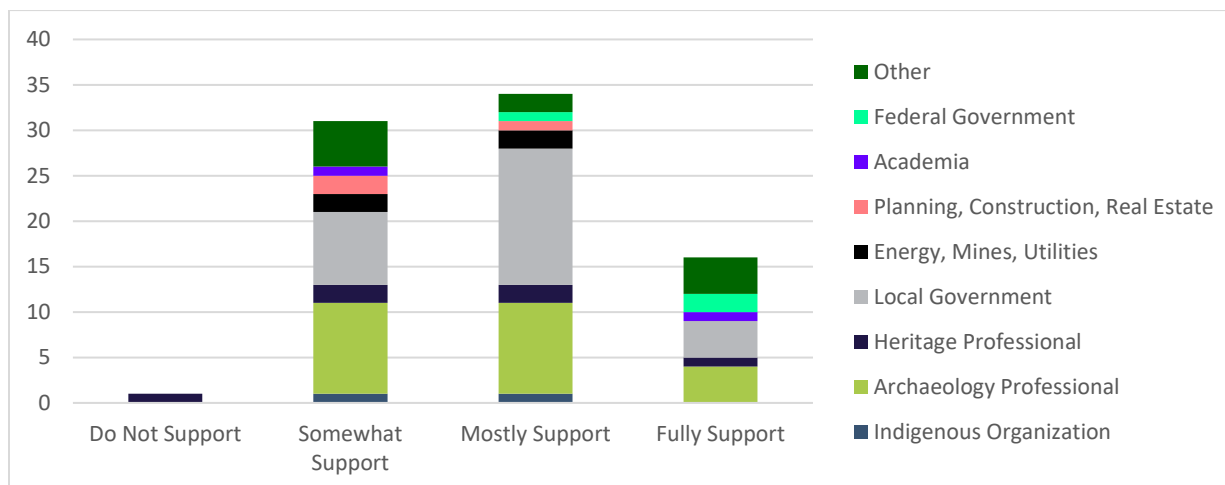
Most comments (17/27) in response to “What supports and tools are needed to implement these proposals?” had to do with resourcing, including providing funding for staff and building capacity. A few comments asked for “easy, interactive mapping tools” and better information sharing to facilitate early identification of sites.

3.3 Compliance and Enforcement

Participants most commonly reported that they mostly (41%) or somewhat (38%) supported the suite of proposals related to compliance and enforcement. An additional 20% of participants reported that they fully supported the suite of proposals.



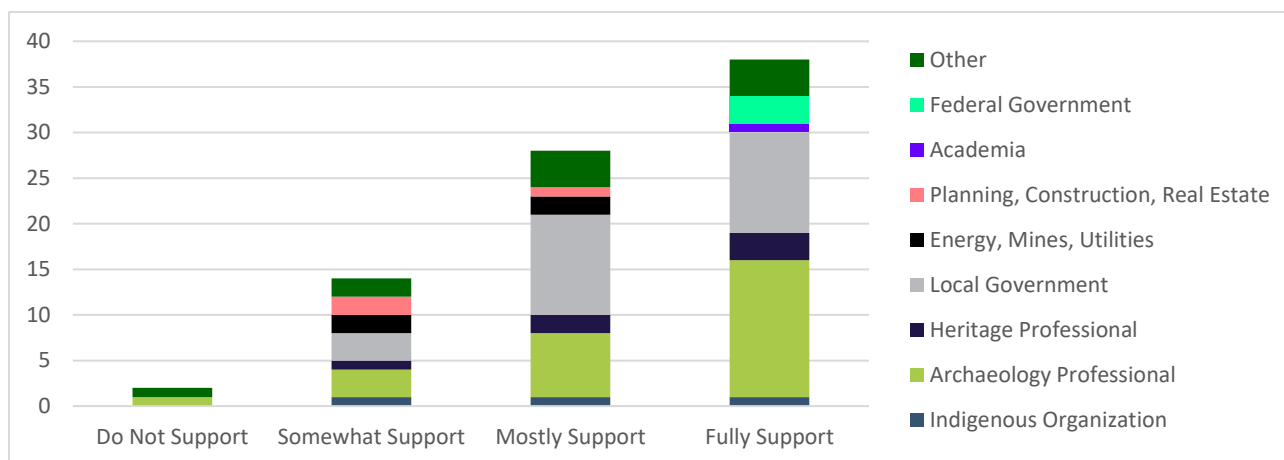
Figure 3.3: Do you support the suite of proposals related to compliance and enforcement?



n= 82

Almost half (46%) of participants reported fully supporting the proposal to include tickets and penalties related to HCA contraventions. 34% of participants mostly support this proposal. 17% shared they support the proposal somewhat, and 2% reported that they do not support the proposal.

Figure 3.4: Do you support the proposal to include tickets and penalties related to HCA contraventions?

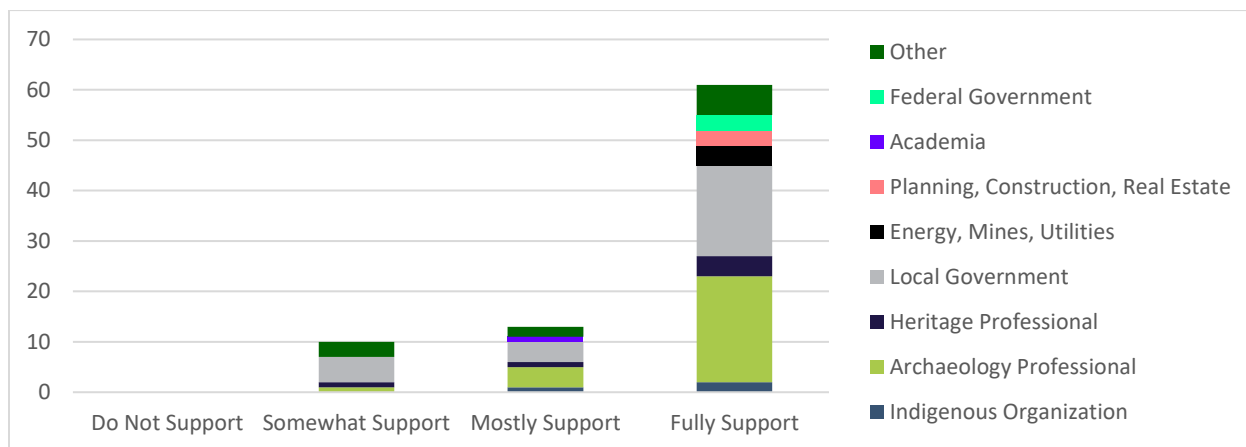


n= 82

The majority of participants (73%) fully support the proposal to prohibit the possession, sale, and trade of artifacts. An additional 15% of participants mostly support and 12% somewhat support the proposal.



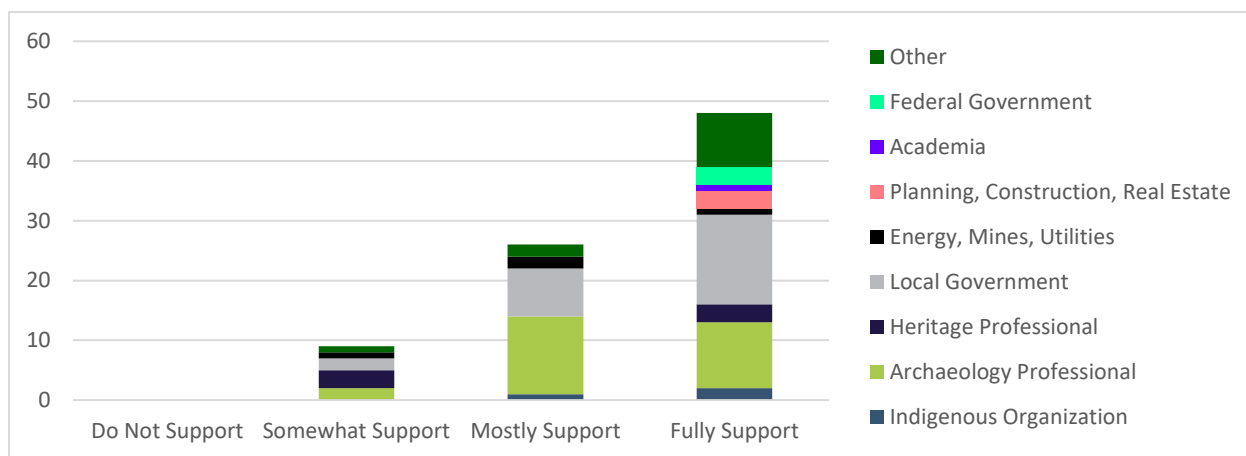
Figure 3.5: Do you support the proposal to prohibit the possession, sale, and trade of artifacts?



n= 84

Over half (58%) of participants fully support the proposal to include a duty to report archaeological finds. An additional 31% of participants mostly support this proposal, and 11% somewhat support the proposal.

Figure 3.6: Do you support the proposal to include a duty to report archaeological finds?



n= 83

Top concerns emerging from participants in the stakeholder sessions included *concerns around the effectiveness of penalties* (referenced ten times in discussions), *clarity on duty to report* (referenced eight times), and *authority to conduct enforcement and timeline concerns on violations or investigations* (referenced seven times each).

Other themes that were noted but did not occur frequently enough to warrant in-depth discussion in the sections below, included concerns about promoting a shadow/underground economy (or illicit sale and trade in general), the use of stop work orders, questions around who can be a permit holder and who is exempt, and archaeology as a non-renewable resource.

Effectiveness of Penalties



Concerns around the effectiveness of penalties were largely raised by the archaeologist stakeholder group, with this stakeholder group accounting for eight of the ten references in the text. Comments from this group indicated skepticism around the effectiveness of small fines in industries with large revenues and large project costs. Discussions centred on the need for a range of options in the compliance and enforcement toolkit to effectively address the broad range of concerns that can arise.

“For industry, paying fines for site disturbance has sadly become ‘the cost of doing business.’ Will, can, fines be increased to the point they will be effective deterrents?”

Options for alternatives and to enhance the effectiveness of fines were raised by participants in this stakeholder group; suggestions included criminal charges, large fines that could be commensurate with the value of the project or the archaeology costs, and use of stop work orders.

Two comments on this theme came from industry stakeholder participants, and concerns were similar to those raised by the archaeologists group:

1. the fact that fines are sometimes seen as a “cost of doing business” by project owners, and
2. The need for alternative remedies beyond fines, such as criminal charges, to deter violators.

Duty to Report

Concerns around how duty to report finds would be implemented were raised primarily by archaeology and heritage professionals (four comments) and industry (three comments). Local government stakeholders raised this issue only once in discussions.

Both archaeologist and industry stakeholder groups noted that the current system of reporting heritage finds, and the repercussions of doing so, incentivize hiding or ignoring heritage finds.

“Duty to report – if I had to report very single site I’ve found on a dog walk, I wouldn’t have time to work... When I have taken the time to do that, I’ve gotten bogged down with the inventory, saying well, you need to do this and this and this.”

“Duty to report a good idea, but there should be disincentives not to report. Grants and other funding sources for private landowners because of costs to do the heritage survey.”

Some industry stakeholder comments also noted the need to provide clarity and education around what a duty to report entails, such as who has a duty to report and how to fulfill one’s duty to report.

“The duty to report is great, but it must be distributed to all regulatory bodies to ensure it is actually understood. If only the Archaeology Branch manages it, they will be hindered by capacity.”

Authority to Conduct Enforcement

All three stakeholder groups raised issues related to authority over enforcement in the discussion sessions. This theme was coded three times among local government stakeholders, and twice each among industry and archaeologist stakeholder groups.

Comments from all three stakeholder groups indicated there was confusion around what parties would be responsible for enforcement.



“Who will be enforcing these? Would it be the band or the provincial government?”

“What are the expectations in respect to local government’s role in administration of fines or other compliance measures?”

“Need for clarification of jurisdiction of enforcement.”

Local government representatives also indicated in their comments that they felt unable to enforce regulations themselves, and did not believe there were resources for other parties to work with them at a local level when issues are identified and enforcement actions needed.

“There are all these tools but it feels like there isn’t anyone to go out and enforce the Act.”

Timeline Concerns Related to Permitting Efficiency

All three stakeholder groups made comments on the timelines for investigation and archaeology work under the HCA. All comments acknowledged that the timelines for this work can be long, however concerns among all groups emphasized the importance of early planning and clarity on timelines the start of a project. There appeared to be less concern around the total length of time required for archaeology work, and more interest in seeing these types of situations better planned for at a project’s outset to reduce the impact of unexpected delays on projects.

“Would rather have predictable timelines, length is less of an issue.”

“Archaeology should also be flagged for work well before the final permitting stage for municipalities or regional districts. It just sets up consultants and First Nations as hindrances to development, creates a very adversarial relationship for us all.”

“Will these be identified on RAAD, so if we’re doing project planning we are aware of sites with significance and can plan for that in our timelines or plan to work around them.”

3.3.2 Menti Comments

Written comments provided by participants (n=41) were varied. Some expressed general agreement that the suite of proposal options would enhance heritage protection in BC (n=14), for example by holding people accountable and bringing legitimacy to the HCA. Other participants were skeptical that the proposals would result in enhanced heritage protection (n=7), and most of these respondents questioned whether adequate resources (i.e., funding, staff) would be provided to support enforcement efforts. Additionally, some respondents voiced concern around the use of fines, calling them ineffective or reactive rather than proactive (n=5).

“Hold people accountable to following the HCA.”

“Increase ‘seriousness’ of legislation/regulation. Robust enforcement is key.”

“I think these ideas are good but I don’t have any faith the Branch has the capacity...”



“Increasing penalties for non-compliance is too late – the damage is already done.”

When asked what else needs to be considered for ongoing transformation, participants comments (n=20) focused on the need for adequate resources to support compliance and enforcement activities (n=7). Other comments mentioned the important role that public education will play in

“Significant increase in resources for all stakeholders involved.”

“Region-specific heritage officers and specialists within local communities.”

“Consider criminal charges rather than a ticket-oriented system for enforcement.”

“People don’t understand what heritage even is.”

In response to being asked “What tools are supports are needed to implement these proposals?”, all comments (n=25) mentioned the need for resources, including consisting funding, accessible training and educational materials for government staff, increased access to archaeology professionals, better access to maps, and clear guidelines around compliance and enforcement.

3.4 Resourcing

Within the discussion area of resourcing, the most common themes that emerged across all stakeholder groups included *concerns about overall adequacy of funding* (raised 13 times in discussions), *repatriation* and *resourcing for First Nations for conservation work* (each raised seven times in discussions), and concerns about the *shortage of archaeologists and related professionals in the province* (raised six times in discussions).

Resourcing for public education was a theme that was noted twice in the discussion data. Due to the low number of mentions of this topic, it is not discussed in depth in the sections below.

Adequacy of Funding

Two stakeholder groups – archaeologists and local governments – were highly concerned about overall adequacy of funding. The archaeology and heritage stakeholder group raised this issue seven times, and local governments five times, in breakout discussion groups. A participant in the industry stakeholder group raised this issue once. All stakeholder groups raised concern that resourcing will be critical to the success of all other proposed changes, and so needs to be prioritized and funding made available.

“[I’m] Curious about how the implementation of this would actually work without additional capacity and resourcing.”

“[Participant] Doesn’t think this will work without funding.”

In addition, a couple of comments in the archaeology and heritage professionals group emphasized that the Archaeology Branch is currently underfunded, and expressed concern that the proposals do not acknowledge that there are already gaps in capacity to be bridged before considering additional improvements.



“These new recommended compliance and enforcement proposals need way more people than you have, to look after way more sites than you even have current records for.”

With respect to how issues of inadequate resourcing could be addressed, only the archaeology and heritage professionals stakeholder group provided comment. Two main themes emerged in their suggestions: the need for long-term sustainable funding (raised four times in discussion), and the need for resources and funding to enable proactive rather than reactive measures.

Repatriation

Repatriation of artifacts and ancestors was raised seven times in discussions among stakeholder groups: four times by archaeology and heritage professionals, twice by local governments, and once by industry. Comments from all stakeholder groups were supportive of efforts to repatriate First Nation artifacts to their home communities and First Nations.

Some of the comments coded to this theme noted the need for repositories or other facilities to store artifacts.

“First Nations repositories rather than provincial. Also, with resourcing obviously.”

“Is there a process for storing and returning these artifacts that are collected?”

There were also some concerns raised about the need to include more than just provincial holdings in repatriation, but also artifacts held by private citizens and groups.

“Will the HCA revisions consider implementing a framework that supports the lawful repatriation of ‘grandfathered’ assemblages from private citizens to interested Indigenous communities?”

“We’ve seen a bit more local voluntary forfeiting of items. Our local community has their own repository but doesn’t have the supports to do anything with those items.”

Resourcing for First Nations

The archaeology and heritage professionals stakeholder group was the only one to discuss resourcing for First Nations to participate in heritage conservation and management work, with this topic being raised seven times in discussions among this group. Comments coded to this theme included comments that supported providing First Nations with capacity to participate in decisions, as well as funding for First Nations to take on this work independently and according to their own laws and customs.

Comments focused on the former topic; capacity for engagement accounted for three comments coded under this theme. These comments noted that First Nations needed support to engage in shared decision-making, but did not necessarily emphasize First Nations ownership of heritage conservation and management.

“That money could be directed to a fund which First Nations could tap to conduct or commission research-style projects of sites of particular academic or cultural interest.”



“Government – on major projects – ability to provide capacity funding for shared decision-making. [We] Have been fortunate to have the resources to include First Nations in decision-making.”

Other comments focused on the need to provide funding to First Nations to manage themselves, to support their own approaches to heritage conservation and management work in their traditional territories.

“...capacity for First Nations organizations doing the work...I just want to drive home the capacity challenges that we [First Nations] are having without long term sustainable funding in place.”

“Obviously CIRNAC / ISC is not providing programs and services funding to First Nations for caring for ancestral sites or for dealing with provincial / municipal referrals about these things.”

Overall, there was recognition among archaeology and heritage professionals that First Nations require financial supports to engage in heritage conservation and management work, however the expectations or suggestions around ownership of the work and associated funding varied slightly from co-management with the provincial government to independent work (e.g., guardian programs).

Shortage of Archaeologists and Related Professionals

Both local governments (four mentions) and archaeology and heritage professionals two mentions) raised concerns about a shortage of archaeologists and heritage professionals in British Columbia. Comments on this topic, from both groups, noted that these shortages are a result of insufficient resourcing and capacity in the province, and also have impacts on capacity for needed work to be done in a timely manner, or with the oversight or quality control desired.

“Archaeological professional oversight is great and necessary but we’re finding that archaeologists are overworked and overstretched and not necessarily available.”

“As far as process wise, there seems to be a severe lack of archaeologists in the province to do that work.”

“...the branch has a history of having trouble attracting experienced, knowledgeable archaeologists and most of the working archaeologists in this room.”

3.4.1 Menti Comments

Participants were asked “what other areas require resource investments? What else is required to support successful implementation of the proposed policy changes?” Respondents who provided comments (n=41) tended to focus on the need for public education to raise awareness of the significance of heritage sites and items (n=9). Other key themes included the need to address the shortage of archaeological professionals in the province, with some participants suggesting that targeting education and training programs could help to reduce the shortage (n=7). Other comments focused on finding opportunities to reduce the permitting and decision-making timeline by making the process more efficient (n=5) and opportunities to decentralize enforcement by developing local and regional resources (n=5).



“Compliance officers. Local regional inspectors.”

“Development of a landscape of stewardship context.”

“Public education and engagement”

“Simplify and streamline existing process to free up more time and funds.”

“HCA 101 resources”



SECTION 4: SUMMARY OF KEY FINDINGS

The Phase II engagement process for the Heritage Conservation Act Transformation Project consisted of four engagement sessions in total; two with external stakeholders and two with First Nations representatives and organizations. Across the discussions, key themes emerged related to five major topic areas: Indigenous values and rights recognition, decision-making, protections, compliance and enforcement, and resourcing. Participants were also asked to indicate their level of support for the proposed policy change options under each topic area.

Across all sessions, stakeholders were more supportive of proposals under the decision-making, protections, and compliance and enforcement themes compared to First Nations participants (see Table 4.1).

Table 4.1: Table A. Participants who “mostly support” or “fully support” Proposal Options

Topic Area	First Nation Participants	Stakeholder Participants
IVRR	78%	N/A
Decision-making	39%	68%
Protections	42%	67%
Compliance and enforcement	44%	61%
Resourcing	85%	N/A

It should be highlighted that while First Nation participants showed a high level of support for proposal options related to Indigenous values and rights recognition, comments raised during discussion focused on concerns about a **lack of recognition of title, rights, and ownership of cultural heritage** and noted that **racism is a key inhibitor to progress**. Some participants felt frustrated that these issues, which had emerged as major themes in Phase I, were still present in the proposed amendments. Others raised the question of what is being done with the HCA proposals to ensure the legislation works with current, and potential future, treaties, and associated jurisdiction of First Nations in the province. Comments highlighted that First Nations participants felt that colonial underpinnings and assumptions of the HCA and the proposed options reinforce the notion that settler priorities and uses of land are more valuable than those of First Nation people.

First Nations participants showed the lowest level of support for proposals related to decision-making, while stakeholders showed a much higher level of support for the proposals (39% First Nations, and 68% stakeholders). Some First Nation participants questioned how the proposed options would increase First Nations authority in decision-making. Many discussed the notion that permits should not be granted without free prior and informed consent. During the First Nation engagement sessions, participants voiced concern that Nations could not stop a permit from moving forward without a Section 4 agreement. While the inclusion of s.6 and s.7 (Declaration Act) agreements was presented as a pathway toward joint and consent-based decision-making with First Nations, there was still concern that the province would share authority over First Nations’ heritage. First Nations also raised concern around the Province’s willingness to enter into agreements, citing that only one Section 4 agreement has been implemented since 1996, and is still in a pilot phase.



Defining heritage was a prominent theme in discussions. Participants had questions about how heritage is defined and who has authority to designate heritage sites and/or influence the definition. Similar to concerns voiced during Phase I of this work, participants in Phase II continued to call for First Nations to be empowered to identify and define what heritage is important to them for conservation. Related to the definition of heritage, participants in both sessions discussed **protection of First Nations burial grounds**. In the sessions with First Nations, participants shared stories of ancestors being disturbed and talked about the emotional, spiritual, and financial impact this has on their communities. Across all sessions, participants expressed a desire for better legal protection of these sites, and especially for them to be considered commensurate to settler cemeteries. Finally, participants in First Nations engagement sessions discussed the need for **protections to focus on, or centre First Nation values or worldviews**.

Participants in the external stakeholder sessions were most concerned about **HCA process efficiencies** related to decision-making. Some questioned how the proposed options would improve efficiency. Related to this, stakeholders also raised concerns about how the proposal options would **reduce the burden on proponents**. Archaeologists and local government representatives noted concerns around the costs and impacts borne by individual property owners and project developers. Stakeholders, particularly those representing archaeology and heritage professionals, or local governments, also discussed a need for better access to mapping and information to facilitate identification and management of heritage sites.

Stakeholders (67%) showed a higher level of support than First Nations participants (42%) for proposals related to protections. When discussing protections, the question of **who would be responsible for, and have authority to conduct enforcement** was raised. Some participants expressed a desire for increased authority for First Nations to conduct enforcement of the HCA on their territories. External stakeholders tended to be more focused on role of local governments and the need for clarification of jurisdiction of enforcement.

Stakeholders (61%) were also more likely than First Nation (44%) participants to support proposals related to compliance and enforcement. In all sessions, there were **concerns about the effectiveness of penalties and fines**. These concerns were largely raised by First Nation participants and the archaeology and heritage professionals stakeholder groups. These participants were skeptical that fines would be effective in preventing the destruction of heritage sites and noted that large companies may view these fines as the cost of doing business.

First Nations participants showed a high level of support for proposals introduced under the resourcing theme (85%). Stakeholders were not asked to indicate their level of support, but comments made during discussions indicated a high level of support and recognition that resourcing was a critical component to supporting any of the proposed options. There was general agreement that **resourcing**, including sustainable, long-term funding; professional staff, like archaeologists; and tools for capacity building and training, **is needed to support all proposed options**. Participants in First Nations engagement sessions also highlighted a **need for resources to support repatriation**, including the construction of repositories and funding to maintain repositories. Archaeologists and local governments were most concerned about the overall (in)adequacy of funding. All stakeholder groups supported that **resourcing will be critical to the success of all proposed amendments** and would therefore need to be prioritized.



APPENDIX A: CODING FRAMEWORK

Indigenous Values & Rights Recognition

Theme	Example quotes	Engagement Session Notes			
		First Nations	Arch & Heritage	Construction and Industry	Local Government
Lack of recognition of Title, Rights, and Ownership of cultural heritage	"The province and the HCA need to fully recognize, 100%, First Nation title and rights." "Our lands are being sold right next to our reserves. We need to be recognized as Title and Rights holders." "HCA should recognize that [First Nations] history is written on the land. Developers should be going straight to the Nation."	14	1	0	0
Language used in proposals	"Changing the 'could' in the [principal] statement to 'will' and using specific language around bulletin 14 and others that were issued without consultation." "We would like to see better language. Would like to see specific language surrounding bulletin 14 and others because they were issues without consultation." "More clarity on the meaning of consideration. I have heard a lot of 'we will consider your comments' ... I need to know what our comments and questions are taken seriously"	8	2	0	0
Privatization	"The challenges we face in our territory with 85-90% of the land being privatized"	3	1	0	2
Proposals undermine First Nation rights	"It's pretty offensive for our people to hear about issuing of a permit to impact our sacred site." "It says in the 'protections' section - Amend the HCA to empower the Minister to designate heritage sites - an already existing policy that undermines aboriginal rights." "The issue that is not being addressed is the government is standing between [First Nations] and their cultural heritage."	6	0	0	0



Theme	Example quotes	Engagement Session Notes			
		First Nations	Arch & Heritage	Construction and Industry	Local Government
Racism as a key inhibitor to progress	"There are serious matters of Indigenous rights as basic human rights. Not sure what it is going to take to get some movement." "Indigenous sites, property, and people are still viewed as 'less than' and get treated differently."	14	0	1	0

Topic Area 1: Decision-making

Theme	Example quotes	Engagement Session Notes			
		First Nations	Arch & Heritage	Construction and Industry	Local Government
Absolute authority vs. shared decision-making	"Equalizing [First Nations] as governments with the province. I want to see that equality in decision-making and permitting." "Shared decision-making agreements require decisions from the Crown and that doesn't sit right."	16	4	2	1
No permits without free prior and informed consent	"There should be absolutely no permits authorized without free and informed prior consent of the [First Nations]." "90% of heritage sites are [First Nations] but yet [First Nations] are not able to protect those sites." "It would be good to see the ability for [First Nations] to say 'no'."	11	0	0	0
Permit refusals – how does it impact proponents	"Will the government offer compensation if you can't develop the land?"	0	0	2	0
Alignment and coordination across agencies and between different levels of government		1	4	2	2
Alignment between different governments	"Will there be work to align other protocols within different municipalities, Nations, regions?"	1	2	1	1
Alignment with other Acts	e.g., Land Use Act	3	0	0	0
Recognition of Treaty Rights and Title	"What I didn't hear was, how is this going to change within the bands that have treaties and those that don't? How do the three acts and the provincial government deal with that?"	2	0	0	0



Theme	Example quotes	Engagement Session Notes			
		First Nations	Arch & Heritage	Construction and Industry	Local Government
Definitions (what is a heritage site or a site of significance)	"Is this being predicated on areas of known significance or is there still conversations around what would trigger certain decision-making, for example on private property?" "Is there discussion of adding sites to the provincial heritage registry?" "What criteria are being used to define 'heritage value'?"	5	6	1	3
Extend protections to sites post-1846.	"Will protection be extended to post-1846 sites?" "Why is 1846 not being addressed now?" "If we don't change 1846, how many more sites will be lost?"	2	0	0	0
HCA Process Efficiencies	"Combine HIP and SAP into 1 permit." "One stop project assessment integration would be helpful,"	3	7	7	6
Mapping and information sharing for site management	"We do have definitions [locations] of sacred places but won't share those locations with the province." "How can landowners protect sites if the ranchers don't know where they are?" "How will this capture new developments in areas without mapped sites?"	1	6	0	6
Earlier identification of sites of significance	"The earlier we can identify sites the better." "Consultants try to give developers an early warning about issues they might encounter."	0	5	3	4



Topic Area 2: Protections

Theme	Example quotes	Engagement Session Notes			
		First Nations	Arch & Heritage	Construction and Industry	Local Government
Concerns related to reducing burden on proponents (re: permitting applications and decisions, stop work orders, etc.)	“Overlapping requirements that get put onto the proponent. Can’t it be streamlined?” “Reducing burden – the timeline is unpredictable. I would rather have a predictable timeline, length is less of an issue.” “Incentivize municipalities to use multi-assessment permits ... rather than having to go to the Heritage Branch, to reduce the burden.”	0	2	1	1
Data gap (mapping/identifying sites)	“There’s quite a difference between the data the province has and the data the nations that I work with have. Their sites of significance are far more vast than we have access to.” “A lot of waterfront properties have high potential to contain archaeological materials but if it’s not identified as an archaeological site we just go ahead with permitting and the developer has to stop work if they come across any materials that might be significant.”	0	0	0	2
Data/information sharing concerns	“There have been some significant sites in our territories that have been investigated. The results of these investigations haven’t been shared with us.”	7	1	1	2
Intellectual property rights		2	0	0	0
Intangible cultural heritage	“Will this include increasing protections around intangible heritage sites?” “Regarding intangible components of cultural heritage, is that contemplated in this suite of proposed amendments?”	3	4	1	0
Proactive rather than reactive	“Supporting innovation in design for avoidance or minimizing impacts to heritage sites.” “Needs more emphasis on monitoring to catch contraventions in areas of high concern”	1	0	0	1



Theme	Example quotes	Engagement Session Notes			
		First Nations	Arch & Heritage	Construction and Industry	Local Government
Protection of First Nation burial grounds	“Settler burials are covered under the Cemeteries Act.” “There’s an issue of respect here. You can’t just protect cemeteries and not Indigenous burial grounds”. “Why separate cemeteries at all?”	7	2	1	0
Protection to focus on First Nation peoples’ values rather than scientific value of cultural heritage	“This is about respecting Indigenous people’s values. We are not protecting these areas for their scientific value but because there is significant cultural and spiritual value to the Indigenous people.” “The days of our ancestors’ belongings being for the purpose of western science is colonial mindset.”	9	2	0	1
Public education	“Enhance public awareness of heritage sites and sites of significance”	0	6	2	1

Topic Area 3: Compliance and Enforcement

Theme	Example quotes	Engagement Session Notes			
		First Nations	Arch & Heritage	Construction and Industry	Local Government
Authority to conduct enforcement	“I would like to see if the expanded authorities include [First Nations] governments.” “The jurisdiction of [First Nations] needs to be fully recognized by the province and by Canada.” “What are the expectations in respect to local government role in administration of fines or other compliance measures?”	4	2	2	3
Concerns about promoting the shadow/underground economy	“Does the branch have any thoughts on the risk of forcing the trade and sale of heritage items underground and creating a black market (sic.) for such things?”	2	1	5	0
Concerns around the effectiveness of penalties	“Just a slap on the wrist” “Penalties aren’t proactive.” “Deterrents need to be effective”	8	8	2	0
Archaeology as a non-renewable resource	“How do you remediate a site? Archaeology is a non-renewable resource.” “If there is a disturbance, we can never get that information or history back and you can’t put a price on that.”	4	1	0	0



Theme	Example quotes	Engagement Session Notes			
		First Nations	Arch & Heritage	Construction and Industry	Local Government
Duty to report – Whose Duty, When?	“Introduce a duty to report heritage finds – I don’t think proponents would do that because then they would have to stop work.” “The duty to report is great but it must be distributed to all regulatory bodies to ensure it is actually understood. If only the Arch branch manages it, they will be hindered by capacity.”	2	4	3	1
Public education will enhance compliance	“Public outreach is needed.” “I think one of the things as an industry that might be part of the education piece is really being able to communicate the risk associated with encountering archaeological sites in the project areas...” “I wonder if it would be better to go back to education and start education in school ... and educate people about Indigenous history.”	4	4	1	2
Stop work orders	“Adding clarity to the stop work order and what it looks like for local government would be helpful.” “First Nations want authority to give fines and stop work orders”	4	1	0	1
Timeline concerns (re: HCA violations or investigations)	“It took 2 years for the Crown to make the decision to proceed with charges.” “The lack of C&E that is (not) happening it putting our cultural sites at risk of losing them.” “If there are delays, the [First Nations] gets blamed”	8	3	2	2
Who can be a permit holder?	“Is the Arch branch considering who can be designated as a permit holder?” “There are cultural monitors who have been working on archaeological sites for years ... but because they don’t have an undergraduate degree and the documented hours ... they are not able to be permit holders. This limits [First Nations] ability to participate in the field.”	2	1	0	0
Who is exempt?	“How much does this apply to institutions like libraries and universities?” “Would the tickets or penalties apply to the provincial government as well as crown corporations?” “What are the ramifications for First Nations that do not comply with HCA? Will they be charged under provincial legislation for caring for their own heritage if they don’t have a permit from BC?”	1	1	0	0



Topic Area 4: Resourcing

Theme	Example quotes	Engagement Session Notes			
		First Nations	Arch & Heritage	Construction and Industry	Local Government
None of the proposal are achievable without adequate funding and resourcing	"Is there a commensurate plan to resource these initiatives along with proposed implementation?" "Are there any initiatives in terms of collaborating with local governments to assist in capacity and resourcing?" "Wondering what resourcing the province will be providing to [First Nations] to support this"	4	7	1	5
Long-term sustainable funding	"long-term sustainable funding so that measures can be 'proactive rather than reactive'." "We really need to empower [by providing resources/funding] [First Nations] governments across the board to occupy this important space."	0	4	0	0
Proactive rather than reactive	"Archaeology studies are extremely expensive. I wonder if this [remediation funds] really support proactive protection of sites. Has there been any contemplating regarding whether such a fund might incentivize proponents to impact sites without arch oversight in order to have the needed "remediation" funded by the province?"	0	3	0	0
Shortage of archaeologists and related professionals in the province	"Province-wide, there seems to be a severe lack of archaeologists to do that work. There aren't enough resources in the province and there aren't enough professionals to do the work." "There's a lack of historians, education doesn't prepare someone to work in these fields." "The new C&E proposals need way more people than you have to look after way more sites than you even have current records for."	0	2	0	4
Repatriation	"There is funding for repatriation but the major bulk of what's needed is for safe storage and display." "Our local community had their own repository but doesn't have the supports to do anything with those items." "Resourcing should include funding for [First Nations] access to the RBCM to study, visit, and repatriate artifacts."	8	4	1	2



Theme	Example quotes	Engagement Session Notes			
		First Nations	Arch & Heritage	Construction and Industry	Local Government
Resourcing for First Nations to develop methods and policies to protect heritage sites and artifacts, including C&E training programs	"Trust that First People know their lands and can be on the archaeological site to monitor." "We need to be given the opportunity to care for our ancestors' belongings in a safe manner with our laws and for our own people to care for them. We do not ask for development to disturb our ancestors and we do not have choice in them being disturbed."	7	7	0	0
Resourcing for public education	"Where is the investment in public outreach and education."	0	1	1	0