

# Ancestral Remains Policy Review – Summary of Engagement Feedback

From August 2018 to January 2019, representatives from the Archaeology Branch met with First Nations communities across the province to discuss the challenges and opportunities associated with Archaeology Branch policies and processes in relation to the respectful treatment of ancestral remains.

Notes from individual meetings were distributed to attendees and feedback was incorporated into the final meeting notes. Archaeology Branch staff reviewed the content of all meeting notes and compiled the following list of themes that were discussed in many of the engagement sessions.

## **1. First Nations are looking for a more meaningful role in cultural resource management.**

What we heard – First Nations want to be recognized as having authority over their cultures. First Nations’ policies, procedures, and laws should be respected. Further, First Nations should not be required to get degrees or permits to realize this authority. A meaningful role in cultural resource management could be found in shared decision making, monitoring, enforcement, policy development, formal agreements, and/or participation on advisory committees.

## **2. Knowledge and awareness of indigenous cultural heritage is low among private property owners and other key stakeholders (e.g., local governments) and this sometimes results in damage to sites.**

What we heard – Local governments issue building permits without checking Remote Access to Archaeological Data (RAAD), a tool that is meant to allow them to access archaeological data. Information about archaeological sites is not being conveyed when properties change hands.

## **3. Undefined terms in the *Heritage Conservation Act* (HCA) and related policy require definitions developed in partnership with First Nations.**

What we heard – Key terms in the HCA do not have definitions, leaving room for differences in interpretation, and challenges in enforcement. For example, the HCA prohibits actions that damage, desecrate, or alter a burial place without a permit. The term “desecrate” is not defined, therefore actions on a burial place that could be considered desecration may not be addressed due to lack of clarity as to whether a contravention has occurred. Other undefined terms discussed include: ancestral remains, burial place, scientific/cultural/archaeological significance/value.

## **4. The referral process for HCA permits requires review. The referral package information is not always of sufficient quality and the timelines to respond to the permits inhibit the ability to understand the projects and develop relationships.**

What we heard – When nations respond to permit referrals, they often receive templated responses followed closely by a notice the permit has been issued as opposed to meaningful discussion about the concerns. Referrals from the Archaeology Branch are noted as containing

poor quality maps and are difficult to understand/process. Further, many nations struggle with capacity to address the volume of referrals they receive.

- 5. Many potential models contain outdated data, are missing data, have not been updated based on verification in the field and do not include indigenous perspectives.**

What we heard – The current archaeological potential model dataset available in the RAAD is out of date, has limited coverage, and can be easily misinterpreted by users. One challenge with the limited coverage is that developers who use the model and see no coverage may assume there is no potential for archaeological sites in the area and, as a result, move forward with development without further considering the need for archaeological work.

- 6. Current legislation and policy regarding site boundaries does not adequately capture culturally significant areas.**

What we heard – How archaeological sites are currently defined does not adequately capture areas that First Nations consider important. In many cases, site boundaries are confined to small areas surrounding physical remains (e.g. individual burials) while the larger cultural landscape (e.g. the burial ground) is excluded. Other significant sites, such as cremation sites, may not contain physical remains and therefore are not protected under the HCA.

- 7. Protection of heritage sites varies based on site type, physical location, and potential impacts.**

What we heard – The HCA does not necessarily provide the required level of protection. For example, a remote burial cave might be protected from development, but the protection does not prohibit entry into the cave by the public. Further, some sites (including those that post-date 1846 and those on federal land) receive no protection.

- 8. Professional reliance in the professional archaeology community has significant challenges.**

What we heard – Many First Nations expressed disappointment that archaeologists were not included in the Professional Reliance Review and indicated they would like a say in which archaeological consultants are approved to carry out permitted work in their territory for the following reasons:

- The archaeologist may not have a working relationship with the First Nation and may not understand the culture or how it is represented on the land.
- The archaeologist may be known to produce poor quality work or does not meet their permit obligations.
- The archaeologist may be likely to recommend no further work over potentially costly assessments to meet the needs of their clients.

**9. The function of issuing permits under the HCA enables the destruction of sites to facilitate development.**

What we heard – While the mandate of the Archaeology Branch is to “protect and conserve” archaeological sites, operational priorities (and some guidelines, documents and language on the website) of the Archaeology Branch appear to be focussed on issuing permits to facilitate development, thereby allowing the destruction of archaeological sites, consequently erasing First Nations history.

**10. The HCA and related permits do not contain provisions regarding cultural components associated with working with ancestral remains.**

What we heard – Cultural and ceremonial work related to the recovery and reburial of ancestral remains is significant, and First Nations should not be required to bear this cost when the disturbance is a result of development.

**11. First Nations want cultural materials returned to them and funding to support this work.**

What we heard – First Nations want cultural materials returned to them from the locations in which they are currently held (local collectors/elsewhere in BC/other provinces/internationally). First Nations would like to set up repositories in their territory, but the requirements are unclear. Nations are also concerned about ongoing removal of cultural materials from their territories

**12. First Nations should determine what happens to found human remains. Placement in a repository should not be the default action.**

What we heard – First Nations should determine what happens to found human remains. The overwhelming majority of First Nations who participated in the policy review stated that avoidance and preservation in place are the preferred management option for found ancestral remains. If this is not possible, the remains should be kept within the territory.

**13. Archaeological information in provincial databases requires review and updates to properly protect the sites.**

What we heard – Some of the information available on RAAD is incorrect (shape or location). Some records do not reflect the most recent work conducted in the area. Older records may include photographs of ancestral remains, even though current policy prohibits their inclusion.

**14. Many First Nations are apprehensive about sharing data with the province due to concerns about the security of the data.**

What we heard – Permission to access archaeological data via the RAAD application is considered to be too widespread. First Nations are reluctant to share sensitive data with the Archaeology Branch if it means making it available to everyone with access to RAAD.

- 15. Nations want improved communications related to permits and contraventions. For example, final permit reports and outcomes of Compliance and Enforcement investigations should be provided to First Nations.**

What we heard – First Nations are not consistently receiving final reports for archaeological work done in their territories and are unaware of the outcomes of inspections and investigations of potential contraventions to the HCA

- 16. Archaeology branch publications need updated content and language.**

What we heard – Many Archaeology Branch documents are out of date. They should be updated and brought into alignment with the United Nations Declaration on the Rights of Indigenous Peoples.

- 17. Branch staff relationships with Nations are inadequate due to the location and organization of the branch.**

What we heard – The organization of the Archaeology Branch is not based in the regions, which creates roadblocks to the formation of relationships between nations and the branch. Nations do not know who to contact when they have questions of concerns about permits, referrals or other issues.

- 18. Non-permitted work in B.C. (i.e., Preliminary Field Reconnaissance - PFR) may create challenges for the protection of sites.**

What we heard – Sites may be at risk of damage if development proceeds using only information from a PFR, as the work completed under PFRs is unregulated. Some First Nations feel that PFRs are used to avoid doing the required archaeological impact assessment work under permit. Other nations have indicated that a PFR is preferable to no review of property.

- 19. Contraventions are not being adequately addressed.**

What we heard – When First Nations report a contravention of the HCA to the Archaeology Branch or Compliance and Enforcement Branch (CEB), the response is slow or incomplete. By the time a response is received, the damage to the site may already have occurred and be irreversible. Sometimes the response is that Archaeology Branch or CEB cannot take any action and First Nations feel that they must take independent action.