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RE: Heritage Conservation Act Transformation Project (HCATP)

I would like to thank you and your team for meeting with the Urban Development Institute (UDI) on April 17th regarding the *March 2026 Heritage Conservation Act (HCA) Transformation Project Phase 3 Technical Policy Paper*. While we appreciate that there has been some progress in certain areas since the previous *October 2025 Technical Policy Paper*, we are concerned about how quickly these changes are moving forward with the Ministry drafting legislation this Summer for the Fall sitting of the Legislature. There is too much uncertainty with many of the proposals, and still too many outstanding issues for this important work to be rushed.

Executive Summary

UDI does not support the proposed *HCA* changes at this time.

Primary concerns:

- Significant economic uncertainty and concerns about private property rights in BC
- Unresolved implications of the *Declaration on the Rights of Indigenous Peoples Act (Declaration Act)*
- Potential to increase investment/development risk in BC
- Risk of reduced housing development, as builders seek more stable jurisdictions
- Rushed timelines for legislation without enough consultation with stakeholders
- Critical development issues not addressed

Recommendations:

- Postpone adoption of the HCA until Declaration Act issues are resolved
- Provide detailed information on key proposal elements (specifics, impacts, timelines)
- Maintain a separate application process for housing projects
- Pilot-test major approaches (e.g., one-permit model) before broad implementation
- Reduce the number of proposed heritage checks

Process recommendations:

- Conduct extensive, ongoing stakeholder consultation if proposal proceeds
- Adjust timelines to allow adequate review and meaningful engagement
- Increase government resources for implementation of the HCA
- More professional reliance on archaeologists

Timing of the Changes

This is also occurring at a time when there is already angst in the building sector as well as amongst lenders, investors and landowners regarding property rights and the ability to move projects forward in British Columbia as result of the following.

- Last Summer's [Cowichan Tribes v Canada \(Attorney General\)](#) decision has put into question the status of fee simple private lands in Richmond because the Cowichan hold Aboriginal Title to those lands.
- The December BC Court of Appeal decision in the [Gitxaala v. British Columbia \(Chief Gold Commissioner\)](#) mining case that affirmed the Provincial *Declaration on the Rights of Indigenous Peoples Act (Declaration Act)* is legally enforceable, and has upended B.C.'s mineral claim regime.
- The February [Rights Recognition Agreement](#) with Musqueam First Nation and the Federal Government that recognizes the Musqueam's rights and title within their territory. There was no consultation with stakeholders or the public regarding the *Agreement*, and it is not clear what impact it will have on private property in the future.
- Because of the Gitxaala case, the Government has been seeking amendments to the *Declaration Act* with the Premier stating the changes are critical and needed: "*It's a very real and manifesting challenge that we face otherwise we wouldn't be taking these steps ... It's not something we're making up. It's something that we have to do.*" The Premier is correct; we are very concerned that in our sector builders, and the investors and lenders that support them, will seek to build projects in other jurisdictions where there is more certainty.

B.C. cannot afford to lose this investment. As we noted in our October 15th letter to you, our sector is facing its most challenging times in four decades. Since then, it has only gotten worse. As [Global News](#) recently reported, "*In the first quarter of 2021, nearly 6,000 pre-construction units were sold across B.C. In the first quarter of this year, there have been just 124.*" Project launches are also diminishing. According to [MLA Canada](#), "*... presale home launches for the month of February 2026 reached just 64 units or six per cent of historical trends.*"

Rushed Timelines

While the *HCA* Transformation Project began four years ago, consultation with UDI and other stakeholders began last summer. The latest *Technical Policy Paper* was released on March 26th, and we met with Ministry staff regarding it on April 17th. Comments are due on April 23rd, and there is no

opportunity for an extension because of the tight legislative timetable. There is not enough time for our members to digest and comment on the proposals.

Many of the proposals are unclear and incomplete. For example, under Section 3.1 (“*Affirm First Nations’ rights related to cultural heritage*”) the Ministry states “*It is expected that there will be a series of statements that guide the interpretation and administration of the HCA ... Additional statements will continue to be refined throughout the drafting process.*” These statements would also “... *affirm First Nations’ rights and guide how the HCA is administered ...*”. In addition, “*Detailed guidance would be developed to ensure it is clear how these statements would work in practice.*” It is impossible to comment on what is being proposed, without seeing the statements or the guidance.

It is also noted under Section 4.1 (“*Ensure greater recognition of First Nations’ values*”) that “*Definitions in the HCA may be re-written,*” and “*The reorganization of the HCA will be subject to the legislative drafting process, which has not yet begun.*” Again, it is not possible to comment without seeing what is being proposed.

The Ministry is also planning to use “... *existing regulation making powers in the HCA ... to develop regulations related to protection for different site types.*” More detail is needed regarding the different site types and the additional regulations that could be applied to them.

Not only is it difficult to comment on these issues, but we are also concerned that the problems noted above with the *Declaration Act*, which led to judicial interpretation of the *Act* not aligning with the Government’s intent - to the point that amendments to the legislation have been contemplated. We do not want similar problems occurring with the *HCA*.

The fact that the concerns with the *Declaration Act* have not been resolved, and may not be by the time the *HCA* changes are introduced in Fall, is also a problem. One of the objectives of the HCATP is to “***Strengthen the role of First Nations in decision-making about their own heritage and ancestors, in alignment with the Declaration on the Rights of Indigenous Peoples Act ...***,” and the *Declaration Act* is noted throughout the *Technical Policy Paper*. This includes Section 6 and 7, which relate to joint and consent-based decision-making agreements. Further work on the *HCA* needs to be paused until the issues with the *Declaration Act* have been resolved, or the Ministry may only be adding to the problems.

Critical Issues Not Addressed in HCATP

Many of our members’ concerns about the *HCA* process have not been addressed because stakeholders in general were not part of the original discussions regarding the reforms to the legislation, and this is not going to be fixed by the push to move forward quickly with drafting the legislative changes this Summer.

We noted several concerns with the current *HCA* process in our October 15th letter, including:

- “An incomplete archaeological database that takes time to access;”
- “An inability to balance the public interest on an expedited basis in the current process;”
- “Little clarity on the scope of work that is needed for permitting, which leads to that scope expanding;”
- “Long consultations/negotiations with First Nations with proponents having to manage multiple First Nation consultations on the same site; and”
- “Proponents having to manage Archaeology Branch and First Nation requirements and permits as well as navigating additional local government requirements regarding archaeology assessments and consultations with First Nations.”

Our members continue to face a widening range and scope of requests related to archaeological work on development sites, such as funding multiple First Nation observers for archaeological work and having to obtain archaeological permits from multiple First Nations in addition to provincial permitting. These requirements, as well as the provincial ones, can also apply to areas beyond what is identified in the Ministry’s database as having archaeological significance.

These types of requests are substantially increasing costs and delays to projects, but have not been addressed through the proposed HCATP changes. Our concern is that if the *HCA* amendments are passed in Fall, it will likely be years before the legislation will be reviewed again.

The range of requests may grow under the proposed *HCA* changes. We note that under the proposed decision-making criteria, conservation activities will be a consideration for statutory decision makers, and there will be a broad definition of “conservation” that will “... encompass a wide scope of activities that support heritage conservation.”

Our members have also found that the timeframes for responses from First Nations can vary substantially, which is critical if the Ministry is going to achieve its goal of reducing *HCA* permitting approvals by 50% through the proposal to have one permit.

However, to fully understand the scope of the problem in terms of timeframes, if the Ministry did achieve its objective to reduce *HCA* approval timeframes by 50%, the timeframes would still be hundreds of days.

The Ministry also needs to clearly identify which First Nations have a stated interest for sites in urban areas, as well as contact information for those First Nations. This could be included in the Ministry Archaeological Database and shared via the proposed third-party systems noted below.

Projects in Urban Growth Areas vs. Natural Resource Projects on Crown Lands

Much of the focus of the changes with HCATP seem to be oriented towards natural resource projects on Crown Lands, which differs substantially from housing and other projects in growing urban areas.

Natural resource projects are generally on large sites outside of municipalities. Sites in urban areas are far smaller – especially if they are infill projects. They also need to be purchased – many times at the cost of tens of millions of dollars. Builders also have to contend with local government regulations, public/stakeholder consultations and development review processes – on top of senior government requirements.

There have been some potential positive changes in *March Technical Policy Paper* such as having the Ministry document the rationale for its decisions. However, it is still not clear how decisions would be rendered under the proposed decision-making criteria, which is difficult when builders have to assess whether to purchase a site for millions of dollars at the beginning of the development process – years before there are any returns on that investment can be expected.

Another potential positive change is ensuring that landowners would need to agree to the stipulations in Operational Agreements. However, it is not clear what the impact of this change would be under a development scenario when the proponent is seeking an *HCA* permit from the Province.

Although Heritage Management Zones have also been removed, they are being replaced with expanded site boundaries/buffers in the Provincial Heritage Registry. The buffers would be 5 metres and likely larger. This is problematic for sites in urban areas – especially smaller infill properties. The expanded boundaries would take up a large percentage of sites.

In its decision-making criteria, the Province also needs to assess how infill redevelopment projects on highly disturbed urban sites are addressed under the *HCA*. One of the decision-making criteria is changing from “*Cumulative impacts to affected sites,*” to “*Impacts to heritage sites ...*”. It is highly unlikely that any archaeological artifacts will be found in these types of cases because you are effectively replacing one older building with a taller one.

Heritage Information Checks

Another area where the Ministry is underestimating the activity in urban growth areas is the proposal to mandate archaeological information checks for any building or development permit that “... *involve ground alteration.*” Point of sale requirements are also being planned through future regulations.

This would result in tens of thousands of additional heritage information checks occurring annually. The Ministry is not meeting its six-day response time objective for its free heritage check in many cases now, so we are very concerned about what the response times will be in the future when the number of queries will grow by tens of thousands of requests.

In our discussion on April 17th, the Ministry indicated that it is exploring “... *opportunities to make heritage and archaeological information more accessible, including through third party systems.*” Having access to this type of third-party system would be extremely helpful to builders who need to quickly assess whether to purchase a site for a project. For them, the Ministry’s six-day response time

goal is too long. However, it is not clear what the timeframes are for implementing these changes to improve information accessibility. They would need to be in place well before the Ministry implements Heritage Information Check requirements.

Even with these changes, the Ministry needs to reassess mandating heritage checks for building permits and property transactions. It is going to create confusion and angst for a substantial number of homeowners and smaller builders who would have no capacity to go through the *HCA* permitting process and consult with many First Nations (where there are overlapping claims). These concerns will be amplified with [media reports](#) about landowners facing archaeology bills in the tens of thousands of dollars. The problem will be aggravated because no new Ministry resources have been promised to implement the proposed HCATP changes (see below). It would be better to limit the requirements to development permits for projects where there are ground disturbances.

We are also concerned with local governments being involved in the enforcement of the *HCA* by ensuring that the heritage checks are done for building and development permits. This could lead to additional municipal requirements and longer processes being imposed on projects – beyond what the Ministry of Forests mandates.

It is also critical that the proposals under Section 3.3 to “*Protect Indigenous knowledge and heritage data*” do not undermine Ministry’s archaeological database used for the heritage checks. Otherwise, mandating the checks would be futile, and “*First Nations ... highlighted the need for ... reliable archaeological data ...*”. In addition, the Ministry would be placed in a difficult position if someone purchased a site that was known to have archaeological significance, but was not identified as such in the database.

Archaeology Profession

The additional heritage checks and other measures in the HCATP proposals are going to result in even more reliance on archaeologists. The Ministry recognizes that there are not enough now in B.C., so is recruiting additional archaeologists from other jurisdictions. The costs of archaeologists will be increasing. The problem could be exacerbated further by the plans to increase the regulation of the profession.

These cost increases could be offset if more deference were provided to registered archaeologists under the new regulatory framework. The Ministry indicates the proposed changes “... *may provide some opportunity for professional reliance.*” However, there is no further elaboration on what this could mean in terms of process or timelines. This needs to be clarified before archaeology sector is further regulated.

More clarity is also needed regarding the proposal to have permits held by proponents rather than archeologists. This would provide proponents with more flexibility, but we would want to ensure that it would not lead to additional liability for proponents.

Other Issues

In addition to the above, we have a number of other issues.

- For the one permit proposal to reduce permitting timeframes, it will be critical for the Ministry to define the scope of each of the steps and have enforceable timeframes (depending on the size of the project). For example, 30 to 90 days for standard reviews and six to twelve months for more complex projects/consultations. Beyond processing times, other Key Performance Indicators, such as cost impacts, number of referrals, and housing completions need to also be established.
- Under Section 4.1 (“*Ensure greater recognition of First Nations’ values*”), it is stated that “*Broader cultural concepts such as oral histories, language, and traditional knowledge are proposed to be reflected as “cultural practices” and be eligible for recognition under the HCA.*” However, “***This will not result in land-based protections.***” This needs to be explicitly stated in any future legislation.
- The Ministry argues that Heritage Management Plans (HMPs) could lead to expedited processing of HCA Permits. However, the HMPs would need Ministry approval and then would require some oversight. We recommend that if proponents can obtain agreements with First Nations, the Ministry oversight should be by-passed unless problems arise.
- In the 2025 HCATP stakeholder sessions, Ministry staff stated that no additional resources were going to be allocated to implement the HCA changes. No change regarding this was announced with the release of the *March Technical Policy Paper*. If the Ministry proceeds with what are substantial changes to the HCA, we strongly advise that there be corresponding substantial resources provided to implement and communicate those changes. We note that in the *What We’ve Heard to Date* section of the *March Technical Policy Paper*, the Ministry reports “*First Nations, local governments and stakeholders all highlighted the need for plain language guidance materials, reliable archaeological data, and adequate resourcing and staffing to support implementation of the proposed changes.*” Ideally, the Ministry should produce a resource/capacity plan (staffing, funding) to meet its permitting timeline objectives.

Conclusion

UDI does not support the proposed changes to the HCA moving forward at this time. There has already been a tremendous amount of economic uncertainty within our sector, and this has been increased with concerns about private property rights and the implementation of the *Declaration Act*.

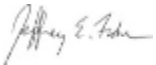
Development is already a high-risk enterprise. There is a genuine across the board concern amongst our membership that the risk tolerance for investment in British Columbia is too high. Implementing the

HCA would only add to this insecurity and potentially curtail development here as builders seek safer jurisdictions to invest in projects.

Rather than fully implementing the HCATP, the Ministry should consider pilot testing some of the approaches in the *Technical Policy Paper* (e.g., the proposal for one permit) on a few representative projects before considering broader adoption.

If the Ministry does proceed with the HCATP changes, there will need to be extensive ongoing consultation with stakeholders. As noted above, it is not clear in many areas what will be in the final legislative package. In fact, it is noted on the first page of the *March Technical Policy Paper* that “*All policy proposals outlined in this document are subject to final decision from the Province,*” and similar language is used at the beginning of each section of the *Paper*. In addition, regulations, guidance, new policies and best practices are contemplated, and would need to be reviewed by stakeholders before they are adopted. Given the short timeframes we are concerned that this consultation may not occur, which is another reason we ask for the process to be delayed.

Yours sincerely,



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