April 13, 2026

Hon. Ravi Parmar
Minister of Forests
Government of British Columbia

Via email to FOR.Minister@gov.bc.ca

RE: HERITAGE CONSERVATION ACT TRANSFORMATION PROJECT – RESPONSE TO MARCH 2026 TECHNICAL POLICY PAPER

Dear Minister Parmar,

On behalf of the more than 4,500 construction companies that make up the Independent Contractors and Businesses Association (ICBA), I am writing in response to the latest Heritage Conservation Act Transformation Project (HCATP) Technical Policy Paper released in March 2026.

We appreciate the additional time for engagement before bringing legislation forward, and we recognize the effort that has gone into this latest document. We also acknowledge several improvements over the earlier Phase 3 Session Primer – the removal of 'intangible heritage' from the legislative package, the decision not to include Heritage Management Zones in legislation, and the withdrawal of mandatory engagement records for permit applications are all steps in the right direction.

However, after careful review of the Technical Policy Paper alongside the concerns of legal and policy experts in our network, we remain deeply concerned that the changes do not reflect the full picture. The structural architecture of the proposals – particularly the treatment of the *Declaration on the Rights of Indigenous Peoples Act* (DRIPA), the pervasive use of 'consult and cooperate' language, the pathways for consent-based decision-making, and the sweeping delegation of authority to regulation – creates a framework that is inconsistent with the process certainty and efficiency your government has promised to builders, property owners, and local governments.

We have tracked this process since our first submission in June 2023. Our September 2025 letter raised many of these same concerns. We write again because the March 2026 Technical Policy Paper, while improved in places, has not resolved the fundamental problems – and in some respects has made them less visible without making them less real.

1. DRIPA Must NOT be a Backdoor Veto

Our most serious concern with the Technical Policy Paper is the explicit enablement of DRIPA sections 6 and 7 agreements within the HCA framework. The paper describes these as "joint or consent-based decision-making agreements" – its own words – and proposes that they can be used for heritage site designations, permit exemptions, and modification of permitting requirements in agreed areas.

This is consent-based decision-making by another name. Removing the word 'consent' from the list of permitting criteria while simultaneously enabling consent-based agreement structures that govern permitting-adjacent decisions is not reform – it is reorganization. The practical effect on a builder, developer, or local government seeking project certainty is identical.

ICBA has been clear in our submissions on DRIPA itself: we are concerned about granting broad regulatory, governance, or consent rights to bodies that are not accountable to the legislature or to the public. Section

7 of DRIPA, in particular, needs to be reconsidered to uphold the principles of democracy, accountability, and public interest.

This sequencing is backwards. We cannot provide meaningful input on an HCA that is built on a DRIPA framework that is itself under active review. Ideally, ICBA would prefer government repeal DRIPA. However, if the government refuses to repeal, we strongly recommend that the DRIPA amendments promised by the government be finalized and published before any HCA Request for Legislation proceeds. British Columbians – including our members – deserve to see the full picture before any one piece of it is locked in.

2. 'Consult and Cooperate' is Consent Language – And Should Be Removed

The phrase "consult and cooperate" – and its variants "consultation and cooperation" and "consulting and cooperating" – appears six times in the Technical Policy Paper, in provisions covering emergency permitting, deposition frameworks, protection criteria, civil remedy orders, and statutory decision-making criteria.

This is not neutral drafting. "Consult and cooperate" is the operative language of DRIPA implementation and tracks directly to the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) Article 19 and Article 32(2), which frame the standard as working toward free, prior and informed consent. By embedding this phrase throughout the HCA without defining what it means in this specific context, the government creates a reasonable legal argument that the UNDRIP consent standard applies by reference, even where the paper claims – misleadingly, in our view – that consent is not being required.

We recommend the government either define "consult and cooperate" explicitly in the HCA to confirm it carries only the existing constitutional duty to consult standard under section 35 of the *Constitution Act, 1982* – and no more – or remove it entirely in favour of language that does not import DRIPA and UNDRIP obligations by reference.

3. A Single Permit is NOT Enough – Simplicity Must Come with It

ICBA supports the concept of a single project-based permit. Collapsing three sequential permits into one modular process with a single First Nations referral is directionally right. But our members' experience tells us that the number of permits has never been the primary problem – the complexity, the wait times, and the unpredictability of the process are.

The Technical Policy Paper's proposed single permit still contains a provincial decision point when the interim report is reviewed before site alteration can proceed. It still depends entirely on Heritage Branch staff capacity, which the paper does not address. And it still requires First Nations referrals whose timelines the Province cannot control. A permit labelled 'single' that takes just as long (or longer) and requires just as many steps as the current three-permit system is not reform – it is rebranding.

Simplicity must be the design principle, not structure. We recommend the government commit to specific, measurable turnaround timelines for each stage of the new permit process, and publish a funded plan for Heritage Branch capacity before claiming that permitting will become faster.

4. Cultural Site Designation is the New Intangible Heritage – Clarify the Process

We acknowledge the removal of "intangible heritage" as a defined term in the HCA. However, the Technical Policy Paper proposes to streamline the designation process for sites of spiritual, ceremonial or other cultural value to First Nations, by shifting approval authority from Cabinet to the Minister alone. The paper acknowledges these designations will still require "significant process" – but reducing the

approval threshold while expanding the universe of sites that may seek designation creates the same uncertainty for our members that intangible heritage would have.

A designation is a designation. Once made, permits are required for ground alteration and property rights are constrained. If the pathway to designation becomes faster and broader while the criteria remain undefined, our members are likely to face the same unpredictability they faced under the intangible heritage proposal.

We recommend the government publish clear, objective criteria for what qualifies a site for designation under current sections 9 and 11.1, including criteria specifically applicable to sites of spiritual or ceremonial value, before any changes to the designation process are legislated. Faster process without clearer criteria is not an improvement.

5. Removing Compliance Agreements from the Act Does Not Resolve the Concern

The paper confirms that specific compliance and enforcement agreements will not be included in the HCA – a response to the concerns raised by stakeholders and local governments about governance, accountability, appeals, and the risk of inconsistent enforcement across jurisdictions. We acknowledged this as a step in the right direction.

However, the paper does not stop there. Section 4.15 states the Province will "explore existing mechanisms, tools, and programs to support First Nations involvement in compliance and enforcement activities" and that "information sharing agreements would be available under operational agreements, which would allow First Nations to be quickly informed about compliance and enforcement actions taking place in their territories, such as stop work orders or notices of non-compliance."

The governance concerns that led to removing formal C&E delegation from the Act apply equally to these alternative pathways. Operational agreements require only ministerial – not Cabinet – approval, and will not be subject to the same legislative scrutiny as primary legislation. The paper provides no detail on what 'involvement in compliance and enforcement activities' through these mechanisms would look like in practice, what oversight would apply, or how affected parties could appeal decisions influenced by such arrangements.

If First Nations are to have a role in compliance and enforcement under the HCA – through any mechanism – that role should be defined transparently in primary legislation, with explicit accountability structures and appeal rights. Relocating the same function outside the Act does not resolve the concern; it simply removes it from view.

6. Ministry and Industry Capacity Remains the Unaddressed Prerequisite

ICBA has raised this concern in every submission we have made on the HCATP, beginning in June 2023. Archaeological Impact Assessments currently take up to a year to process. The Heritage Branch is operating at or beyond capacity. The provincial budget deficit makes significant new hiring unlikely.

The Technical Policy Paper promises faster, more certain permitting. It does not explain how that is achievable without addressing the capacity of the system delivering it. No permit structure, however elegantly designed, can overcome a growing backlog.

Additionally, the proposed regulatory framework for the archaeology profession, while warranted in principle, risks reducing the supply of qualified archaeologists in the short term as registration and continuing education requirements are implemented. The government should sequence profession regulation to avoid exacerbating the very bottleneck it is trying to solve.

We recommend the government publish a funded Heritage Branch capacity plan as a prerequisite to introducing HCA legislation – not as a subsequent implementation commitment.

7. Regulatory Delegation Is Not a Substitute for Legislative Clarity

The volume of substantive matters left to future regulation in this Technical Policy Paper is unusually large. Heritage Management Zones are "not in legislation" – but the authority to create them through regulation remains. Consent-seeking language is "removed" – but DRIPA s.6 and s.7 agreements enabling consent-based decisions are explicitly enabled. Emergency exemptions, modified permitting requirements, duty-to-report obligations, archaeological profession standards, and heritage information check requirements are all deferred.

Regulations are not subject to the same scrutiny as primary legislation. They can be changed without a legislative debate, and they are typically developed with limited public engagement. Delegating the most contested elements of this reform to regulation removes the accountability that our members – and British Columbians generally – are entitled to expect.

We recommend that all substantive provisions affecting property rights, permitting obligations, and decision-making authority be included in primary legislation, not reserved for regulation.

8. The Enforcement Framework Creates an Unacceptable Double Standard

The Technical Policy Paper proposes administrative monetary penalties of up to $100,000 for an individual and up to $1,000,000 for a corporation for contraventions of the HCA. ICBA does not oppose proportionate enforcement. What we cannot accept is an enforcement framework that applies maximum penalties to builders, developers, and property owners while simultaneously exempting certain First Nations activities on Crown land from permit requirements entirely.

Section 3.4 of the Technical Policy Paper proposes that First Nations conducting certain heritage-related activities on Crown land — including, but not limited to, clam garden maintenance, heritage trail maintenance, and collection of at-risk objects — would not require an HCA permit and would not commit an offence. We understand the intent behind these provisions. However, the same legislation that creates a permit-exempt class of activities for some parties imposes penalties of up to $1,000,000 on others for equivalent ground disturbance. That is not a balanced regulatory framework — it is a two-tier system.

Heritage protection should apply consistently to all parties operating on Crown land. We recommend that any activity with the potential to disturb heritage sites, regardless of who is conducting it, be subject to the same permitting and oversight framework. Exemptions that apply to some parties but not others undermine the legitimacy of the entire enforcement regime and will not withstand public scrutiny.

ICBA Recommendations

In summary, ICBA recommends that the government:

- **Sequence DRIPA amendments before HCA legislation.** Meaningful consultation on HCA is not possible while the DRIPA framework it relies on is under active review. Finalize and publish DRIPA changes first (or repeal DRIPA all together, as is ICBA's preference).
- **Define or remove "consult and cooperate."** Either limit the phrase explicitly to the existing section 35 constitutional consultation standard, or remove it from the HCA entirely.
- **Commit to specific permit timelines and a funded capacity plan.** Structure means nothing without resourcing. Publish measurable turnaround targets and a Heritage Branch staffing plan before legislation is introduced.

- **Publish objective designation criteria before streamlining the designation process.** Faster pathway to designation without clearer criteria produces the same uncertainty as intangible heritage.
- **Ensure any First Nations compliance role is defined in primary legislation** with explicit accountability, oversight, and appeal mechanisms – not in programs and operational agreements outside legislative scrutiny.
- **Keep substantive provisions in primary legislation.** Reserve regulation for administrative and procedural matters only.
- **Apply permitting and enforcement requirements consistently to all parties.** Remove permit exemptions for activities on Crown land that would require permits from any other party. A framework that imposes fines of up to $1,000,000 on some while exempting others from permits for equivalent activities is not a heritage protection regime — it is a double standard.
- **Provide a draft of proposed legislation for stakeholder review** before introduction, as we requested in both our June 2023 and September 2025 submissions.

Our members build the homes, hospitals, schools, roads, bridges, industrial plants, and critical infrastructure that every British Columbian depends on. They share the government's commitment to protecting B.C.'s cultural heritage – including the history of Indigenous peoples. But they cannot plan, price, or build projects in a regulatory environment defined by undefined standards, consent mechanisms operating under different names, and a permitting system that promises speed it cannot yet deliver.

We remain ready to work constructively with your ministry to achieve an HCA that genuinely works for all parties. We respectfully request the opportunity to review draft legislation before it is introduced, and we are available to discuss any of the concerns raised in this letter at your earliest convenience.

Sincerely,
INDEPENDENT CONTRACTORS AND BUSINESSES ASSOCIATION

Chris Gardner
President and CEO

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