

A Better Path

ICBA's Recommendations on Indigenous Reconciliation in British Columbia

Our Commitment

Reconciliation is not optional – it is how we unlock British Columbia's enormous potential and bring prosperity and healing to Indigenous communities. ICBA is committed to listening, learning, and supporting public policies grounded in fairness and the opportunity to create a better future for everyone.

Reconciliation works best when it is rooted in economic partnership. LNG Canada, Coastal GasLink, Trans Mountain, Cedar LNG, the MST development at Jericho, the Squamish Nation's Sen'ákw Phase I, and its independent approval of Woodfibre LNG, all demonstrate what is possible. Modern treaties like the Nisga'a Final Agreement and the Tsawwassen Treaty show that negotiated treaty outcomes can and will deliver durable clarity, certainty and finality for everyone.

The Problem

The NDP government's approach to reconciliation is failing – and two recent landmark court decisions have laid bare the consequences:

The Cowichan Decision (August 2025): In a [Section 35 Aboriginal title case](#), the BC Supreme Court declared Aboriginal title over 800+ acres of private land in Richmond. The court ruled that Aboriginal title and fee-simple title can co-exist, but that the Land Title Act's protections for indefeasible title do not shield private property from aboriginal claims. [Montrose Properties](#) – which invested \$300M in its Richmond lands over 40 years – was never notified at any point during the 11-year trial. This decision exposes a gap in Canadian law and B.C. jurisprudence that leave every private landowner in the province vulnerable.

The Gitxaala Decision (December 2025): Separately, the BC Court of Appeal [ruled that Declaration on the Rights of Indigenous Peoples Act is legally enforceable](#) – not symbolic – and that Section 8.1 of the *Interpretation Act*, drafted by David Eby when he served as Attorney General, requires every B.C. law to be read consistently with UNDRIP. The court's ruling dismantled B.C.'s mineral tenure system and froze the mining and exploration sector. It also threatens to upend existing laws, regulations and administrative processes touching all Crown land in the province. Even [Premier Eby conceded](#) the courts had gone further than he intended or led the legislature to believe.

Together, these decisions reveal an evolving reconciliation framework in crisis: Section 35 case law is being used to override private property with no notice or due process for private parties, while DRIPA is being used by courts to rewrite provincial law wholesale. DRIPA has also paralyzed regulatory decision-making regarding Crown land and resources in parts of B.C. Meanwhile, the government continues to pursue [secret "reconciliation agreements"](#) that bypass democratic scrutiny. An [ICBA-commissioned poll](#) (February 2026) found that 78% of British Columbians say the Cowichan decision will hurt B.C.'s economy, 80% believe governments must protect private property, and 73% believe private property ownership is now uncertain.

ICBA's Recommendations

1. Repeal DRIPA. The duty to consult is well-established in Canadian constitutional law and jurisprudence. B.C. does not need a provincial statute that directs courts to read a UN resolution – which was never supposed to have legal effect – into every one of its laws with no guardrails.

2. Repeal Section 8.1 of the Interpretation Act. This provision requires every B.C. law to be interpreted consistently with UNDRIP. It turned the [Gitxaala case](#) into a wrecking ball for the resource sector and hands judges an open-ended mandate to remake provincial law as they see fit. It must go.

3. Reinvigorate the treaty process to deliver clarity, certainty, and finality. Treaties – and only treaties – provide the balanced, constitutionally recognized framework for reconciliation that the [Supreme Court of Canada has called for](#). The province must recommit to and properly resource the B.C. treaty process, remove UNDRIP-based expansions to treaty mandates, and create incentives for Indigenous communities to pursue treaties rather than litigation to advance their interests. Ad hoc “reconciliation agreements” and other “arrangements” currently mandated in the B.C. treaty process need to be halted along with those mandates, as they provide one-way deals with no legal certainty.

4. Legislate clear protections for fee-simple private property rights. The Cowichan decision exposed that B.C. has no statutory guarantee protecting private property from Aboriginal title declarations. The province must ensure private landowners receive notice of any and every proceeding that could affect their title, be given standing to defend their property, and are protected from extinguishment of their property rights without due process and fair compensation – consistent with the standard set by the [New Brunswick Court of Appeal](#).

5. End secret land-use deals and commit to public transparency. All secretive bilateral non-treaty framework agreements, reconciliation agreements, and land-use planning negotiations affecting Crown and private land must cease, and all that have been underway must be made public. The legislature must fully and openly debate any such agreements before they are finalized. Affected non-Aboriginal communities must be meaningfully consulted – not “managed” or notified once decisions affecting their interests and well-being have already been made.

6. Press the federal government to repeal their UNDRIPA and recommit to treaty. The federal *United Nations Declaration on the Rights of Indigenous Peoples Act* suffers from the same structural problems as its provincial counterpart. B.C. should formally call on Ottawa to repeal it, to rethink its unconditional acceptance of UNDRIP, and refocus federal resources on accelerating and completing the treaty process in this province.

The challenge facing all British Columbians is straightforward: who owns the land, and who has the right to make decisions about how it is used? Getting this right is the key to our long-term prosperity. ICBA is calling on the provincial government to engage all British Columbians in an open, good faith and transparent discussion on how we build shared prosperity through a reconciliation framework that is rooted in clarity, certainty, finality, and meaningful engagement with the public, and not on a confusing international United Nations declaration.