



**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 Llnagaay 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**

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Forests

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## 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.



## Table of Contents

<b>SECTION 1: INTRODUCTION</b> .....	<b>1</b>
1.1 Engagement Process.....	1
1.2 Policy Options and Priorities.....	1
1.3 Analysis Approach.....	2
1.4 Report .....	3
1.5 Limitations .....	3
<b>SECTION 2: Feedback from First Nations Engagement Sessions</b> .....	<b>4</b>
2.1 Indigenous Values and Rights Recognition (IVRR) .....	4
2.2 Menti Comments .....	6
2.3 Decision-making.....	7
2.3.2 <i>Menti Comments</i> .....	10
2.4 Protection .....	10
2.4.2 <i>Menti Comments</i> .....	13
2.5 Compliance and Enforcement .....	13
2.5.2 <i>Menti Comments</i> .....	15
2.6 Resourcing.....	16
2.6.2 <i>Menti Comments</i> .....	17
<b>SECTION 3: Feedback from Stakeholder Engagement Sessions</b> .....	<b>19</b>
3.1 Decision-making.....	19
3.1.2 <i>Menti Comments</i> .....	21
3.2 Protection .....	22
3.2.2 <i>Menti Comments</i> .....	24
3.3 Compliance and Enforcement .....	25
3.3.2 <i>Menti Comments</i> .....	29
3.4 Resourcing.....	30
3.4.1 <i>Menti Comments</i> .....	32
<b>SECTION 4: Summary of Key Findings</b> .....	<b>34</b>
<b>Appendix A: Coding Framework</b> .....	<b>36</b>



## SECTION 1: INTRODUCTION

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### **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.



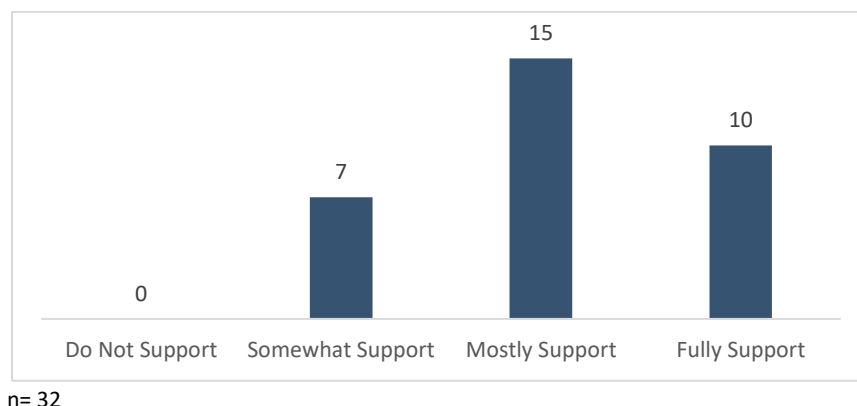
## SECTION 2: FEEDBACK FROM FIRST NATIONS ENGAGEMENT SESSIONS

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.

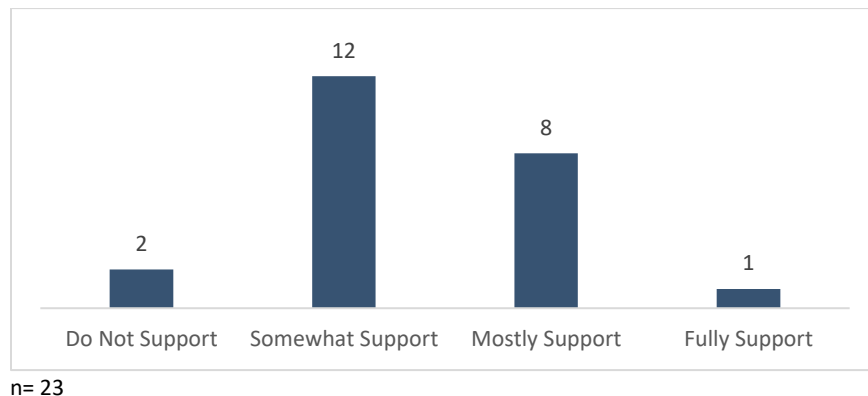
*“Government needs to improve the Local Governments Act to actually bring in rights recognition. Municipalities do not have the duty to consult and development often goes without assessment.”*

### **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.”*

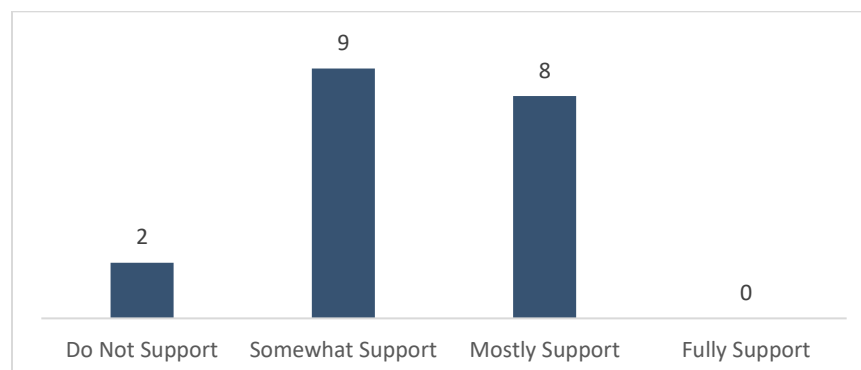
*“B.C’s entitlement to continue to manage First Nation heritage is absurd. The support of the HCA continues this colonial legacy.”*

*“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."*

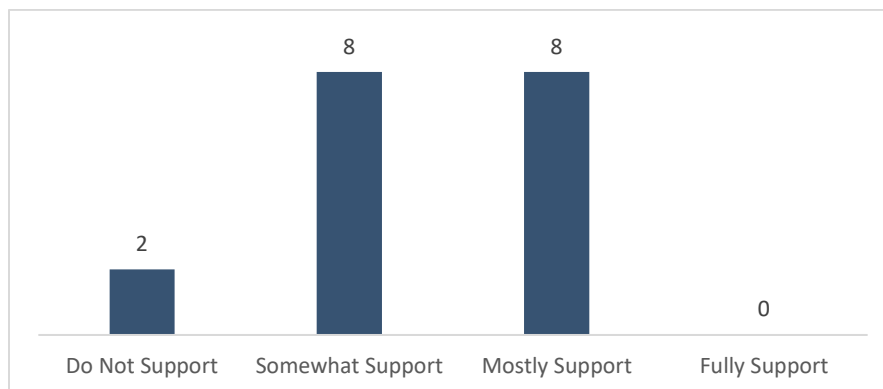
A couple of comments also noted that heritage sites should be protected because of their value to First Nation peoples and not because they might have some scientific value as assessed by Western science and standards (n=2).

#### **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?



n= 18

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 agreements<sup>1</sup>, 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.”*

<sup>1</sup> 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”.*

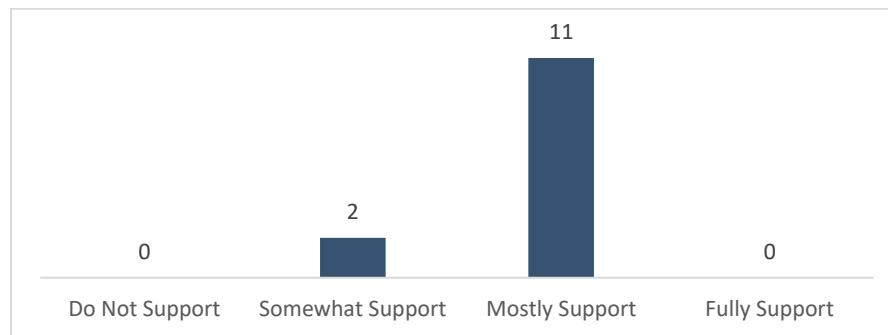


Finally, some comments mentioned that governments need to be aligned in their policies and procedures related to compliance and enforcement (n=2), including recognition of First Nation governments and laws.

## 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.”*



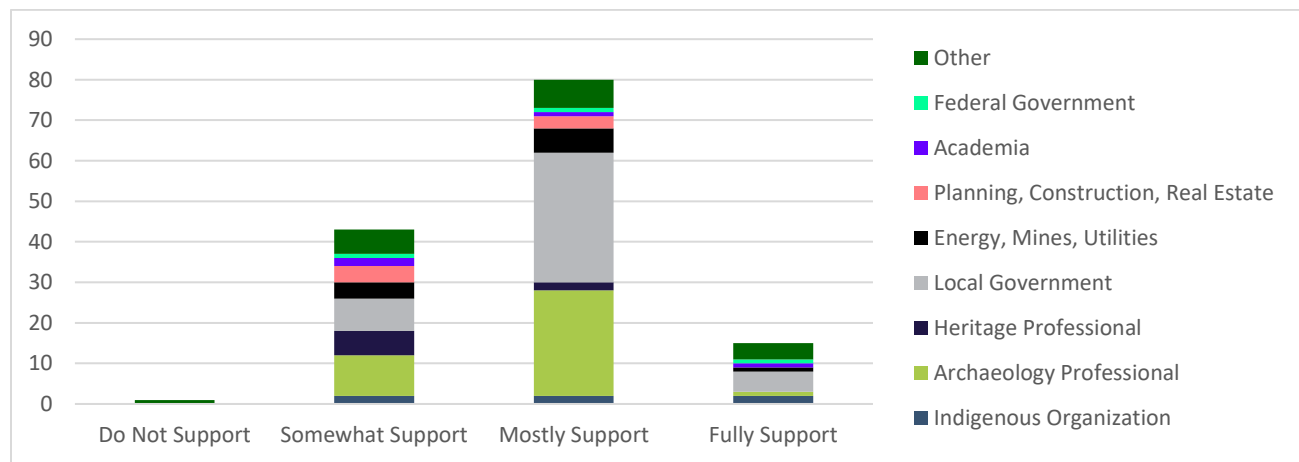
## SECTION 3: FEEDBACK FROM STAKEHOLDER ENGAGEMENT SESSIONS

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!!”*



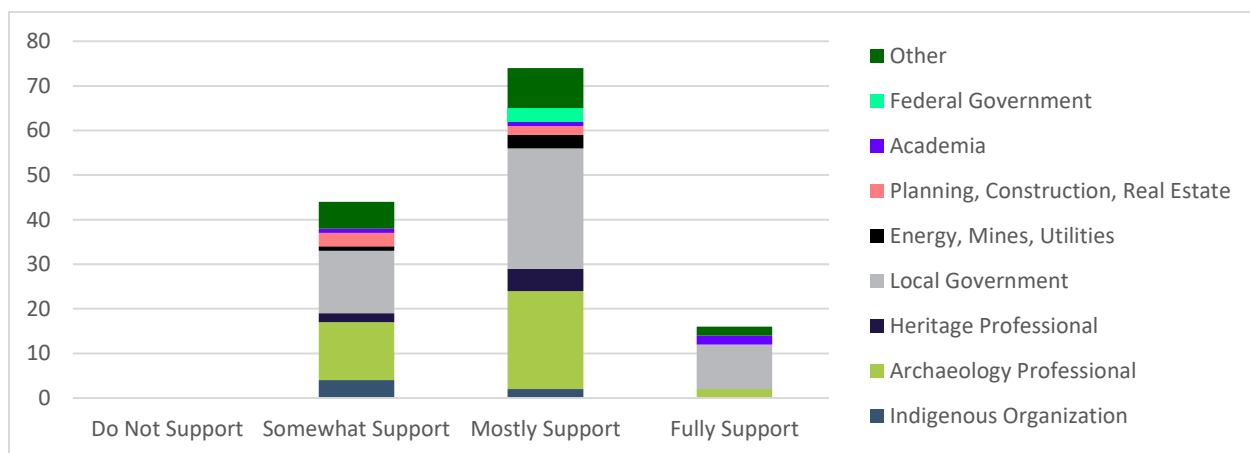
*“More resources to increase capacity to do the work at the Branch, at local governments, and in the Nations. Also more archaeologists”*

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.”*

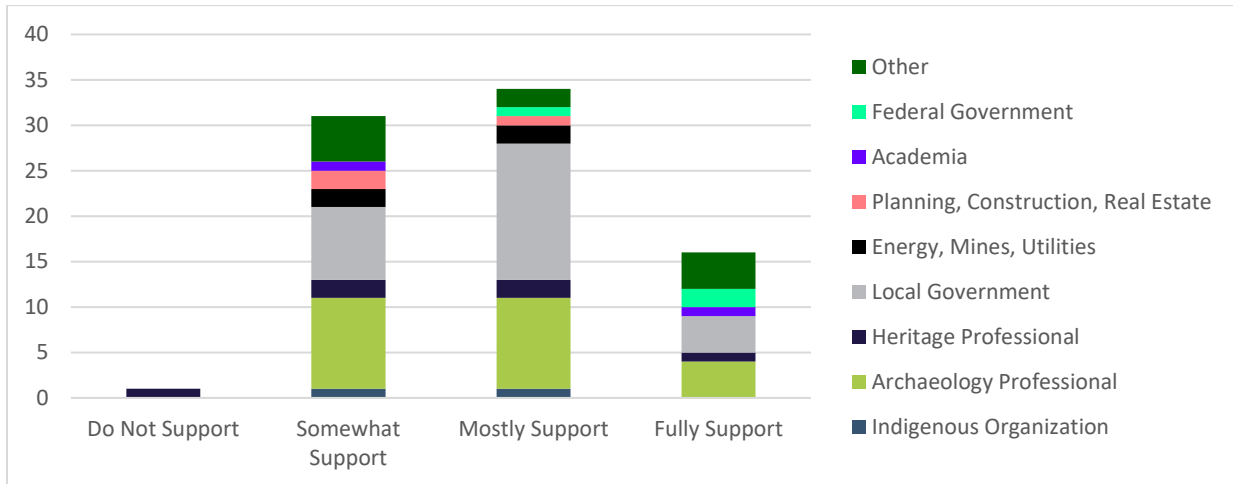
Most comments (17/27) in response to “What supports and tools are needed to implement these proposals?” had to do with resourcing, including providing funding for staff and building capacity. A few comments asked for “easy, interactive mapping tools” and better information sharing to facilitate early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



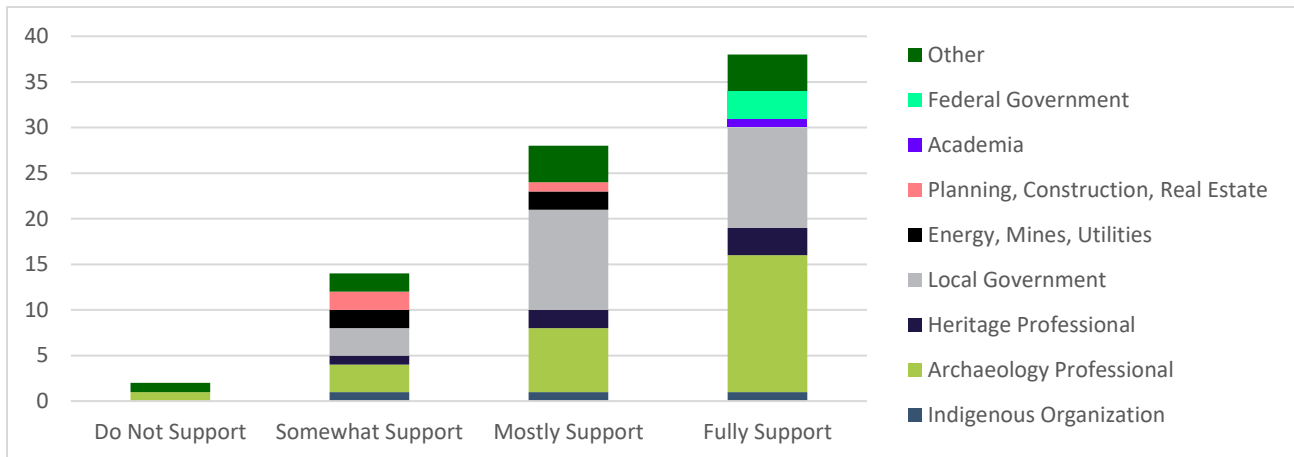
**Figure 3.3: Do you support the suite of proposals related to compliance and enforcement?**



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?**

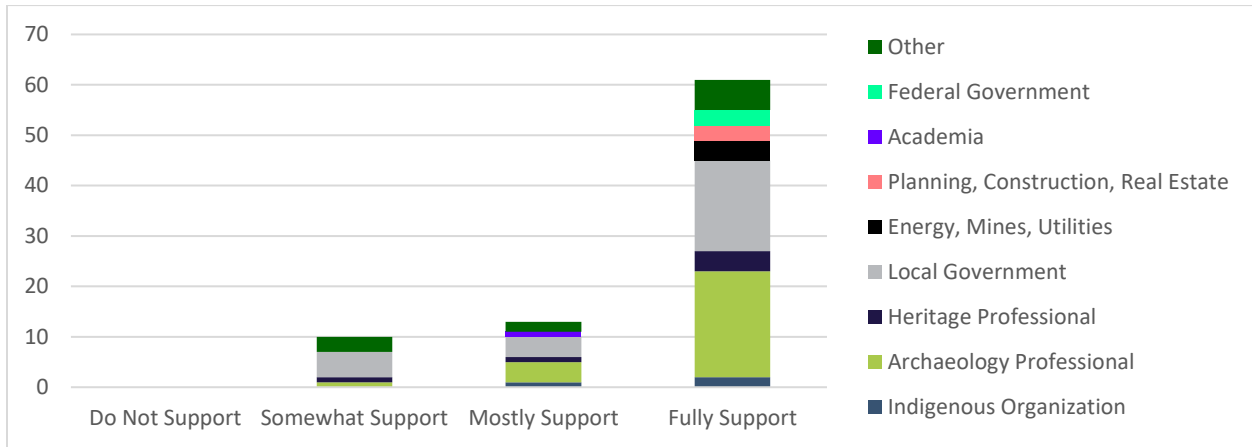


n= 82

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.



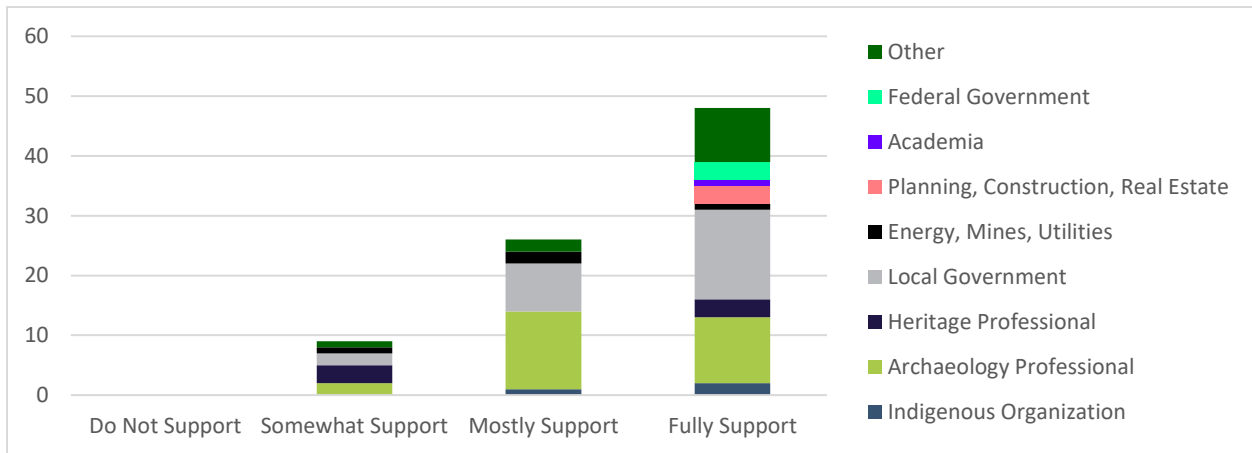
**Figure 3.5: Do you support the proposal to prohibit the possession, sale, and trade of artifacts?**



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

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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	<p>“The province and the HCA need to fully recognize, 100%, First Nation title and rights.”</p> <p>“Our lands are being sold right next to our reserves. We need to be recognized as Title and Rights holders.”</p> <p>“HCA should recognize that [First Nations] history is written on the land. Developers should be going straight to the Nation.”</p>	14	1	0	0
Language used in proposals	<p>“Changing the “could” in the [principal] statement to “will” and using specific language around bulletin 14 and others that were issued without consultation.”</p> <p>“We would like to see better language. Would like to see specific language surrounding bulletin 14 and others because they were issues without consultation.”</p> <p>“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”</p>	8	2	0	0
Privatization	<p>“The challenges we face in our territory with 85-90% of the land being privatized”</p>	3	1	0	2
Proposals undermine First Nation rights	<p>“It’s pretty offensive for our people to hear about issuing of a permit to impact our sacred site.”</p> <p>“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.”</p> <p>“The issue that is not being addressed is the government is standing between [First Nations] and their cultural heritage.”</p>	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	<p>“There are serious matters of Indigenous rights as basic human rights. Not sure what it is going to take to get some movement.”</p> <p>“Indigenous sites, property, and people are still viewed as ‘less than’ and get treated differently.”</p>	14	0	1	0

### Topic Area 1: Decision-making

Theme	Example quotes	Engagement Session Notes			
		First Nations	Arch & Heritage	Construction and Industry	Local Government
<b>Absolute authority vs. shared decision-making</b>	<p>“Equalizing [First Nations] as governments with the province. I want to see that equality in decision-making and permitting.”</p> <p>“Shared decision-making agreements require decisions from the Crown and that doesn’t sit right.”</p>	16	4	2	1
No permits without free prior and informed consent	<p>“There should be absolutely no permits authorized without free and informed prior consent of the [First Nations].”</p> <p>“90% of heritage sites are [First Nations] but yet [First Nations] are not able to protect those sites.”</p> <p>“It would be good to see the ability for [First Nations] to say ‘no’.”</p>	11	0	0	0
Permit refusals – how does it impact proponents	<p>“Will the government offer compensation if you can’t develop the land?”</p>	0	0	2	0
<b>Alignment and coordination across agencies and between different levels of government</b>		1	4	2	2
Alignment between different governments	<p>“Will there be work to align other protocols within different municipalities, Nations, regions?”</p>	1	2	1	1
Alignment with other Acts	e.g., Land Use Act	3	0	0	0
Recognition of Treaty Rights and Title	<p>“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?”</p>	2	0	0	0



Theme	Example quotes	Engagement Session Notes			
		First Nations	Arch & Heritage	Construction and Industry	Local Government
<b>Definitions (what is a heritage site or a site of significance)</b>	<p>“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?”</p> <p>“Is there discussion of adding sites to the provincial heritage registry?”</p> <p>“What criteria are being used to define ‘heritage value’?”</p>	5	6	1	3
Extend protections to sites post-1846.	<p>“Will protection be extended to post-1846 sites?”</p> <p>“Why is 1846 not being addressed now?”</p> <p>“If we don’t change 1846, how many more sites will be lost?”</p>	2	0	0	0
<b>HCA Process Efficiencies</b>	<p>“Combine HIP and SAP into 1 permit.”</p> <p>“One stop project assessment integration would be helpful,”</p>	3	7	7	6
<b>Mapping and information sharing for site management</b>	<p>“We do have definitions [locations] of sacred places but won’t share those locations with the province.”</p> <p>“How can landowners protect sites if the ranchers don’t know where they are?”</p> <p>“How will this capture new developments in areas without mapped sites?”</p>	1	6	0	6
Earlier identification of sites of significance	<p>“The earlier we can identify sites the better.”</p> <p>“Consultants try to give developers an early warning about issues they might encounter.”</p>	0	5	3	4



## Topic Area 2: Protections

Theme	Example quotes	Engagement Session Notes			
		First Nations	Arch & Heritage	Construction and Industry	Local Government
<b>Concerns related to reducing burden on proponents (re: permitting applications and decisions, stop work orders, etc.)</b>	<p>“Overlapping requirements that get put onto the proponent. Can’t it be streamlined?”</p> <p>“Reducing burden – the timeline is unpredictable. I would rather have a predictable timeline, length is less of an issue.”</p> <p>“Incentivize municipalities to use multi-assessment permits ... rather than having to go to the Heritage Branch, to reduce the burden.”</p>	0	2	1	1
<b>Data gap (mapping/identifying sites)</b>	<p>“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.”</p> <p>“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.”</p>	0	0	0	2
Data/information sharing concerns	<p>“There have been some significant sites in our territories that have been investigated. The results of these investigations haven’t been shared with us.”</p>	7	1	1	2
Intellectual property rights		2	0	0	0
<b>Intangible cultural heritage</b>	<p>“Will this include increasing protections around intangible heritage sites?”</p> <p>“Regarding intangible components of cultural heritage, is that contemplated in this suite of proposed amendments?”</p>	3	4	1	0
<b>Proactive rather than reactive</b>	<p>“Supporting innovation in design for avoidance or minimizing impacts to heritage sites.”</p> <p>“Needs more emphasis on monitoring to catch contraventions in areas of high concern”</p>	1	0	0	1



Theme	Example quotes	Engagement Session Notes			
		First Nations	Arch & Heritage	Construction and Industry	Local Government
<b>Protection of First Nation burial grounds</b>	<p>“Settler burials are covered under the Cemeteries Act.”</p> <p>“There’s an issue of respect here. You can’t just protect cemeteries and not Indigenous burial grounds”.</p> <p>“Why separate cemeteries at all?”</p>	7	2	1	0
<b>Protection to focus on First Nation peoples’ values rather than scientific value of cultural heritage</b>	<p>“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.”</p> <p>“The days of our ancestors’ belongings being for the purpose of western science is colonial mindset.”</p>	9	2	0	1
<b>Public education</b>	<p>“Enhance public awareness of heritage sites and sites of significance”</p>	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
<b>Authority to conduct enforcement</b>	<p>“I would like to see if the expanded authorities include [First Nations] governments.”</p> <p>“The jurisdiction of [First Nations] needs to be fully recognized by the province and by Canada.”</p> <p>“What are the expectations in respect to local government role in administration of fines or other compliance measures?”</p>	4	2	2	3
<b>Concerns about promoting the shadow/underground economy</b>	<p>“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?”</p>	2	1	5	0
<b>Concerns around the effectiveness of penalties</b>	<p>“Just a slap on the wrist”</p> <p>“Penalties aren’t proactive.”</p> <p>“Deterrents need to be effective”</p>	8	8	2	0
Archaeology as a non-renewable resource	<p>“How do you remediate a site? Archaeology is a non-renewable resource.”</p> <p>“If there is a disturbance, we can never get that information or history back and you can’t put a price on that.”</p>	4	1	0	0



Theme	Example quotes	Engagement Session Notes			
		First Nations	Arch & Heritage	Construction and Industry	Local Government
<b>Duty to report – Whose Duty, When?</b>	<p>“Introduce a duty to report heritage finds – I don’t think proponents would do that because then they would have to stop work.”</p> <p>“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.”</p>	2	4	3	1
<b>Public education will enhance compliance</b>	<p>“Public outreach is needed.”</p> <p>“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...”</p> <p>“I wonder if it would be better to go back to education and start education in school ... and educate people about Indigenous history.”</p>	4	4	1	2
<b>Stop work orders</b>	<p>“Adding clarity to the stop work order and what it looks like for local government would be helpful.”</p> <p>“First Nations want authority to give fines and stop work orders”</p>	4	1	0	1
<b>Timeline concerns (re: HCA violations or investigations)</b>	<p>“It took 2 years for the Crown to make the decision to proceed with charges.”</p> <p>“The lack of C&amp;E that is (not) happening it putting our cultural sites at risk of losing them.”</p> <p>“If there are delays, the [First Nations] gets blamed”</p>	8	3	2	2
<b>Who can be a permit holder?</b>	<p>“Is the Arch branch considering who can be designated as a permit holder?”</p> <p>“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.”</p>	2	1	0	0
<b>Who is exempt?</b>	<p>“How much does this apply to institutions like libraries and universities?”</p> <p>“Would the tickets or penalties apply to the provincial government as well as crown corporations?”</p> <p>“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?”</p>	1	1	0	0



#### Topic Area 4: Resourcing

Theme	Example quotes	Engagement Session Notes			
		First Nations	Arch & Heritage	Construction and Industry	Local Government
<b>None of the proposal are achievable without adequate funding and resourcing</b>	<p>“Is there a commensurate plan to resource these initiatives along with proposed implementation?”</p> <p>“Are there any initiatives in terms of collaborating with local governments to assist in capacity and resourcing?”</p> <p>“Wondering what resourcing the province will be providing to [First Nations] to support this”</p>	4	7	1	5
Long-term sustainable funding	<p>“long-term sustainable funding so that measures can be ‘proactive rather than reactive’.”</p> <p>“We really need to empower [by providing resources/funding] [First Nations] governments across the board to occupy this important space.”</p>	0	4	0	0
Proactive rather than reactive	<p>“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?”</p>	0	3	0	0
<b>Shortage of archaeologists and related professionals in the province</b>	<p>“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.”</p> <p>“There’s a lack of historians, education doesn’t prepare someone to work in these fields.”</p> <p>“The new C&amp;E proposals need way more people than you have to look after way more sites than you even have current records for.”</p>	0	2	0	4
<b>Repatriation</b>	<p>“There is funding for repatriation but the major bulk of what’s needed is for safe storage and display.”</p> <p>“Our local community had their own repository but doesn’t have the supports to do anything with those items.”</p> <p>“Resourcing should include funding for [First Nations] access to the RBCM to study, visit, and repatriate artifacts.”</p>	8	4	1	2



Theme	Example quotes	Engagement Session Notes			
		First Nations	Arch & Heritage	Construction and Industry	Local Government
<b>Resourcing for First Nations to develop methods and policies to protect heritage sites and artifacts, including C&amp;E training programs</b>	<p>“Trust that First People know their lands and can be on the archaeological site to monitor.”</p> <p>“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.”</p>	7	7	0	0
<b>Resourcing for public education</b>	<p>“Where is the investment in public outreach and education.”</p>	0	1	1	0