



January 21, 2016

Dear Chiefs,

Established in 2007, the purpose and mandate of the Joint Working Group on First Nations Heritage Conservation (JWGFNHC) is to identify First Nations' issues and concerns, develop options and make recommendations to: (1) enable a meaningful role for First Nations in provincial heritage conservation and (2) improve the provincial protection and conservation of First Nations burial sites, sacred sites and heritage sites in the spirit of the *New Relationship* and the *Transformative Change Accord*.

Following this mandate the JWGFNHC is happy to announce the launch of an Invitation for Proposal to the first pilot project to implement Section 4 of the *Heritage Conservation Act (HCA)* Section 4 of the HCA provides for agreements between the Province and First Nations with respect to the conservation and protection of heritage sites and heritage objects that represent the cultural heritage of the First Nation. A *section 4* agreement would provide effective recognition, respect, protection and conservation of First Nations cultural heritage sites as is permitted within existing law. The successful applicant to this project will be involved in the first agreement of this type.

The outcomes of this pilot project, which will run for approximately one year, will be reviewed and evaluated to determine both the effectiveness of the section 4 agreement as a means to protect and conserve heritage sites and objects, and the whether this type of agreement served as a successful method for First Nations to participate in heritage conservation. Based on the evaluation and program review, a decision will be made as to whether additional section 4 agreements will be negotiated in the future.

We are asking all interested First Nations to review the selection criteria and submit their proposal by March 18, 2016 for consideration. Only one project will be selected for this pilot.

Please find enclosed copies of the Invitation for Proposals, the selection criteria and readiness checklist, a copy of section 4 of the HCA, and the Frequently Asked Questions (FAQ). The Act can be found at the following link (http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/00_96187_01)

If you have further comments or questions, please contact Matthew Norris at Matthew@ubcic.bc.ca or Justine Batten at Justine.Batten@gov.bc.ca.

On behalf of the Joint Working Group on First Nations Heritage Conservation,


Judith Sayers


Francesca Wheler



First Nations Criteria & Checklist – First Nations Heritage Conservation Section 4 Agreement Pilot Project

Proposals must address the criteria and include all materials needed to complete the checklist identified below. The JWGFNHC will review submitted proposals to determine which of the proposals most closely meets the determined criteria.

Criteria for a First Nation Participant

1. There are no enabling resources for this pilot project. The participating First Nation will be required to provide its own resources and/or funding for this pilot.
2. Able to work within the Terms of Reference as set out by the JWGFNHC.
3. Able to select a specified part of their territory based on the following criteria:
 - a. A significant portion of the First Nations territory shall fall within “Crown” Lands;
 - b. No or minimal territory overlap or shared territory areas with other First Nation(s) except if there is a Protocol/Agreement with the other First Nation(s) regarding the shared territory that would support the purposes of the pilot project.
 - c. If fee simple/private land is included, the land must be in large blocks used for privately managed forestry, agriculture or similar purpose and there must be
 - i. a current agreement or agreement in principle with the land holder concerning the management of specific cultural heritage sites.
4. Preferably have diverse development activity within the specified pilot project area, thus enabling an evaluation of project effectiveness when facing diverse development situations.
5. The existence of prior work on heritage sites in the specified area, including the identification, mapping and cataloguing of sites through a Traditional Use Study or other previously completed work. At a minimum, data must be readily accessible to inventory. The First Nation will retain the ability to add additional sites and site information throughout the negotiations of the pilot project. Proposal must be able to identify the work used to catalogue/map the sites.
6. Have a detailed inventory of heritage sites and objects with spiritual, ceremonial or other cultural values in place. Ideally, there will be a variety of sites within the project area, such as burial sites, sacred sites, and those heritage sites currently identified and defined by the HCA. It is anticipated that there must be a minimal level of description of and mapping of the sites in order to properly manage them.
7. Will set out a workplan/proposal indicating how they will conduct the inventory, including
 - a. specifying definitions
 - b. establishing protection measures/mechanisms
 - c. dealing with confidential/sensitive information

- d. negotiating an agreement/MOU/protocol on how the established protection measures/mechanisms will be carried out.
8. Have experience in negotiating agreements, protocols or other instruments to deal with lands and resources. The workplan/proposal shall consider stages of the project, including the initial establishment of the project specifics, definitions, etc, and a subsequent evaluation period. The workplan/proposal should include a timeline for consideration and make reasonable efforts to complete this project and have the pilot operational within 12 months, with a maximum year long evaluation period to follow, during which project enhancements may be discussed by both parties.

CHECKLIST for a First Nation Participant

- Identify area of territory with minimal overlap or shared territory with neighbouring nations.
Include a map
- In-progress or completed inventory of heritage sites, sacred sites and objects with spiritual, ceremonial or other cultural values.
- Identified area has varying types of activity occurring on it, e.g. harvesting, development.
- Description and/or map available of identified area.
- Workplan/Proposal prepared as requested in criteria.
- A statement of readiness identifying experience in this field and work that the First Nation has accomplished with respect to heritage-related policies or protections.
- There are no enabling resources for this pilot project. The participating First Nation will be required to provide its own resources and/or funding for this pilot.

Section 4 of the Heritage Conservation Act of BC

Agreements with first nations

- 4** (1) The Province may enter into a formal agreement with a first nation with respect to the conservation and protection of heritage sites and heritage objects that represent the cultural heritage of the aboriginal people who are represented by that first nation.
- (2) An agreement under subsection (1) must be in writing and must be approved by the Lieutenant Governor in Council.
- (3) Subsection (2) does not apply to an agreement that is entered into under section 20 (1) (b).
- (4) Without limiting subsection (1), an agreement made under this section may include one or more of the following:
- (a) a schedule of heritage sites and heritage objects that are of particular spiritual, ceremonial or other cultural value to the aboriginal people for the purpose of protection under section 13 (2) (h);
 - (b) a schedule of heritage sites and heritage objects of cultural value to the aboriginal people that are not included in a schedule under paragraph (a);
 - (c) circumstances under which the requirements of sections 13 (1) and (2) and 14 (1) do not apply with respect to heritage sites and heritage objects, or to types of heritage sites and heritage objects, for which the first nation administers its own heritage protection;
 - (d) policies or procedures that will apply to the issuance of or refusal to issue a permit under section 12 or 14 with respect to
 - (i) sites and objects identified in a schedule under paragraph (a) or (b), or
 - (ii) other sites and objects or types of sites and objects identified in the agreement;
 - (e) provisions with regard to the delegation of ministerial authority under sections 12 and 14 (4);
 - (f) any other provisions the parties agree on.
- (5) For the purpose of section 13 (2), if an agreement includes a schedule under subsection (4) (a), the agreement must identify actions which would constitute a desecration or which would detract from the heritage value of scheduled sites and objects, and different actions may be identified for different sites or objects or for different classes of sites or objects.



FAQ – HCA Section 4 Agreement Pilot Project

Jan 15, 2016

What is the Joint Working Group on First Nations Heritage Conservation?

- Established in 2007, the purpose and mandate of the Joint Working Group on First Nations Heritage Conservation (JWGFNHC) is to identify First Nations' issues and concerns, develop options and make recommendations to: (1) Enable a meaningful role for First Nations in provincial heritage conservation and (2) improve the provincial protection and conservation of First Nations burial sites, sacred sites and heritage sites in the spirit of the *New Relationship* and the *Transformative Change Accord*.

What is the Heritage Conservation Act?

- The *Heritage Conservation Act* (HCA) is provincial legislation that seeks to protect heritage sites in British Columbia. According to the *HCA*, a heritage site is land "that has heritage value to British Columbia, a community or an aboriginal people" (British Columbia 1996). These sites are protected on both public and private lands and at the very least, include graves, shipwrecks, plane wrecks, First Nations rock art sites, and sites with physical evidence that predates 1846. It also includes other sites that have been designated protected by the provincial government.

What is a Section 4 Agreement?

- Section 4 of the HCA provides for agreements between the Province and First Nations with respect to the conservation and protection of heritage sites and heritage objects that represent the cultural heritage of the First Nation. Such an agreement would provide effective recognition, respect, protection and conservation of First Nations cultural heritage as is permitted in the existing law.

What is the purpose of the HCA Section 4 Pilot Project?

- The purpose of the HCA Section 4 Pilot Project is to review and evaluate whether or not Section 4 agreements are an effective mechanism for the participation and protection of First Nation communities in heritage conservation. Based on the evaluation and program review, a decision will be made as to whether additional section 4 agreements will be negotiated in the future.

Who can apply?

- Any First Nation who can adequately demonstrate the requirement selection criteria.

What are the selection criteria?

- The selection criteria can be found on the “First Nations Criteria & Checklist” document attached to the invitation package.

How many projects will be accepted into the pilot?

- As this is the initial pilot project, only one project will be selected to go forward at this time.

When is the application deadline?

- The application deadline March 18th, 2016.

Will other First Nations be able to negotiate a Section 4 agreement?

- The pilot project will be evaluated after a year to determine if the section 4 agreement is effective and workable. A decision will be made following this review.

Will further Section 4 projects be initiated?

- Based on the evaluation and project review, a decision will be made as to whether additional section 4 agreements will be negotiated in the future.

Is funding provided to cover associated project costs?

- There is no funding associated with this project. Interested First Nations will be required to provide their own project resources if they want to be considered for the pilot. The actual costs of the pilot are unknown at this time as they are dependent on a number of factors including, but not limited to, the size of the project area, the number of sites, site types and staffing.

If I have any further questions who can I contact?

- If you have any further questions please contact Matthew Norris at Matthew@ubcic.bc.ca or Justine Batten at Justine.Batten@gov.bc.ca.