

March 5, 2021

Dear Deputy Minister Allan and Deputy Minister Caul,

On behalf of the First Nations Members of the Joint Working Group of First Nations Heritage Conservation, we would like to thank you for taking the time to meet with us. This letter is in follow up to that meeting with you on February 23, 2021. In that meeting you heard our frustrations with the Province's bureaucratic processes and inaction on heritage conservation issues and the implementation of DRIPA in this regard. We are cautiously optimistic with the outcomes of the meeting. In that meeting we heard your commitment and understanding on a number of issues including:

Heritage Conservation Act (HCA) Alignment:

We heard that you will be seeking a mandate from your Ministers to prioritize alignment of the HCA with the *Declaration on the Rights of Indigenous Peoples Act* (Declaration Act). It is our understanding that these amendments will be done in collaboration with Joint Working Group on First Nations Heritage Conservation (JWGFNHC) as well as in consultation with all First Nations. It is also envisioned that alignment would result in pathways in the legislation that breathe life into section 4 of the HCA (if necessary) as well as make room for section 7 agreements under the Declaration Act in relation to heritage and culture.

Stó:lō Section 4 Pilot:

We voiced our frustrations that this pilot has been five (5) years mired in bureaucratic process. In our meeting with you, we have heard that you are committed to moving this pilot forward as soon as possible by clearing up the technical pieces. We strongly recommend that follow-up on this piece be expedited.

Section 4 HCA Agreements:

Various legal opinions from the Province regarding Section 4 of the HCA say that is not legal. We continue to doubt legal opinions that contradict the clear wording of s.4 and that defeat the intent of the s.4 amendment which was expressed in the Legislature during the amendment process as reflected in the Hansard dated April 18 1994. We heard your commitment to look into this issue further with Deputy Attorney General, Richard Fyfe and seek clarity on a quicker route to implementing section 4 agreements with First Nations.

Section 7 Agreements Under the Declaration Act:

We heard individual or groups of First Nations are free to make an application to a Minister to enter into section 7 agreements on heritage conservation and cabinet approval is needed for mandate to negotiate. However, there are apparently still concerns on the provincial side about fettering ministerial discretion and we are interested in this being resolved as soon as possible. Our position is that this process needs to be streamlined and the tools need to be developed now for First Nations to enter into these agreements for Heritage Conservation. We recommend that the JWGFNHC develop a template that First Nations can use for Heritage Conservation purposes under section 7 of the Declaration Act.

Re-organization of Provincial agencies dealing with First Nations Heritage Conservation:

Through our various experiences both in and outside of the JWGFNHC, we have found the approach to heritage conservation and archeology steeped in colonial notions, with a focus on impacts to industry operations and private home-owners while the impacts to First Nations' rights, title, sacred sites and way of life have taken a back seat. To ameliorate this, we recommend the amalgamation of the Archeology Branch and Heritage Branch. We also advise that there needs to be clear champion for First Nations Heritage Conservation on the Provincial team. If a champion is not to be found within FLNRORD, then we advise that the responsibility be brought in to MIRR.

BC First Nations Role at the Royal BC Museum (RBCM):

There continues to be systemic issues with museum and curatorial systems within the Province. This system was built on the dispossession and oppression of our cultural heritage. This continues to be an issue, as seen with recent events at the RBCM. We call for greater First Nations representation throughout the institution, but especially represented on the board and directly involved in respectful use and display of our cultural heritage. We also urge the Province and former MLA Carole James, who has been appointed to the board of RBCM, to work with First Nations to address these issues.

In closing, we thank you for a productive meeting. We recognize that you will be seeking mandates to advance this work and look forward to joint follow-up work. It is our hope that through these various dialogues, a clear champion for First Nations heritage conservation will emerge so that we may advance reconciliation in this area. We look forward to your response and seek a follow-up meeting to continue advancing the work together.

Sincerely,

*Judith Sayers*

Judith Sayers. Co-Chair JWGFNHC