



DRIPA **Draft Action** **Plan** Submission

Squamish Nation Council

squamish.net



Skwxwú7mesh Úxwumixw
Squamish Nation



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The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) is defined as a “universal framework of minimum standards for the survival, dignity and well-being of the Indigenous peoples of the world and it elaborates on existing human rights standards and fundamental freedoms as they apply to the specific situation of Indigenous peoples’.” The Truth and Reconciliation Commission of Canada (TRC) called on “federal, provincial, territorial, and municipal governments” to use the United Nations Declaration on the Rights of Indigenous Peoples as the “framework for reconciliation.” (Article 43).

We are heartened by the province’s commitment to the implementation of UNDRIP, and the full enjoyment of the articles within. It has been a meaningful step in the right direction between the provincial government and First Nations in British Columbia, and has provided many in the Squamish Nation with greater hope for the future. This is progress that is important, but requires continued effort to keep on a positive path forward grounded in the principles of UNDRIP, including self-determination and self-government.

That is why we have written this fulsome submission to convey the importance and seriousness of achieving dignity by, for, and with Indigenous people. The goals and approach within the *Declaration on the Rights of Indigenous Peoples Act* (DRIPA) Draft Action Plan must reflect the commitments of UNDRIP, and we believe with the guidance from this submission significant improvements can be achieved. The Draft Action Plan can and should do more to reflect the need to work hand in hand, moving towards meaningful co-development and away from simply engaging or consulting. With full knowledge of the mutual respect required, and appreciation of the focused effort to see this work realized, we look forward to meaningful next steps.

Tiyáltelut
Councilor Kristen Rivers
 Squamish Nation Council Co-Chair

Skwetsi7meltxw
Councilor Joshua Joseph
 Squamish Nation Council Co-Chair



Introduction

The Sk̓wx̓wú7mesh Úxwumixw—or Squamish Nation—are descendants of the original Sk̓wx̓wú7mesh -speaking villages throughout the watersheds of the Squamish River, Mamquam River, Howe Sound, English Bay, False Creek, and Burrard Inlet. Today, the Squamish Nation is governed by the Squamish Nation Council, whose members are elected for a four-year term and oversee the administration and finances of the Squamish Nation and associated entities. With over 4,100 members, the Squamish Nation is one of the largest First Nations in British Columbia.

The goal of the Squamish Nation has always been to enhance the Úxwumixw cultural values and traditions through respect, equality and harmony for all. Key to achieving this goal is full governmental status and authority on the lands and waters in the territory and building the capacity—fiscal and organizational—to provide opportunities, services, and education that empower members.

The *BC Declaration on the Rights of Indigenous Peoples Act* (DRIPA) represents the first opportunity in Canada's history for the Squamish Nation to achieve this goal without having to either extinguish rights in order to gain title (as was the case through the treaty process) or having to take an expensive and time-intensive route through the courts to have our title and rights recognized.

For that reason, the opportunity presented by DRIPA inspires a great deal of hope in the leadership of the Squamish Nation. This may be even more true for First Nations without the fiscal capacity and the associated options of the Squamish Nation.

However, this optimism is greatly tempered by the contents of the DRIPA Draft Action Plan. It contains various commitments and ideas that are remarkably similar to those floated by provincial governments in the past which did not end up leading to substantive changes. Many participants in the interviews conducted for this submission described how emotionally torn they were by the Draft Action Plan. While the commitments this provincial government has made to the principles of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) may seem sincere, there was nothing in the Draft Action Plan to indicate that the government understood or learned from the history of failed commitments, nor how damaging it would be to raise hopes again and then fail at implementation.

What follows in this report seeks to provide the feedback the provincial government needs on how to prevent another cycle of government promises that fall far short of their aspirations in the implementation phase.

The information is organized into two sections. The first is **Key Principles** which looks at the feedback that applies across all four themes. The second section is **Theme-By-Theme Feedback** which identifies priorities the Squamish Nation sees within each theme area, as well as what's missing.

With this report, we are hoping that government can translate the commitment to the principles of UNDRIP and the aspirational goals of DRIPA into real change in our communities and the lives of our people.



Key Principles

Overall, the Squamish Nation was impressed with the scope of ambition for the DRIPA Draft Action Plan, especially considering the five-year time horizon it is expected to be completed in. However, there were a number of concerns. This section gives broad feedback on four key principles that are applicable to all themes in the Draft Action Plan. The section following this one provides theme-by-theme feedback.

1. Accountability

Building on concerns about the gap between the aspirational commitments and the ability of the Draft Action Plan to deliver, accountability is a key issue that needs to be more directly addressed.

How will the work be done?

In the past one of the reasons commitments and plans have failed is a lack of understanding by government of the connectivity of issues in First Nations communities. For example, in order for languages to thrive, speakers of the language need to thrive. Within each item listing critical actions, timelines and more clarity about who is responsible for the actions would help increase confidence in the Draft Action Plan and illuminate any gaps. In addition, aspects of DRIPA are highly politically charged, so ensuring those who are accountable have the power and authority they need to effectively implement is important.

What is the desired outcome?

Defining success in a high-level document is critical to ensuring accountability, especially with so many diverse actions to track. Making good policy is akin to making good bread: anything that doesn't go in early in the process doesn't form part of the structure and ends up having to be added on top. In our opinion, accountability should be built into the fundamental structure by clearly stating metrics of success within the five-year time frame of the Draft Action Plan. The currently stated goals and objectives are great, but highly unlikely to have been achieved by 2026.

Some measures that we would respectfully suggest will indicate that this first five-year plan has been a success:

- Are there more tools available to nations to pursue justice, well-being, and prosperity?
- Has it made a tangible and measurable difference in the lives of Indigenous people?
- Do the nations have more capacity to pursue their own plans, partner with other nations, and respond to the many requests from non-Indigenous governments?

Who will do the work?

Many of the items listed in the document are not the sole jurisdiction of the provincial government and in some cases are not the jurisdiction of the provincial government at all (i.e. housing on-reserve). To give the Draft Action Plan meaning in these areas, more clarity is needed about how the provincial government will compel the involvement of other orders of government and/or whether they are prepared to assume the responsibility themselves.

2. Respect

In order for DRIPA to be successfully implemented, the provincial government needs to see First Nations as a Constitutional order of government possessing substance, power, and jurisdiction, and work to achieve shared goals in areas of shared jurisdiction through collaboration and co-creation just as the provincial government already does with the federal government. The fact that First Nation governments do not receive the same level of recognition that statutorily enacted governments such as local governments and school boards receive is unacceptable.

First Nations as governments

Section 35 of the *Constitution Act, 1982* recognizes First Nations inherent right to self-government which means that a First Nation's authority to govern its territory is derived from the culture, laws, and knowledge of First Nations that has been established over millennia. The current Draft Action Plan does not evidence an understanding of this and that creates deficiencies. For example, cultural support should be driven from the community up, not from governments down, and elders should be leading and informing it.

First Nations are not "advisors" in their own territory

There are some good moments of acknowledging the need for collaboration in the Draft Action Plan, but it needs a full shift away from any language that suggests the provincial government intends to "engage", "consult" or otherwise treat First Nations as advisory. Instead, the Draft Action Plan needs to fully adopt the language of collaborate, co-create and co-develop. Practically speaking though what do these words mean? Simply put, collaboration without recognition of First Nations as a Constitutional order of government means nothing. Any language that suggests the provincial government has the right and/or authority to conceive of, create, and implement legislation without the full and equal partnership of First Nations at each step does not meet the standards set out in UNDRIP and therefore DRIPA.

Holistic approaches

The current approach of the Draft Action Plan is fundamentally colonial in the way that it is compartmentalizing problems and respective solutions. Colonization had broad and deep impacts, and this calls for a holistic response. For example, the Draft Action Plan references the need for housing for post-secondary students but not those in K-12 education. If those younger students don't have the supports they need, they won't make it to post-secondary education. Another example is that the law may support the right to control and transmit culture and food, but if people are not able to participate in traditional food activities because of encumbrances on the land and racism, then the right doesn't really exist.

Minimum expectations for acknowledgement of authority

Three areas stand out in the Draft Action Plan as not meeting minimum expectations to demonstrate respectful relationships in a rights-based framework.

- a. The provincial government should recognize First Nations as a Constitutional order of government that has the authority to define what land management looks like on their territory and manage in a way that industrial activity doesn't impact the rights and title of the First Nation. The courts provide direction on the minimum expectations in a rights-based framework in many cases including *Tsilhqot'in Nation v. British Columbia* and more recently in *Yahey v. British Columbia*.
- b. The provincial government must recognize First Nations governments as a Constitutional order of government that have the authority to make and enforce laws and regulations, own land, raise money, and be exempt from provincial and local government taxes as other Constitutional orders of government are and which statutory level governments have been provided. In addition to the general principle of fairness, it is particularly egregious that First Nations are forced to pay a Provincial tax to reacquire lands that originally belonged to our peoples (Property Transfer Tax) and ongoing taxes (Property Tax).
- c. A mechanism for co-juridical authority needs to be negotiated and consented to by First Nations governments that is legislation, not policy or regulation.

3. Leadership 4. Setting Priorities

Supporting a shift in tone and approach from senior civil servants

The Squamish Nation has been heartened by the stated commitments of the current provincial government in regards to the rights of Indigenous people. However, while the political leadership and vision has changed, much of the bureaucracy remains the same. This is especially true at the senior levels, and while elected leaders in government may set the direction, it is these senior leaders in the civil service who largely decide how that direction will be implemented. More information is needed on how government plans to shift the tone and approach of senior staff. At a minimum the language in the Draft Action Plan and the experience of working with provincial government staff speak to a critical need for mandatory, ongoing, structured, and well-planned training of the civil servants on the meaning of Indigenous rights.

The Draft Action Plan is incredibly ambitious and will stretch the capacity and resources of both the provincial government and First Nations governments. The order in which the actions are done will be key to building support and momentum to carry it through the next five years, as well as whether or not the parties are willing and able to continue the work after that.

Broadly speaking, implementation would benefit from high-level criteria to help establish priority actions. The Squamish Nation proposes the following three criteria with specific recommendations for action in the next section on theme-by-theme feedback.

First, support for building strong government-to-government relationships with neighbouring nations is critical to developing capacity as demonstrated by the Squamish Nation's own experience in co-creating the MST Development Corporation and other joint projects with the three nations.

Second, any actions which build internal capacity for First Nations will greatly aid in the ability of First Nations to sustain the work over the long arc that it will require to be successful. Actions that build distinctions-based fiscal capacity and start with "co-develop" or reform are good places to start.

Finally, ongoing support for DRIPA within First Nations communities will be critical to continuing this work and it will only be gained through concrete actions that demonstrate clear outcomes that benefit people as quickly as possible.



Theme-by- Theme Feedback

The following section goes through each of the four themes defined in the Draft Action Plan and provides feedback on priorities as the Squamish Nation sees them as well as what's missing from each theme. Due to the short timeline for input, it was not possible to do a thorough evaluation using a criteria matrix. Priorities were chosen based on a loose application of the following criteria:

- Overlap with the *Squamish Nation Strategic Plan 2020-2023*
- Will it build a demonstrable increase in capacity for the Squamish Nation within the five-year Draft Action Plan timeline (2021-2026)?
- Will it produce concrete outcomes within the five-year Draft Action Plan timeline (2021-2026)?

Following this section, there is a final section outlining other comments, concerns, and issues that fall outside the scope of the key principles that have been identified.

Theme 1 – Self-Determination and Inherent Right of Self Government

The goals of this theme are critical to the Squamish Nation’s work as identified in the *Squamish Nation Strategic Plan 2020-2023*.

Priorities

Specific priorities within the 13 identified actions in this theme are as follows:

<p>1.13</p>	<ul style="list-style-type: none"> Inclusive Regional Governance 	<p>Participants from all departments and Council pointed to this as a critical action to achieve a number of the Squamish Nation’s goals along with the representation identified in “What’s Missing” on the next page.</p>
<p>1.11</p>	<ul style="list-style-type: none"> Nation and Governance Rebuilding 	<p>Investing in support for First Nations to develop their own constitutions is critical to ensure the frameworks exist to properly assert and operationalize inherent self-government and legal traditions. This governance re-building includes creating stronger alliances between First Nations governments and was identified as the most urgent and critical need for building capacity. MST Development Corporation and other collaborations between the three nations are a potent example of what can be achieved through this work.</p>
<p>1.4 & 1.5</p>	<ul style="list-style-type: none"> Distinctions-based fiscal relationship and framework Distinctions-based policy frameworks for resource revenue-sharing 	<p>Financial capacity is the key. The Squamish Nation is very conscious of how many more options they have available because of the fiscal capacity they’ve gained through economic development activities. All nations should be able to access this capacity and it should be accessible through the same avenues other governments use to raise money (taxes, resource use rents, fees). Without fiscal capacity increasing there is not functional ability to access the rights embedded in UNDRIP and DRIPA.</p>
<p>1.9, 1.10 & 1.11</p>	<ul style="list-style-type: none"> Education governance 	<p>In addition to fiscal capacity, there are also fundamental violations of UNDRIP principles embedded in the Province charging First Nations a tax to re-acquire land that originally belonged to them (Property Tax Transfer) and ongoing taxes (Property Tax). The Province should waive these taxes as it does for itself, other governments and government entities.</p>
<p>1.9, 1.10 & 1.11</p>	<ul style="list-style-type: none"> Education governance 	<p>Education and training are identified as critical priorities in the <i>Squamish Nation Strategic Plan 2020-2023</i> and all actions related to it are priorities, especially those which produce tangible outcomes.</p>
<p>1.7</p>	<ul style="list-style-type: none"> Mental health governance 	<p>Capacity and decision-making authority to deliver mental health services to members continues to rise in importance with the multiple impacts of the pandemic, toxic drug crisis and the unveiling of the Indian Residential School findings that will likely continue for many years to come.</p>

What's Missing

- **Representation on TransLink and/or Mayors' Council.** Action 1.13 (Supporting Inclusive Regional Governance) needs to be expanded from regional district boards to include TransLink and/or the Mayors' Council.
- **Support Indigenous Governing Bodies and local governments in efforts to implement UNDRIP at the local level.** While this work is essential for both parties and part of implementing DRIPA, First Nations and local governments currently lack the fiscal capacity to properly support this work.
- **Representation on Boards of Education.** Education is of critical importance to the Squamish Nation. The *School Act* currently does not acknowledge that First Nations have an inherent right to make decisions about their children's education regardless of whether Indigenous children are in First Nations controlled schools or colonial ones. This needs to be changed and representation of host nations directly at Board of Education tables should be considered as a way to act on these rights.
- **Consideration of First Nations involvement in Independent School governance.** Independent schools present an even bigger challenge that needs to be acknowledged and addressed in collaboration with host nations in whose territory the independent school exists.

Theme 2 – Title and Rights

The goals of this theme are critical to the Squamish Nation’s work as identified in the *Squamish Nation Strategic Plan 2020-2023*.

Priorities

Specific priorities within the 13 identified actions in this theme are as follows:

2.7, 2.8, 2.9, 2.10, 2.11	<ul style="list-style-type: none"> • Stewardship of Environment, Land and Resources • Watershed Security • Conservation & Biodiversity • Wild Salmon • Forest policy 	<p>Any policies related to sovereign and sustainable management of land, fisheries and water are of the highest importance to the Squamish Nation and fundamental to the success of DRIPA.</p> <p>These five actions also need clear language that puts First Nations at the table. The first two actions speak to an intention to “co-develop” while subsequent ones simply “engage” or even worse are “in consultation”. The Squamish Nation believes that each of the five should clearly state an intention to co-develop and/or co-create all of these actions with First Nations.</p>
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What’s Missing

- **Other orders of government.** The Squamish Nation would like clarity on how these processes will work in areas of overlap with other orders of government (local, federal).
- **Support for Guardian programs.** “Guardian programs” allow First Nations to occupy their traditional territory and assist in the co-management of resources and sustainability as it relates to provincial and federal laws, local government bylaws, and the protocols and laws of the First Nations. These programs would provide a visual presence, education, and local knowledge as well as collaborate on enforcement with other policing units. In addition to Guardians programs, greater participation of Squamish Nation members hired into roles such as conservation officers and park rangers would help to achieve better enforcement and education.

Theme 3 – Ending Indigenous-Specific Racism and Discrimination

General Comments

Theme 3 was referenced as the strongest of the three sections in that it acknowledges and builds on the previous work that has been done (e.g. *In Plain Sight*, TRC Calls to Action, MMIWG Calls to Justice, updating *Police Act*). Taking this approach in other sections would be advisable and increase confidence in the overall document.

While all of the actions in this section are important, few directly overlap with Squamish Nation priorities as expressed in the *Squamish Nation Strategic Plan 2020-2023*. Those that do include language visibility, anti-racism work in the K-12 school system, and cultural safety training in the public service.

Some of the language in this section could use improvements. For example, the training referenced in **3.1** should be mandatory, not simply provided. **3.9** suggests that transportation is only needed in rural areas. In reality, getting around large metro areas from reserves that often lack direct transit can be just as dangerous.

A final note: one of the actions (**3.2**) relates to recruiting more Indigenous people into the public sector. This may be somewhat at odds with the Squamish Nation's own goal of hiring more members into the Nation's government operations. It doesn't make the action undesirable but it does create some tensions worth considering in the implementation phase.

Theme 4 – Social, Cultural and Economic Well-Being

The goals of this theme are critical to the Squamish Nation’s work as identified in the *Squamish Nation Strategic Plan 2020-2023*.

Priorities

Specific priorities within the 38 identified actions in this theme are as follows:

<p>4.1, 4.2, 4.3, 4.4, 4.5</p>	<ul style="list-style-type: none"> • Indigenous education achievement • Indigenous teachers • Indigenous Education Councils • Better support for Indigenous students • Indigenous post-secondary and training framework 	<p>Any policies related to education and training are of the highest importance to the Squamish Nation and fundamental to the success of DRIPA.</p>
<p>4.19</p>	<ul style="list-style-type: none"> • Build more housing 	<p>Any policies related to housing are of the highest importance to the Squamish Nation and increasing the capacity to provide housing for members and their families will be a key marker of the success of DRIPA. The Squamish Nation has a goal to have all members housed in safe, affordable and adequate housing within a generation.</p> <p>In the current language for this action, it does not adequately indicate that government understands the particular barriers Indigenous people face in accessing housing. Suggesting revised language:</p> <ul style="list-style-type: none"> • <i>4.19 Build more housing for Indigenous peoples that recognizes the unique needs and income conditions of Indigenous Peoples both on- and off-reserve and pursue new federal contributions.</i>
<p>4.20, 4.21, 4.22, 4.25</p>	<ul style="list-style-type: none"> • Preservation and revitalization of Indigenous languages • Cultural preservation and revitalization • K-12 First Nation Language Policy 	<p>Any policies related to increasing the understanding of culture and use of language are of high importance to the Squamish Nation. Under 4.20 and 4.25, it is critical to change the language to be clear that these actions are intended to be co-created and not led by the provincial government as currently indicated. Suggested revised language:</p> <ul style="list-style-type: none"> • <i>4.20 Co-Develop legislative tools with a working group on the preservation and revitalization of Indigenous languages in B.C.</i> • <i>4.25 Co-Develop with First Nations across B.C. amendments on the Heritage Conservation Act to ensure consistency with the UN Declaration and the protection of Indigenous heritage sites and objects, including an enhanced role for First Nations in decision-making.</i>

<p>4.6, 4.7, 4.8, 4.11</p>	<ul style="list-style-type: none"> • Health governance • Primary Care Networks • Holistic wellness • Pandemic health and wellness 	<p>Any policies related to increasing the capacity to deliver health and wellness are of high importance to the Squamish Nation.</p>
<p>4.34</p>	<ul style="list-style-type: none"> • Clean Energy 	<p>The Squamish Nation, along with other First Nations, view clean energy as imperative for environmental health and economic opportunity as well as a key part of building self-sufficient communities.</p> <p>To reflect this importance, the language should clearly indicate that First Nations have an equal role to play. Suggested language revision:</p> <ul style="list-style-type: none"> • <i>4.34 Collaborate with First Nations to identify and support clean energy opportunities related to CleanBC, the Comprehensive Review of BC Hydro, and the B.C. Utilities Commission Inquiry on the Regulation of Indigenous Utilities. (Ministry of Energy, Mines and Low Carbon Innovation).</i>

What's Missing

Social

- **Financial support for Indigenous students to access post-secondary.** In addition to tuition waivers, bursaries and scholarships, Indigenous students often also need financial supports for housing and expenses while at university and travel to and from their home communities.
- **Traditional health and wellness.** Traditional healers should be recognized and supported financially in the health care system for traditional healing methods as alternative practices to western medicine.
- **Resettlement support for people coming out of prison.**
- **Indigenous men.** There is lots of focus on children, women, girls and elders but not on men. Recognition of fathers and families is important for strong communities.

Cultural Heritage

- **Protect & respect burial sites.** The *Cemeteries Act* needs to be amended to protect Indigenous cultural sites and burial areas to treat them like burial sites. Confidentiality may be important to protect burial sites.
- **Expand 4.26 beyond parks and wilderness areas.** Reflecting Indigenous peoples' cultures and histories in parks is good but limiting. It should be expanded to all provincially owned and/or controlled lands.

Economic

- **Property Transfer Tax exemption.** Recognize and affirm the existence of Indigenous governments with fiscal fairness by co-developing with First Nations across B.C. amendments to the Property Transfer Tax Act for exemption of Property Transfer Tax to the First Nations or corporations wholly owned by the First Nations.
- **First right of refusal on provincial land sales.** This is especially critical for First Nations whose territory is largely urban because the land base has largely been alienated from them. In order for there to be economic reconciliation there must be access to land.
- **First Nations governments must be able to own land directly.** Having "public authority status" on all their land-holdings would allow the Squamish Nation to lease the land and make revenue without selling it. The current system requires the Squamish Nation to hold these lands through numbered companies which creates a lot less transparency and potential governance challenges. Ultimately this is a fairness issue: if First Nations are indeed equal governments then they should have the same rights that the province grants itself to manage affairs in the best interests of British Columbians.
- **Clear language on the opportunity for non-Indigenous people of economic reconciliation.** Friction exists with economic incumbents who fear economic reconciliation as something that takes away from them. Clear language is needed that illustrates how economic reconciliation gives everyone—Indigenous and non-Indigenous—more certainty.

Other Comments

The following comments do not fit directly into themes but bear consideration.

- Technology:** Traditional cultures and technology aren't thought of together and as a result technology is not brought to bear in the same way that it is used to solve problems in other sectors. More thought should go into a comprehensive Indigenous-led technology strategy for governance, service delivery, cultural awareness and education, and economic development.
- Data sovereignty:** First Nations governments should have zero barriers to access any data that relates to the Nations' territory, waters, and peoples.
- Cultural competency and safety training:** There is no training or resources in the Draft Action Plan to support businesses or unions to understand cultural competency and/or cultural safety training, but success of much of the education, employment, and training focused actions will require that they participate in it.
- Reaffirming the nation-to-nation relationship:** One approach to do this could be similar to TRC Call to Action 45 which calls for co-developing a Royal Proclamation of Reconciliation to reaffirm the nation-to-nation relationship. Whatever form it takes, the tone of the Draft Action Plan underlines the need to repeal the European approach and doctrines that try to establish dominance or superiority and replace it with one of mutual respect and co-creation between equal partners.



Cht kw'enmantúmiwit

Thank you for taking the time to consider this feedback to the DRIPA Draft Action Plan. As outlined in our opening letter, DRIPA must reflect the commitments of UNDRIP, and we believe with the guidance from this submission significant improvements can be achieved.

If you require further information about any of the material in this submission, please don't hesitate to contact us.



**Sk̓wx̓wú7mesh
Úx̓wúmixw**

Squamish Nation