

**REPORT TO FIRST NATIONS RELATIONS COMMITTEE
MEETING OF WEDNESDAY, NOVEMBER 22, 2023**

SUBJECT **Archaeology and Heritage Conservation Update**

ISSUE SUMMARY

To provide a summary of the CRD's approach to archaeology and heritage conservation.

BACKGROUND

At the 2023 Forum of All Councils, Chief Ron Sam from the Songhees Nation indicated that the CRD 'is listening' when it comes to archaeology, and that this should have been done a long time ago. This report provides the context to this remark as well as an update on current archaeological and heritage conservation initiatives.

Heritage conservation in BC is legislated by the provincial Heritage Conservation Act (HCA). The provincial government has guidelines and templates for local governments regarding archaeological resource management.

All archaeological sites, whether recorded or as-yet unidentified, on private and public land, intact or disturbed, are protected by legislation and may not be altered, damaged, moved, excavated in, or disturbed in any way without a permit issued under the HCA. If unanticipated archaeological resources are found, the proponent/developer must stop work immediately and contact the Archaeology Branch for further direction. The HCA authorizes compliance and enforcement actions that may be taken against those who damage, desecrate, or alter heritage sites or objects without authorization. The HCA also contains provisions authorizing the Province to enter into agreements with First Nations with respect to additional mechanisms to conserve and protect heritage sites and objects that represent their cultural heritage.

The *Heritage Conservation Act* Transformation Project, currently underway, aims to bring the legislation into alignment with the provincial Declaration on the Rights of Indigenous Peoples Act. This process is intended to support reconciliation while increasing certainty and stability for First Nations, landowners, proponents, developers, and government. It is anticipated that changes to the HCA will provide increased clarity, direction and support to local governments regarding the level of archaeological oversight required at the local government level.

First Nations are increasingly asserting their own management and approaches to heritage conservation. Important cultural places, including archaeological sites, still hold great significance to and are actively managed by First Nations. Many First Nations are asking local governments to involve the Nations' in management and decision-making related to heritage conservation, in addition to implementing the HCA. First Nations often expand the definition of heritage sites to include intangible cultural resources, such as a location with historical or cultural significance, in addition to registered archaeological sites.

The CRD's *Protection and Conservation of Heritage Sites Policy* was adopted in 2020. The policy facilitates the protection and conservation of heritage and archaeological sites within the CRD and ensures corporate compliance with the HCA. The policy also directs staff to engage with First

Nations with respect to the management and protection of archaeological sites.

In March of 2022 the CRD created a new position and hired a Manager of Archaeology. The in-house archaeologist works closely with First Nations, regulators and operational staff across all Divisions to provide direction, technical support and training to CRD initiated projects, train CRD staff and volunteers, develop and refine CRD policy and guidelines, collaborate with First Nations to support their cultural heritage management objectives, and ensure compliance with provincial legislation and best practices.

IMPLICATIONS

First Nations Reconciliation

Working in collaboration with First Nations on the management and protection of archaeological sites and areas of cultural importance is a significant component of reconciliation. First Nations care deeply about their ancestral lands, the belongings of their ancestors and protection of ancestral burial sites. It has been communicated to CRD that the protection and care of the land as related to archaeological sites and cultural landscapes is an inherited duty and an integral part of being Indigenous. CRD projects and service delivery have the potential to impact and harm First Nations communities through the disturbance of ancestral sites and burial grounds. Working with First Nation communities on how best to protect ancestral sites has provided CRD with an opportunity to advance reconciliation and strengthen relationships.

Intergovernmental Implications

Provincial guidelines outline two essential areas of archaeological resource management that can be conducted by municipalities and regional districts: integration of archaeological information into project planning and delivery as well as providing notification to applicants during the development and building permit application and approval process. Given that only a fraction of archaeological sites have been registered with the province, effective planning must include both known site locations and areas with the potential to contain protected but unrecorded archaeological sites.

The province has provided local governments with access to archaeological data and previous assessment results to aid in the planning of projects and other works. By raising the profile of archaeological site management within official community plans, local governments can flag archaeological issues at the earliest stages of development planning. Awareness helps to avoid or reduce damage to archaeological sites and early knowledge of archaeological constraints can reduce the potential for increased development costs and delays, negative press, and conflict within the community.

Service Delivery Implications

The CRD's approach to the management and respectful treatment of archaeological sites applies across the organization. The CRD Archaeology Manager provides technical oversight and direction to all divisions that involves risk reviews, development of archaeological scopes of work, attending bidders meetings, providing input into tender documents, managing archaeological consultant contracts, development and delivery of training to internal crews and contractors, collaboration with involved First Nations, report review and facilitation of First Nation involvement in field work.

Archaeology training offered to internal teams, volunteers and contractors includes archaeology awareness, archaeology policy and process, archaeological site identification, and archaeological chance find management. The trainings aim to increase awareness around First Nation expectations and to ensure that regulatory obligations are understood and followed.

The CRD Conservation and Protection of Heritage Sites policy and associated training reduce the risk of impacting known and as-yet unknown archaeological sites during project work. This in turn results in cost savings and increased project certainty, which in today's volatile construction environment is critical to achieving project success and maintaining relationships with involved First Nations.

Where new archaeological sites are identified on CRD-held properties by staff, volunteers or First Nations, the sites are registered in the provincial database. Because there is often a delay before sites are uploaded to the provincial database, as an interim measure the newly identified sites are also added to the internal CRD map so that operational staff are aware of the location and can prevent inadvertent impacts.

CRD staff are collaborating with First Nations to determine protection measures for registered archaeological sites. At times this assessment can result in boundary changes of the registered site, for example due to erosion or lack of full documentation when first recorded. In one community park where unregistered sites have been identified, CRD is partnering with First Nations to survey and record all sites in the park. This information will support park management and is an opportunity for knowledge sharing and reconciliation in action. In another location, CRD staff are working closely with First Nations to determine protection measures for registered archaeological sites in a regional park, to inform park management planning. Protection measures may at times include interpretive signage or information about the importance of the site however more often they include requests to not publicize the location and to adjust park management and operations to reduce public access to the site. CRD staff are implementing on-the-ground tangible actions in response to First Nations' requests, and First Nations have communicated their appreciation to CRD staff for taking heritage conservation stewardship seriously.

Where possible, CRD staff are establishing processes for regular meetings with First Nations staff (lands managers, guardians) and technical experts (archaeologists, biologists, ecologists, etc) to bring forward land altering works that have the potential to impact archaeological sites in their territory. Where archaeological consultants have been retained by the CRD, they lead the engagement with First Nations. Projects brought forward by staff have undergone internal review by the CRD Archaeology Manager, who works closely with CRD project managers to determine how the proposed work may impact archaeological sites or areas of cultural significance – design avoidance is discussed internally to help mitigate potential impacts, but if impacts are unavoidable the projects are brought forward to the Nations for discussion.

At these meetings the archaeological management approach is developed, data is shared, and a plan made on how/if the Nations or their preferred consultants are to be involved. Collaborating on the archaeological approach and sharing expectations early in the project lifecycle increases project certainty and supports long-term trust and relationship building.

Participation in field work is often requested, and when working in shared territories it is common and culturally appropriate for more than one First Nation to be represented on site.

Discussions between CRD staff and First Nations also inform policy and best practices, such as archaeological chance find management and communication protocols, the respectful treatment of ancestral remains, and archaeological site protection measures.

Through meetings, site visits, field work, informal discussions and formal gatherings, CRD staff continue to learn from First Nations' cultural workers, language holders and technical experts. Gaining a better understanding of each other's perspectives, roles and responsibilities allows for more trusted relationships to be built. The opportunity for staff to hear directly from cultural workers and First Nation representatives leads to an enriched work environment that fosters respect. In recognition that not all Nations have the capacity to meet with CRD on a regular basis, the approach remains flexible to meet the needs of involved First Nations.

Financial Implications

The in-house archaeologist is funded through the First Nations Relations annual budget. Cost and schedule savings to other CRD divisions include technical expertise to support project design, the ability to secure professional archaeological support within project timelines, and support for small scale works (e.g. service connections, water meters, culvert and trail repairs) that have the potential to impact archaeological sites but may not have sufficient budgets to engage with external resources. In-house technical expertise coupled with having and developing close working relationships with First Nation communities helps keep projects on time and reduces risk of inadvertent impacts to archaeological sites. Unauthorized impacts to archaeological sites can result in harm to First Nation communities and can also lead to criminal charges, imprisonment and significant fines under the HCA of up to \$1,000,000.

CRD operations continue to retain external archaeological consultants where needed for capital projects and other works. The CRD has pre-qualified four archaeological firms who are endorsed and trusted by First Nations in the CRD. Each service area covers their own costs associated with contracting archaeological consultants and hiring First Nation representatives to permit, conduct field work and carry out the appropriate technical analysis and reporting as per provincial requirements.

CONCLUSION

The CRD's approach to archaeology and heritage site conservation includes policy, guidelines, training, external consultants, evolving collaborations with First Nations, and an in-house archaeologist. The CRD works closely with First Nations and the province to collaboratively manage and protect archaeological and heritage sites as guided by provincial legislation and First Nations' expectations and as a step towards reconciliation.

RECOMMENDATION

There is no recommendation. This report is for information only.

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