

Opinion: Proposed changes to Heritage Conservation Act expand First Nations decision making on Crown land

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The Heritage Conservation Act is the government's latest legal tool to shift authority over B.C.'s public lands, write Warren Mirko and Geoffrey S. Moyse. Photo by CHAD HIPOLITO /THE CANADIAN PRESS

British Columbians don't want First Nations to have a veto over Crown land. This has been made clear repeatedly, from the public outrage last year when the government of B.C. tried to hand over joint-decision making power over all Crown land in the province [without proper engagement](#), to recent [polling](#) from the Angus Reid Institute showing only 22 per cent of British Columbians think First Nations should have the final say over projects in their traditional territory.

Surrendering control over Crown land was never on the NDP's election platform. Yet Premier David Eby has pressed ahead, rebranding his approach in hopes British Columbians won't notice the steady abdication of provincial authority over public lands. That is why there's so [little transparency](#) and [continued secrecy](#) around recent joint land-use planning agreements. The lack of transparency is deliberate, because the premier knows British Columbians don't support it.

The Heritage Conservation Act is the government's latest legal tool to shift authority over B.C.'s public lands. At an Aug. 20 information session, officials were explicit: The [proposed changes](#) aim to "recognize First Nations as decision makers on Crown land."

Framed as modernization to improve heritage protection, the changes expand Indigenous authority over Crown land. The government claims it is [speeding up decisions and reducing complexity](#), but its solutions expand the scope of authority to a joint or consent basis with First Nations. These layers of shared control will inevitably cloud jurisdiction and create conflicts. One information session suggested the government may seek a Cabinet [mandate](#) to enforce First Nations cultural laws across parts of B.C., further complicating governance.

Another troubling change is the introduction of "intangible heritage values," which would broaden the conditions under which First Nations could veto development. Even without full legislative detail, it's clear that spiritual practices, songs, ceremonies, and other intangible claims could block both Crown and, through operational agreements, even private land use.

Yet in many cases, First Nations refuse to disclose the location or details of the sites to either the proponent or the provincial Heritage Branch. Companies must still fund assessments often conducted by archaeologists selected by the claiming First Nation. It's problematic because First Nations could assert that land has intangible heritage importance, claiming that it is spiritual or could be tied to rituals, regardless of archaeological evidence or historical presence. Under the proposed legislation, the government could then grant them authority over Crown land on that basis, effectively allowing decisions that impact public land without much verifiable foundation.

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