

## **Protecting Heritage: Landmark Agreement Aims to Ease Tensions over Aboriginal Archaeological sites**

By Edward Hill  
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Cowichan Valley regional governments and First Nations came together for an unprecedented meeting in Duncan Friday, taking the first steps towards a political accord that aims to ease conflict over aboriginal archaeological sites.

The accord would establish guidelines and obligations for municipal governments to help manage and protect heritage sites, the vast majority being First Nations burial grounds and midden deposits.

“Getting nine governments together to discuss this issue, to work together on a political accord is something unique.” said Robert Morales, Chief Negotiator for the Hul’qumi’num Treaty Group. “For the Cowichan and Chemainus valleys it is historic.”

Representatives from Duncan, Ladysmith, North Cowichan, Lake Cowichan, the CVRD, the Islands Trust, the Capital Regional District, treaty negotiators from B.C. and the federal governments, B.C. ministries related to First Nations and archaeology, and First Nations were all at one table for a day-long meeting at the Quw’utsun’ Cultural Centre.

Nothing was signed, but all agreed to bring a “principles document” to their respective governing bodies for approval. “The principles are broad brushstrokes of agreeing to work together and that local control of heritage conservation is deemed a good idea.

After municipal governments agree to the principles they and First Nations will work to establish a Memorandum of Understanding. That may be a bit more onerous to complete, but it will lay out procedures and protocols to cope with heritage sites.

“Local government has significant authority over development, building permits and subdivision applications,” said Morales. “The accord ... would facilitate within jurisdictions ways to deal if sacred sites are impacted.”

The meeting was, as noted by one observer, an exercise to test the “political will” among government leaders to bring heritage protection to the municipal level. But it was also a way to sidestep one area of treaty negotiations that has made little headway.

Early this year, the B.C. arm of the Hul’qumi’num treaty table suggested heritage issues be moved outside of the treaty process. After three months of organizing,

the first Intergovernmental Working Group was established. If it is successful it will be the largest First Nations-municipal accord in British Columbia.

Morales noted that heritage conservation, as a negotiation item, is not permanently off the treaty table.

The Cowichan Valley and Gulf Islands have about 1,000 registered archaeological deposits, and at least 1,000 more unrecorded. The Heritage Conservation Act protects these sites, making it a crime to damage them even if they are unknown at the time of excavation.

Eric McLay, an archaeological consultant with Hul'qumi'num, said there are serious regulatory "gaps" that doesn't give the act any teeth.

First, the Archeological Branch, which has been shunted into the Ministry of Sports, Tourism and the Arts, has very few staff to monitor or enforce heritage rules. Second, municipalities tend not to consider archaeological impacts in terms of zoning or land use planning. Last, most overview archeological surveys are either too old, inadequate or simply not done.

"Local government has no real role for archaeological management. This is a major gap," McLay said. "We need local government to assist in the enforcement of the Heritage Conservation Act."

Ladysmith councilor Doug Fraser, speaking for all the municipalities, said closing the gaps and getting procedures in place is essential to balance heritage and private property rights.

For instance, he pointed out the Spray Park project in Ladysmith damaged a previously unknown archaeological site during construction. "If we had a thorough study at the waterfront we would not have blundered into the midden," Fraser said.

"We could have situations where starting a major construction project could have to be stopped or moved. The losses could be significant. But this isn't about stopping development, it is about finding solutions. If we have this relationship and we get the studies done, there will be no mistakes and no wasted money."

Fraser said the gathering was an eye-opener for the kind of anguish aboriginal people feel when burial sites are considered desecrated.

"Chiefs and elders spoke of the burial issue. Their heartache was so obvious but they spoke of it with such grace. It was an amazing lesson in being fully human."