

# “SITE ALTERATION”: The Demolition of British Columbia’s Archaeological Heritage

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No one should be surprised to read during these poor economic times that archaeology and heritage conservation are occasionally portrayed in the news as a luxury that few homeowners or developers can reasonably afford. Rather, I suggest that a focus on the media (see *The Midden* 43[2-3]) misses the message about a more serious, problematic trend underlying such private property disputes—namely, the chronic failing of the provincial policy framework that aims to protect the public interest in archaeological heritage sites on private lands over the past thirty years in British Columbia.

## The Proponent Pays

“Why should I have to pay?”, is a normal question to hear from homeowners shocked to learn of the expense of digging up the history in their backyards. At first glance, the ongoing Willows Beach court case and media controversy at Parksville (*Midden* 42[1-2]) between private land owners and the Archaeology Branch over who should pay the financial costs of site destruction—or “alteration” as it is bureaucratically called—appear to be just routine regulatory disputes that have simply come into public view. Such disagreements occur infrequently and are usually resolved patiently and quietly through informed discussion between clients, their consultants, and Archaeology Branch staff without resort to the media or the courts.

The basic principle behind the “proponent pays” policy is that where a person or corporation wishes to remove the public interest in archaeological heritage sites on private lands, they must reasonably bear the financial costs—not government. Where site avoidance is not possible and no other alternative to land development is negotiable, such removal is permitted by the Archaeology Branch through either systematic data recovery (i.e., scientific excavation), monitoring of land development, or other conservation measure (Figure 1). In essence, the “proponent pays” policy, as I perceive it, relies on the prohibitively high cost of scientific excavation as a *deterrent* to development; the assumption being it is less expensive and less time-consuming to preserve sites than pay the expense to carefully excavate, remove and analyze them by scientific expertise.

Yet, property owners and developers often counter that if heritage conservation is a public interest the expense of mitigation should be paid for by government—not individuals or business. While forty years ago British Columbia once did fund regional archaeological surveys in the public interest and, to a limited extent, research investigations and mitigations (often unplanned salvage excavations), government cut-backs during the early 1980s reduced the stewardship role of provincial heritage conservation to a basic regulatory function, which also spawned the private

archaeological consulting industry (see Apland 1993). While the current role of the provincial government may be constructively critiqued, few would likely agree that government should help pay to build peoples’ dream homes on top of ancient First Nation villages and burial grounds. This is not to say that the provincial government shouldn’t have a more proactive role in stewardship, conservation, enforcement, land use planning, and public education concerning the protection of archaeological values on private lands.

## Site Alteration

While the *Heritage Conservation Act, R.S.B.C 1996, Chapter 187 (HCA)* provides strong legislative protection for archaeological sites in British Columbia, such protection is not absolute. For any regulatory system to work, there must always be flexibility. There are good reasons why such flexibility exists in current provincial heritage law to address other important societal values and priorities, such as scientific research, environmental protection, human safety, and modern land development. Until the mid-1990s, systematic data recovery excavation projects for development were directed by archaeologists under “site investigation” permits. Over the last fifteen years, notably few investigation permits are issued to archaeologists for development-related purposes.

With the 1996 *HCA* consolidated amendments, a new mechanism, s.12 site alteration permits, granted British Columbia the ability to directly regulate developers and hold them accountable for potential violations. Unlike s.14 inspection and investigation permits, s.12 alteration permits are held by property owners or developers—not archaeologists. The establishment of s.12 site alteration permits allows British Columbia to suspend the legal protection of archaeological sites to permit development under certain written provisions.

The Orwellian term, “alteration,” denotes the terminal phase of the provincial heritage permit process. In principle, s.12 alteration permits are issued after preliminary overviews and impact assessment studies have been completed, the location of archaeological sites have been well-defined, the content and significance of heritage sites have been carefully evaluated, and professional recommendations made to minimize any heritage site destruction, where possible.

In 2010, as listed on the ASBC website (see <http://www.asbc.bc.ca/publications>), 140 alteration permits were issued by the Archaeology Branch. This number accounts for a third of all issued permits (n=452). Most alteration permits are issued to manage a broad range of small-scale heritage conservation impacts; for example, the cutting down of culturally-modified trees for forestry, minor alterations to upgrade municipal infra-

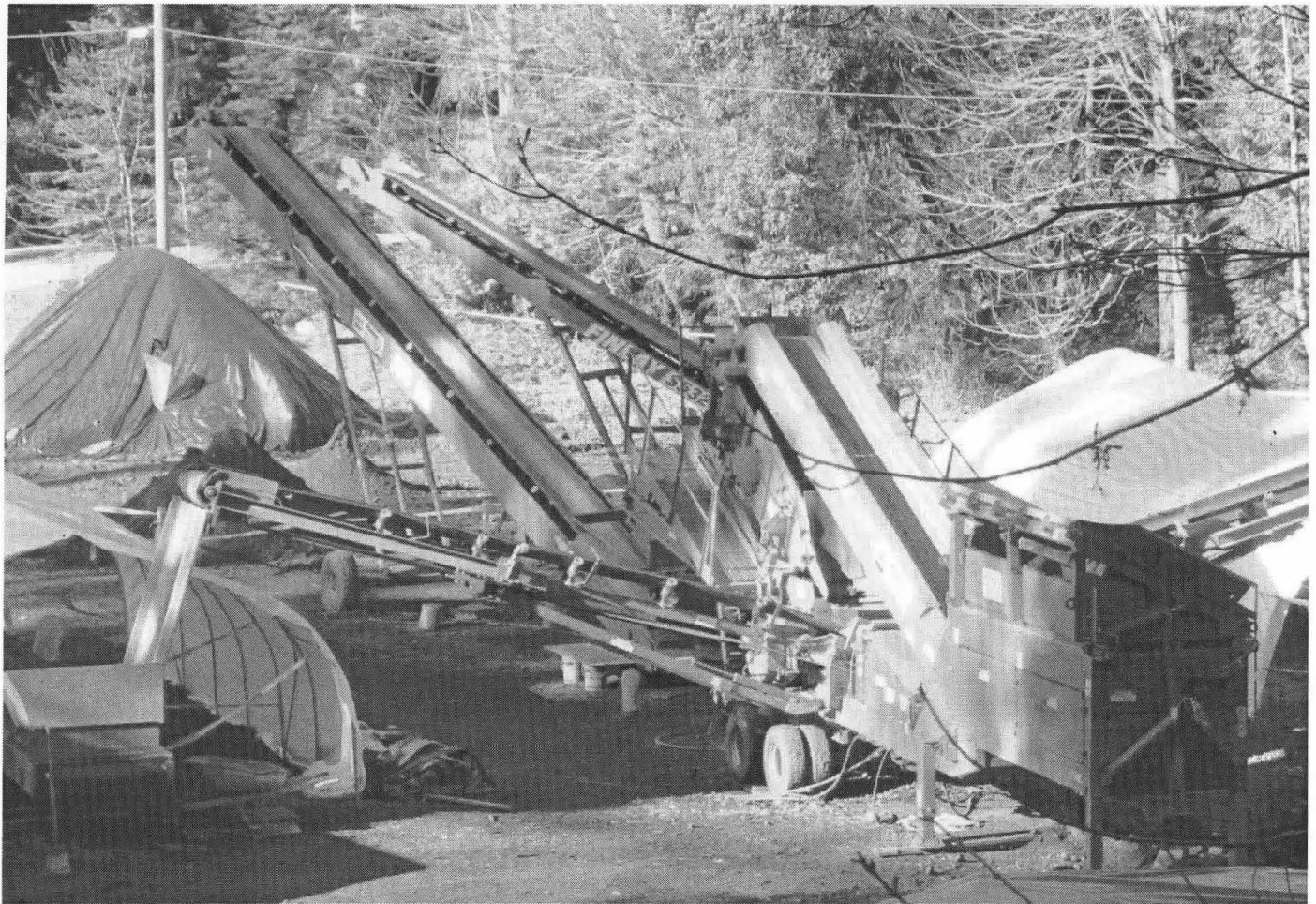


Figure 1. Mechanical soil screener used to sift thousands of ancient human remains and artifacts from the construction backfill at Poets Cove, DeRt-004, South Pender Island—an alteration permit project gone horribly wrong. Photo by Eric McLay, Feb.23, 2005.

structure, or the routine maintenance of park facilities such as signage, trails or staircases. Other alteration permits are more problematically issued to manage serious, large-scale impacts, such as the wholesale destruction of sites for residential housing, commercial development, provincial highways, municipal sewers and other major development projects. Notably, 25% (n=35) of all site alteration permits issued in 2010 relate to the development of private residential housing (Figure 2).

Nevertheless, no matter the scale of proposed impact, the issuance of a site alteration permit is always a significant decision for the Archaeology Branch. It is at this stage when heritage sites and heritage objects are intentionally and irrevocably destroyed, and First Nations' Aboriginal Title and Rights to heritage may become seriously infringed. It is also at this stage when projects can go horribly wrong and development costs for property owners can run amuck; thereafter, politicians, lawyers and media become involved, and personal emotions and professional reputations explode in full public view.

### **The Affordability of Heritage Site Destruction**

Over the last decade, skyrocketing real estate values across British Columbia have diminished the effectiveness of financial deterrents to developing archaeological sites. With an average single-family house in downtown Vancouver reaching over a million dollars, the cost of developing archaeological sites by

residential homeowners is less economically prohibitive, particularly on waterfront real estate. Rather, archaeology is more often perceived as just one more routine cost of doing business in the high-end real estate market in British Columbia. Homeowners paying upwards of \$25,000 to \$100,000 or more for the clearance of archaeological sites from their private lands appears commonplace.

Combined with the escalating real estate market, a host of for-profit private archaeological consulting companies have arisen to compete for jobs, often for the lowest bid, which can further drive down homeowners' and developers' costs for site alteration. Yet, archaeological consulting today remains big business in British Columbia. Several multinational environmental consulting corporations have taken over many smaller local archaeological companies in recent years, which attests to the fact there is money to be made doing archaeology. Site alterations, in particular, are profitable from a corporate perspective. Excavation, monitoring, analysis and report writing are time-consuming and labour intensive work. "Unexpected" discoveries, especially burials, can throw out estimates and run up the bills without limit. Such lucrative jobs also hold little to no risk. As alteration permits are held by the developer, there is no accountability for archaeological consultants to attempt any research, apply any scientific rigor to their methods, or uphold the quality of archaeological work. While it is recognized by the Archaeology Branch that there is a need for more government oversight to uphold the public interest in such



alteration projects, such as field inspections or joint permits, there is no provincial travel budget and no capacity to enforce quality control on the ground.

The Archaeology Branch and their website's *Provincial Archaeological Report Library*, however, must be commended for providing a new online tool for the archaeological community, First Nations and local government to access electronic copies of permit reports for review ([http://www.for.gov.bc.ca/archaeology/archaeology\\_professionals/index.htm](http://www.for.gov.bc.ca/archaeology/archaeology_professionals/index.htm)).

In reading through Archaeological Impact Assessment permit reports and their subsequent site alterations, it is now easy for researchers, community members and planners outside of the Archaeology Branch to review how consultants make interpretations and recommendations based on available evidence and, subsequently, what was found (or not found) after-the-fact. While there is a high degree of excellence and innovation in the British Columbia archaeological consulting industry, many professional archaeologists, both in the academic and business worlds, may be shocked and infuriated to learn of the shoddy methods, the carelessness of design and thoughtlessness of interpretation, and the generally slapdash quality of archaeological fieldwork and reporting practices used by a number of apparently successful consulting companies, particularly for site alteration projects.

For example, read a recent 2010 report that describes the template methods used for the alteration of a large, recorded coastal shell midden site of a proposed residential house construction on Vancouver Island: "Machine excavation of soils was conducted within the foundation footprint in 10 cm increments. All cultural soils were raked and/or selectively screened using 1/4" mesh." While most professional archaeologists work hard to responsibly protect and conserve heritage sites, some consultants are cashing out by gazing at backhoes and raking up the backfill for profit. To justify such short-cuts to development, sites written off for permitted alteration are routinely interpreted in expedient AIA studies as previously "disturbed"—a taken-for-granted gloss that immediately devalues sites of any scientific significance, but requires no detailed description, nor further critical examination or precautionary measures.

Sadly, such permitted site destruction is simply land development in the "guise of archaeology"—premeditated salvage with no pretense for any scientific method, knowledge production, or respect for sustainable heritage site conservation principles. In this sense, the exploitation of the s.12 heritage site alteration permit process by private property and corporate business interests is more akin to the Archaeology Branch facilitating "demolition permits" than regulating any modern heritage conservation practice.

### **1. Establishment of Provincial Guidelines for Site Alteration**

Given that site alterations constitute approximately 30% of heritage permits issued by the provincial government, and given the serious nature of permitted heritage site destruction (and its often public consequences), I argue it is unacceptable that the Archaeology Branch continues to lack substantive policy guidelines for the

regulation of site alteration permits.

The recent June 2010 guidelines for site alteration permits by the Archaeology Branch do little more than simply repeat the conditions set out to fill in application forms. For comparison, British Columbia created detailed and comprehensive guidelines for impact assessments and inventory studies, which continue to be well-referenced today (Archaeology Branch 1989, 2000).

While admittedly site alteration permits are designed to manage a broader range of impacts using a variety of methods on a case-by-case basis, surely the Archaeology Branch could develop some stated "principles" if not flexible "rules" to govern their provincial decision-making around issuing site alteration permits to regulate development?

For instance, when is an investigation or systematic data recovery more appropriate than simply "monitoring" site destruction by backhoe? What criteria or standards are useful to guide

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such decision-making? Should some sites be "off-limits" to permitted development? How can First Nations' heritage interests be respectfully considered in such policy guidelines? Where a site is negotiated to be altered for development, how much of a site should be appropriately mitigated by scientific excavation? How can research problems be better integrated into the research design of investigations and alterations to contribute to knowledge and public education? What minimum guidelines for systematic data recovery are needed to hold development and

archaeological consultants accountable to the public interest? Currently, the existing, largely unwritten, operational policies of the Archaeology Branch that regulate alteration permits have very little transparency or accountability in practice.

### **2. Alternative Tools to Preserve Heritage Sites**

Where the decision is made by private land owners to proceed with development, the provincial government presently has few alternative tools available to help conserve sites outside of proceeding to issue an alteration permit. For this reason, some have suggested pessimistically that the provincial law should be more aptly called, *The Heritage Destruction (or Development) Act* (see Bryce 2008).

Until 2003, the BC Heritage Trust held a mandate and funding to support the purchase and management of lands as provincial heritage sites. Today, no such provincial funding or organization exists to help preserve significant heritage sites in the public interest, except through ad hoc political decision-making. For instance, after intense media and political lobbying of the Premier's office, British Columbia most recently stepped in to purchase a small parcel of private waterfront land at Departure Bay (DhRx-016), Nanaimo, after over 80 ancient human remains were unexpectedly "discovered" during excavations under an alteration permit for a condominium development (Barron 2009). The reported purchase price by the Crown was over three million dollars. Few sites in conflict with private land development are so fortunate.

To practically support heritage site preservation and help

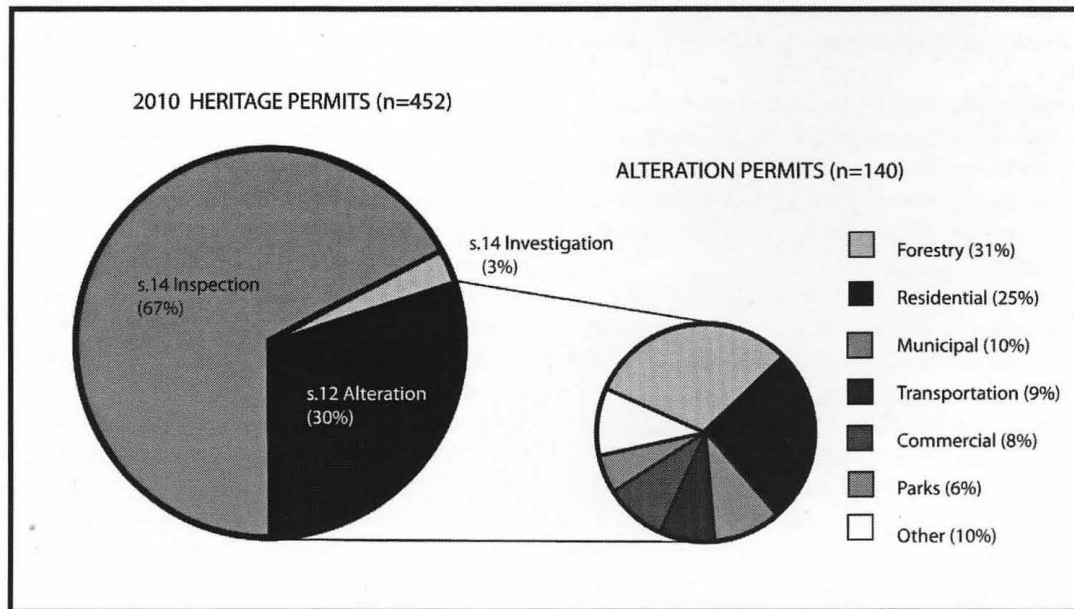


Figure 2: Chart of Heritage Permits and Alteration Permits issued by Archaeology Branch in 2010.

relieve development pressure, wouldn't it be prudent to support the establishment of a provincial fund to protect significant heritage sites on private land, either as public parkland or treaty settlement lands? A fund that could support public education, archaeological research and heritage site conservation programs across the province? What other incentives could be developed by the provincial government with local government to help preserve heritage sites on private land for greater perpetuity, such as land use planning, tax incentives or conservation covenants? Without other conservation tools to uphold provincial heritage conservation efforts other than permits, destruction is inevitable.

### 3. Strategic Heritage Planning in British Columbia

A key principle of heritage conservation is that the preservation of heritage values is most effective when considered at the earliest stage of land or resource development planning processes. For this reason, most local governments develop "strategic heritage plans" for their municipalities to identify a list of designated heritage sites, assess their preservation, and prioritize their conservation in community development planning. However, First Nation archaeological and historical sites are not typically integrated by local government strategic heritage plans, and neither has British Columbia ever developed any strategic heritage planning initiatives to help conserve archaeological sites at a provincial level. Rather, the Archaeology Branch's administration of the *Heritage Conservation Act* permitting process operates on a case-by-case basis in reaction to received applications to regulate heritage sites by proposed land and resource development. Through such routine and unplanned practice, British Columbia allows every recorded heritage site to be left vulnerable to permitted destruction at an incremental scale without provincial oversight of cumulative development impacts. That is, without establishing local or pro-

vincial strategic plans and priorities for heritage site conservation, it is possible that every recorded archaeological site in British Columbia may be utterly erased under permitted development over time leaving nothing for future generations. No site, or last remnant of a site, is "off-limits."

In the last few years, the Archaeology Branch has reportedly developed "heritage site management plans" to manage specific, problematic sites in recurrent conflict with private land development, notably the Marpole Site (DhRs-001) in Vancouver. While such proactive and strategic initiatives are constructively encouraged, I would advocate all sites need heritage site management plans, not just the ones making the news.

Towards long-term sustainable heritage conservation in British Columbia, the development of strategic heritage plans to help preserve archaeological heritage sites from development pressures is essential at both the provincial and local government level. While heritage planning has its own problems, the absence of plans or priorities to regulate heritage conservation is certainly not in the public interest.

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### Saving the Public Interest in Provincial Heritage Conservation

While the chronic loss of archaeological sites by unregulated development is a commonly shared concern, the permitted destruction of archaeological sites has received less public attention or scrutiny from the archaeological community in British Columbia.

Homeowners who challenge the financial expense of provincially-required archaeological work raise important, legitimate questions that deserve explanation: "What exactly is being paid for? And why is this publicly important?" Rather than dismiss such complaints, these incidents highlight a disturbing trend of permitted site destruction and a lack of government and professional accountability in current practice to address either private property rights or the public interest in archaeology and heritage

conservation in British Columbia.

Skyrocketing real estate values coupled with a lack of provincial guidelines to regulate site alteration permits lead toward the strategic failure of provincial heritage conservation policy. The fact is that very few property owners or developers publicly question the "proponent pays" policy. Heritage site alteration is more affordable and convenient than ever. Financial expense alone no longer works to deter homeowners from site development; rather, some in the archaeological consulting industry exploit the wholesale destruction of sites as a professional career.

Given the current lack of alternate provincial conservation tools or funding, the Archaeology Branch's permit process is a *one-way street*. There is no detour available for sites in conflict with development. After thirty years, the question is, where is this provincial policy going? At the end of the day, what will this provincial permit process leave us? Will provincial heritage conservation efforts lead to greater public respect, knowledge and preservation of the places and memory of First Nations peoples who built ancient British Columbia? Or will we witness this archaeological legacy become irrevocably, if incrementally, erased by development? At present, no archaeological site is safe from the wrecking ball in British Columbia.

From my perspective, if we as a society choose to deliberately erase the past for development (despite First Nations Title, Rights and interests), I argue that at a minimum the archaeological research should be based on professional evaluation, designed to learn about the past, implemented with scientific rigor, and respectful care in the attempt to contribute to public knowledge, academic research and First Nations community interests, not solely to benefit private property interests, bureaucratic-ease, and corporate profit.

Greater investment is needed to renew provincial heritage conservation and uphold its preservation mandate on private lands in the public interest. Other tools, deterrents, incentives and rationales are required to help save archaeological heritage sites for future generations. In the short-term, adequate provincial government funding is necessary for the Archaeology Branch staff to do its job. The allowance of a travel budget for enforcement and the

development of substantive guidelines for site alteration permits would be a good start. For the longer term, greater attention is needed to inform and provide practical incentives for property owners and developers to preserve heritage sites on private land. Public education and heritage awareness programs do have an important role to create greater public appreciation and incentives for preserving archaeological heritage sites and foster conservation values, not just negative financial deterrents. Rebuilding a new provincial funding organization, such as the BC Heritage Trust, to encourage site protection, scientific research and community conservation in cooperation between archaeologists, property owners, developers, local governments, First Nations and the public would be a significant contribution for preserving the future of British Columbia's archaeological heritage.

For, as far as I can read, the purpose of the *Heritage Conservation Act* is to encourage and facilitate the protection and conservation of heritage property in British Columbia—not demolish it.

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