**RE: Call for Inputs prepared by the Province of British Columbia, Canada.**

Since 2018, the Province of British Columbia (B.C.) has taken unprecedented steps to advance the full implementation of *the United Nations Declaration on the Rights of Indigenous Peoples* in numerous areas of provincial jurisdiction. Through new legislation, legal reform, [litigation directives](https://news.gov.bc.ca/files/CivilLitigationDirectives.pdf), and by advancing progressive policies and alignment of laws practices that transform how the provincial government works with Indigenous Peoples, British Columbia is at the leading edge of reshaping and strengthening relationships with Indigenous peoples in North America.

The [*Declaration on the Rights of Indigenous Peoples Act*](https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/19044) (Declaration Act) was unanimously passed by the British Columbia Legislative Assembly in November 2019. This made B.C. the first jurisdiction in Canada to adopt the United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration). The Declaration Act was developed jointly with Indigenous leaders and legal counsel and established the UN Declaration as the Province’s framework for reconciliation, as called for by the 2015 Truth and Reconciliation Commission of Canada’s [Calls to Action](https://www2.gov.bc.ca/assets/gov/british-columbians-our-governments/indigenous-people/aboriginal-peoples-documents/calls_to_action_english2.pdf).

The Declaration Act contributes to the implementation of the UN Declaration in B.C. by:

* requiring the Province, in consultation and cooperation with Indigenous Peoples to take all measures necessary to ensure the laws of B.C. are consistent with the UN Declaration (section 3);
* requiring the development and implementation of an action plan, in consultation and cooperation with Indigenous Peoples, to achieve the objectives of the UN Declaration (section 4);
* requiring the Province to report annually on progress made toward alignment of laws and achievement of the goals in the action plan (section 5); and
* enabling agreements with Indigenous governing bodies, including joint or consent-based decision-making agreements that reflect free, prior and informed consent (sections 6 and 7).

# Section 3 – Alignment of Laws

To lead and support implementation, the Declaration Act Secretariat was established in 2022 and is led by Deputy Minister Jessica Wood/ Si Sityaawks and responsible to the Minister of Indigenous Relations and Reconciliation, the Honourable Murray Rankin. As a central agency within the provincial government, the Declaration Act Secretariat has a mandate to guide and assist the Province to ensure provincial laws align with the UN Declaration and laws are developed in consultation and cooperation with Indigenous Peoples, as set out in section 3 of the Declaration Act.

In October 2022, the Declaration Act Secretariat released the “[*Interim Approach to Implementing the Requirements of Section 3 of the Declaration on the Rights of Indigenous Peoples Act*](https://declaration.gov.bc.ca/declaration-act-secretariat/interim-approach/)*”* (Interim Approach). This innovative guidance provides every provincial ministry and sector of government with clear, transparent processes for how they are to work together with Indigenous Peoples in pursuing alignment with the UN Declaration when developing and reforming provincial laws, policies and practices, as required by Section 3 of the Declaration Act. The Interim Approach brings together what government has learned through the co-development of laws, and the pursuit of law reform, since 2019 and is helping government transition towards an approach of law-making that is thoughtful, consistent, and supports the legal requirement to affirm Indigenous rights in all law-making.

Since establishment, the Secretariat’s work to align laws with the UN Declaration has resulted in an increasing number of provincial legislative reforms. The Province passed many bills since the Declaration Act came into law. For example:

* **Interpretation Amendment Act (Bill 29)** The Attorney General introduced this statute on November 17, 2021, as Bill 29, which was passed into law on November 23, 2021. This bill added a universal non-derogation clause to the Interpretation Act, making it explicit that provincial laws uphold, and do not abrogate or derogate from, the rights of Indigenous Peoples under Section 35 (1) of the Canadian Constitution Act, 1982. Bill 29 also amended the Interpretation Act to provide that all provincial acts and regulations must be read to be consistent with the UN Declaration.
* **Haida Nation Recognition Act (Bill 18)** The legislation recognizes that the Haida Nation has the inherent right of governance and self-determination and that the Council of the Haida Nation (CHN) is the governing body of the Haida Nation, as authorized by the Constitution of the Haida Nation. The CHN has been the governing body for the Haida Nation for more than 40 years. The CHN was formed in 1974 and the Constitution of the Haida Nation was formally adopted in 2003. It allows the Province to recognize Haida Nation’s inherent rights of governance and self-determination, as recognized and affirmed under Section 35 of the Constitution Act – and confirmed in the United Nations Declaration of the Rights of Indigenous Peoples.
* **Human Rights Code Amendment Act (Bill 18)** The Attorney General introduced this statute on November 17, 2021, as Bill 18. The bill, which was passed into law November 23, 2021, amended the provincial Human Rights Code to further uphold Indigenous human rights and advance reconciliation with Indigenous Peoples by adding Indigenous identity as a protected ground against discrimination.
* **Indigenous Self-Government in Child and Family Services Amendment Act (Bill 38)** On October 26, 2022, the Ministry of Children and Family Development amended the Adoption Act and the Child, Family and Community Service Act, recognizing the inherent right of self-government of Indigenous communities including jurisdiction over child and family services. The amendments removed barriers in provincial legislation so Indigenous Peoples can deliver child and family services pursuant to their Indigenous laws, keeping Indigenous children and youth safely connected to family, community, and culture. One of the goals is to address and reduce the disproportionate numbers of Indigenous children and youth in provincial care. The amendment act passed into law on November 25, 2022.
* **Education Statutes Amendment Act (Bill 25)** The Minister of Education and Child Care introduced the amendments on October 25, 2021, as Bill 25. Passed into law on November 2, 2021, the bill amended the First Nations Education Act, the Teachers Act, and the Criminal Records Review Act, all in support of First Nations’ jurisdiction over education on First Nation land. In addition, the legislation changed the composition of the British Columbia Teachers’ Council, ensuring representation and a voice for First Nations Education Authority.
* **Health Professions & Occupations Act (Bill 36)** The Ministry of Health introduced this new legislation on October 19, 2022, as Bill 36. The Health Professions and Occupations Act passed into law on November 24, 2022. It enhances patient safety, strengthens oversight of health regulatory colleges, and improves governance of health professionals. With this legislation, the Province formally hardwires anti-discrimination measures, restorative processes, and trauma-informed practices directly into health profession legislation.
* **Forests Statutes Amendment Act (Bill 23)** The Minister of Forests introduced this statute on October 20, 2021, as Bill 23. Passed into law on November 23, 2021, the bill amended the Forests Act, the Forest and Range Practices Act, and the Forest Practices Code of British Columbia Act. These amendments establish the framework for an approach that is more focused on ecological and cultural values. A key part of this will be replacing forest stewardship plans, which are currently developed by industry, with forest landscape plans developed by the Province with First Nations, local communities, and other partners, which will create new opportunities for shared decision-making between the Province and First Nations.
* **Emergency and Disaster Management Act (Bill 31)** On November 8, 2023, the Emergency and Disaster Management Act came into force, replacing the Emergency Programs Act. The new act reflects the realities of the modern world including global pandemics, security threats and climate change, and shifts from focusing on emergency response to the four phases of emergency management: mitigation, preparation, response, and recovery. Furthermore, the new act recognizes Indigenous Peoples’ inherent rights of self-government in relation to emergency management, establishing a framework for agreements between Indigenous governing bodies and other authorities that can help advance shared decision-making and co-ordination. The new act includes engagement provisions that require municipalities and regional districts to consult and co-operate with Indigenous governing bodies and incorporate Indigenous knowledge and cultural safety across emergency management practices. The Province is providing funding to support these engagements.
* **The Anti-Racism Data Act (Bill 24)** Passed June 2, 2022, the Act allows data to be collected under the act will help identify gaps in programs and services and allow government to better meet the needs of Indigenous, Black and racialized British Columbians. The act is the first of its kind in Canada to be co-developed with Indigenous Peoples. Since the legislation came into effect, a new anti-racism data committee has been formed to bring together community members to collaborate with government to determine key research priorities and how to gather data to identify and eliminate systemic racism in the public sector.
* **Accessible British Columbia Act (Bill 6)** The Minister of Social Development and Poverty Reduction introduced the new legislation on April 28, 2021, as Bill 6. The Accessible British Columbia Act, passed into law June 3, 2021, establishes the legal framework to identify, prevent and remove barriers to accessibility including for Indigenous people.
* **Amendments to the Adoption Act (Bill 21)** The Ministry of Children and Family Development developed these amendments, which were introduced under a miscellaneous statute on October 7, 2021, as Bill 21. Passed into law October 21, 2021, the amendments authorized information-sharing under the Adoption Act. The changes established this authority to support First Nation adoptees in obtaining their status so they can gain access to federal health, dental and other benefits.
* **Amendments to the Child, Family and Community Service Act (Bill 21)** The Ministry of Children and Family Development developed these amendments, which were introduced under a miscellaneous statute on October 7, 2021, as Bill 21. The bill was passed into law October 21, 2021, aligning the Child, Family and Community Service Act with the information-sharing requirements of the federal statute, an act respecting First Nations, Inuit and Métis children, youth, and families.

Further commitments have been made, and work is underway to amend other significant pieces of Provincial legislation including, but not limited to the Heritage Conservation Act, Mineral Tenure Act, Police Act, and to develop a new Anti-Racism Act as well as a number of policies connected to Section 4 of the Declaration Act, via the Action Plan.

# Section 4 – Action Plan (2022-2027)

Section 4 of the Declaration Act requires development and implementation of an action plan, in consultation and cooperation with Indigenous Peoples, to achieve the objectives of the UN Declaration, and to make use of the UN Declaration as the “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.” British Columbia is committed to upholding these human rights in its institutions, laws, policies, and practices to advance reconciliation and address the legacy and harms of colonialism on Indigenous Peoples. Through this Action Plan the Province reaffirms its intent to achieve government-to-government relationships based on respect, recognition and exercise of Aboriginal title and rights and reconciliation of Aboriginal and Crown titles and jurisdiction.

[The Declaration Act Action Plan](https://www2.gov.bc.ca/assets/gov/government/ministries-organizations/ministries/indigenous-relations-reconciliation/declaration_act_action_plan.pdf), was released on March 30, 2022, and includes collectively identified goals and outcomes that form the long-term vision for implementing the UN Declaration in B.C. It also has 89 priority actions that outline significant actions the Province will undertake in consultation and cooperation with Indigenous Peoples over the next five years. The first of its kind, it is organized by four themes:

1. Self-determination and inherent right of self-government
2. Title and rights of Indigenous Peoples
3. Ending Indigenous-specific racism and discrimination
4. Social, cultural and economic well-being.

Each theme includes a goal, with outcomes and actions. The goals and outcomes are drawn from the UN Declaration to describe what the Province is striving for with this action plan. The goals and outcomes set the vision for what is to be achieved in B.C. by pursuing the objectives of the UN Declaration.

The Province is committed to a [distinctions-based approach](https://www2.gov.bc.ca/gov/content/governments/indigenous-people/new-relationship/united-nations-declaration-on-the-rights-of-indigenous-peoples/distinctions-based-approach) (DBA) and released formal guidance on DBA on December 5, 2023. DBA requires that the Province’s dealings with First Nations, Métis and Inuit Peoples be conducted in a manner that acknowledges the specific rights, interests, priorities and concerns of each, while respecting and acknowledging these distinct Peoples with unique cultures, histories, rights, laws, legal orders, and governments.

# Section 5 – Annual Report

British Columbia demonstrates commitment and ensures accountability to implement the UN Declaration and the Declaration Act Action Plan through collaborative Annual Reporting. B.C. has released four [Declaration Act Annual Reports](https://www2.gov.bc.ca/gov/content/governments/indigenous-people/new-relationship/united-nations-declaration-on-the-rights-of-indigenous-peoples/annual-reporting) since 2019 that detail the Province’s work to implement the UN Declaration, and last year’s [Annual Report](https://declaration.gov.bc.ca/declaration-act/annual-report/) is an important milestone. It was the first report since the launch of the Declaration Act Action Plan and the first to report on shared progress on the 89 actions committed to over the next five years. Last year, 33 actions had significant progress and began reporting. This year, we anticipate approximately 30 more actions will begin reporting.

In April 2023, the Province committed a one-time $200 million fund to remove barriers for First Nations to fully participate in implementing the UN Declaration. The [Declaration Act Engagement Fund](https://news.gov.bc.ca/releases/2023IRR0022-000618) helps support First Nations’ involvement in efforts to implement the Declaration Act Action Plan and align provincial laws with the UN Declaration, as required under the Declaration Act. Funding can also be used by First Nations to engage on a government-to-government basis with the Province on strategic, policy, and legislative initiatives that align with the priority objectives of their Nation(s).

# Sections 6 and 7 – Decision-Making Agreements

Sections 6 and 7 of the Declaration Act are powerful and unique legislative mechanisms that enable British Columbia to enter agreements with [Indigenous Governing Bodies](https://www2.gov.bc.ca/assets/gov/british-columbians-our-governments/indigenous-people/aboriginal-peoples-documents/7928_declaration_act-indigenous_governing_bodies.pdf). These sections allow for agreements with Indigenous governments outside of Indian Act Bands and incorporated organizations such as multiple nations working together as collectives, or hereditary governments, and treaty nation. It supports Indigenous nations to choose their representation and allows the Province to work shoulder-to-shoulder with Indigenous Peoples.

Prior to the adoption of the Declaration Act, specific legislation was required to enable the joint decision-making relationship and most shared decision-making agreements could not include the opportunity for joint or consent decision-making and instead relied on consensus building processes. Section 6 and 7 of the Declaration Act are unique to British Columbia and similar authorities are not included in federal legislation on the Declaration Act. A made-in-B.C. solution that supports the right to self-determination, section 6 and 7 provide an avenue to address the need for shared decision making, consent building processes and reconciliation of jurisdictional orders.

Section 7 gives the ability to seek a mandate from Cabinet to pursue for shared decision-making and consent agreements – in other words, agreements to exercise statutory authority either jointly, or with consent agreements and includes dispute resolution, while clarifying roles and responsibilities of the Province and the Indigenous governing body. Section 6 contemplates any agreement that does not meet the requirements of section 7 and provides for a broad range of agreements that a member of the Executive Council (on behalf of the government) may enter into with an Indigenous governing body.

Each decision-making agreement is different from another, and as such, are negotiated and subsequently approved on a case-by-case basis.

Section 7 of the Act was first put to work in June 2022, with the signing of the first Section 7 consent-based decision-making agreement under the Declaration Act between the Tahltan Central Government and B.C. This agreement honours Tahltan’s jurisdiction in land-management decisions in Tahltan Territory, in recognition of Tahltan’s title and rights within its territory. The agreement advances reconciliation as well as provides clarity and predictability in the mining sector for the Eskay Creek Revitalization Project. Since that first agreement, B.C. has signed another consent-based agreement with the Tahltan Nation, and started negotiations with the shíshálh Nation and Talhtan Nations on further shared decision making agreements.

# Further Measures

All measures are legislated to be reported on annually and more comprehensive information can be found on our [website](https://declaration.gov.bc.ca/).

A range of other initiatives have supported the advancement of reflective progress based on the Action Plan, Provincial and Federal Court Decisions, and collaborative work to improve how British Columbia works with Indigenous Peoples, some examples include but are not limited to:

**Implementation of the Child and Family Community Services Act and Adoption Act amendments**Two agreements have been entered into to date regarding jurisdiction, care and services with First Nations in B.C. In March 2023 B.C. signed the first coordination agreement for child and family services with Splatsin First Nation. The agreement will transfer $136.2 million to Splatsin First Nation to support their ongoing delivery of child and family services grounded in their culture and family systems. The second agreement was signed in November 2023 with Gwa'sala-'Nakwaxda'xw First Nations.

**Application of Civil Litigation Directives**

In April 2022 British Columbia issued [Directives on Civil Litigation involving Indigenous Peoples](https://news.gov.bc.ca/files/CivilLitigationDirectives.pdf) to all government legal counsel to prioritize resolution, innovation and negotiated settlement with Indigenous Peoples, and reduce the litigation of disputes. Implementation of the directives is ongoing and is designed to uphold Indigenous human rights and Aboriginal rights.

**Cumulative Effects**

In June 2021, the British Columbia Supreme Court ruled that the rights of the Blueberry River First Nation (BRFN) under Treaty 8 in northeast British Columbia had been infringed by the cumulative impacts of industrial developments within Blueberry’s traditional territory, including forestry, oil and gas, renewable energy and agriculture.

In January and April 2023, the Province and eight Treaty 8 Nations signed agreements to set out to develop a cumulative effects management regime together, inclusive of mitigation and accommodation measures to support the strengthening of their culture and identity. Since signing the agreements, together with BRFN, the Province is making decisions on the land that ensure BRFN members can meaningfully exercise their constitutionally protected rights to hunt, trap, fish and carry out their way of life.

Sincerely,

|  |  |
| --- | --- |
| Honourable Niki Sharma, KC  Attorney General  Province of British Columbia  Canada | Honourable Murray Rankin, KC  Minster of Indigenous Relations and Reconciliation  Province of British Columbia  Canada |