



Canadian
Heritage

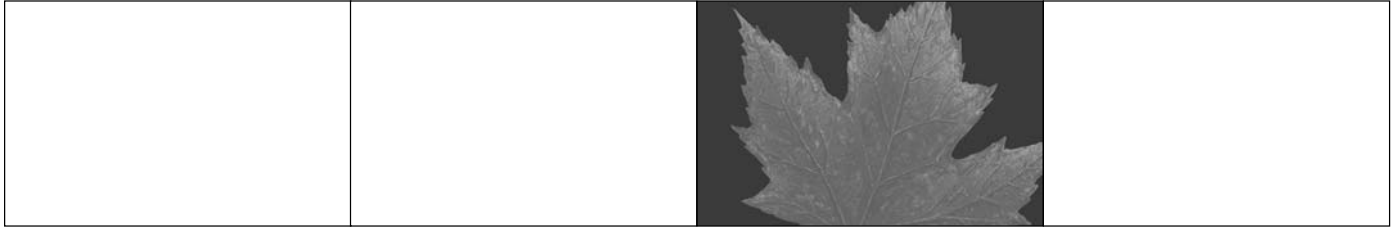
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Historic Places and Aboriginal People

A Discussion Document

Canada 



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2. Riel House National Historic Site of Canada, Winnipeg, Manitoba, Photographer: F. Cattroll, © Parks Canada
- 3.
4. Inuksuk, Igloolik Island Archaeological Sites National Historic Site of Canada, Igloolik, Nunavut, Photographer: T. Pearce, © Parks Canada

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INTRODUCTION

Canada's historic places are important to all Canadians; they provide the opportunity to connect physically and culturally with the past. Many Aboriginal people have indicated that land is essential in the transmission of knowledge from one generation to the next. Aboriginal expressions of culture are tied directly to the land and those places of historic significance to particular Aboriginal people. Many of these sites are the pictographs of ancient storytellers, clan or house fishing stations, totem poles and buildings of significant historical importance.

The Department of Canadian Heritage has prepared a general outline of legislative proposals for the protection of historic places, *Towards a New Act: Protecting Canada's Historic Places*, as a basis for discussions with Canadians. Recognizing the importance of historic places to Aboriginal people, the Department has also prepared this paper, which focuses on some specific issues related to the protection of historic places that may be of particular relevance to Aboriginal people, including those places of significance that are on reserve lands across Canada.

The Department is seeking guidance on the issues raised in this discussion document. Responses to the document will be summarized in a consultation report which will help the Minister of Canadian Heritage in the development of the proposed legislation and associated programs to protect and conserve historic places.

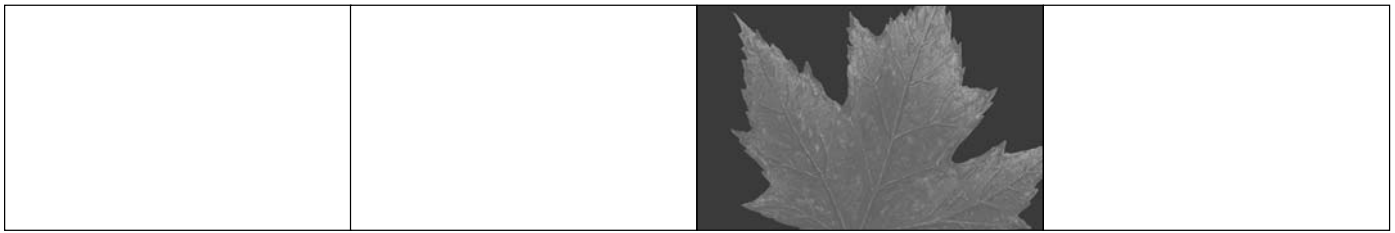


THE HISTORIC PLACES INITIATIVE

Protecting and conserving places of historical and cultural significance provides an important link to the past to understand the present and to plan for the future. This is not new for Canadians. Aboriginal people find strength and knowledge through caring for special places. All Canadians take pride in those places that remind us of our heritage. Reflecting this interest, the Government of Canada has designated sites of national historic significance for over 80 years, and for twenty years it has identified federal heritage buildings that are of importance. The provinces and territories also designate historic sites and protect archaeological resources on lands under their jurisdiction. Aboriginal people have participated in recognizing places of historic significance through federal, provincial and territorial designation processes.

Recognizing that all Canadians care strongly for their historic places, the Government of Canada is proposing the most important federal heritage conservation measures in Canada's history — the Historic Places Initiative (HPI). The purpose of the initiative is to help build a culture of heritage conservation in Canada by ensuring that the Government of Canada leads by example in protecting those historic places for which it is responsible, and by providing tools Canadians need to protect and celebrate historic places.

This paper is meant to facilitate discussions with Aboriginal people on legislative proposals and associated program initiatives.



WHAT IS PROPOSED?

The Canadian Register of Historic Places

The Canadian Register is a "register of registers", which would bring together, in one on-line data base, information on historic places designated by federal, provincial and territorial governments as well as by Aboriginal groups where their self-government agreements provide authority to designate historic places. Aboriginal people could continue to use federal, provincial or territorial designation processes to recognize and celebrate places of significance to them. It is anticipated that the Register will be up and running in 2003.

The Canadian Register of Historic Places would benefit all Canadians in a number of ways. As an easily accessible source of information, it would encourage greater awareness of designated historic places and of their significance in the shaping of Canada. The Register would also be extremely helpful to all those interested in learning and in heritage tourism. Designation on the Register could be used in the future to determine eligibility for possible financial incentives. The Register would provide a world of information to everyone from school children to planners to voluntary groups.

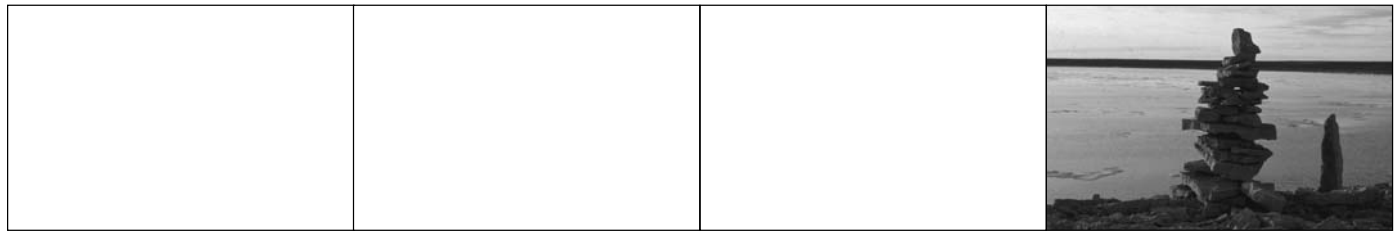
To be eligible for inclusion on the Register, historic places would need to have been designated through a recognized process. Different governments have different processes and criteria for such designation.

Places honouring Aboriginal history designated by the various levels of government would be eligible for inclusion on the Register. Also eligible would be historic places designated by Aboriginal groups where their self-government agreements provide authority to designate historic places.

Reserve lands provide a special designation case. Certainly places of national significance could be designated National Historic Sites, and a number have been. But what about those of local significance? Considering that reserves come within federal jurisdiction and that some of the historic places on reserves are of local rather than national significance, do you have any suggestions for the best way to have such historic places of local significance designated?

New Legislation

Development of a Canadian Register of Historic Places and preparation of conservation standards and guidelines have led Department officials to develop proposals to address legislative gaps in conservation and protection of historic places under the jurisdiction of the Government of Canada. In order to create legislation that best protects and conserves historic places, the Minister of Canadian Heritage seeks to consult with Aboriginal people, provinces, territories,



municipalities, other government departments, elected officials and heritage experts.

New legislation would be a cornerstone of encouraging a culture of heritage conservation in Canada. Legislation would ensure public, long-term commitment to the importance of historic places and the ability to manage their conservation. Among other things, a Canada Historic Places Act would provide a statutory foundation for the Canadian Register of Historic Places and federal commitment to use conservation standards and guidelines, important tools for engaging Canadians and making the Government of Canada a model custodian of historic places within its jurisdiction. The legislation would also require that the heritage value of historic places be taken into consideration in planning and in actions by federal bodies. The proposed legislation also seeks to safeguard archaeological resources on federal lands.

National Historic Sites

The Government of Canada designates places of national historic significance through the National Historic Sites program. Some National Historic Sites are owned by the Government of Canada; most are not. Any Canadian or any Canadian organization can make a submission to the Historic Sites and Monuments Board of Canada requesting that a place be considered for national historic site designation. The Board then recommends to the Minister of Canadian Heritage, who decides whether to make the designation. National Historic Sites (except for those owned by the Government of Canada) are eligible to apply for cost-sharing support from the Government of Canada.

Nothing in the proposed legislation would change this. What would change is that federal departments, agencies and Crown corporations would be obliged to ensure that the commemorative integrity of National Historic Sites on lands under federal jurisdiction is maintained and to refrain from any actions that would adversely affect the commemorative integrity of any National Historic Site.

What is Commemorative Integrity? Commemorative integrity is a term that describes the health and wholeness of a National Historic Site of Canada. Commemorative integrity is said to exist when the resources directly related to the reasons for designation are not impaired or under threat; the reasons for designation as a National Historic Site are effectively communicated to the public, and the site's heritage values are respected in all decisions and actions affecting it.

What about protecting archaeological resources?

Archaeological resources provide a powerful link to our past. They speak to us over the centuries. There are archaeological resources throughout Canada that tell the history of the continent from the time of the first inhabitants. The Government



of Canada wants to establish a framework to safeguard these resources on federal lands.

Currently, there is no comprehensive protection for archaeological resources on federal lands. As a result, fragile archaeological resources are being lost. There is not even a way now to find out what is being destroyed or stolen.

The proposed legislation would apply to lands under federal jurisdiction. Lands covered by comprehensive claim settlements or self-government agreements which are not under federal jurisdiction would not be affected by the proposed legislation, and archaeological resources on provincial or territorial lands are covered by existing legislation enacted within these jurisdictions. Several possible options for protecting archaeological resources on reserve lands are presented below for discussion, none of which assert a federal claim to such resources.

Anyone planning a project on federal lands which might disturb archaeological resources would be required to conduct an archaeological impact assessment. Depending on the results of the assessment, it might be necessary to modify the project, or carry out measures to reduce the threat to the archaeological resources.



Surface remains at Grasslands National Park of Canada, Saskatchewan,
Photographer: W. Lynch, © Parks Canada.

Permits for any archaeological work would be needed, which would include provision for appropriate care of any artefacts that might be discovered. It would be illegal to remove archaeological resources and to sell or acquire artefacts that had been taken from a site on federal lands without a permit.

If a grave site or human remains were discovered in the course of archaeological work, procedures would be needed to ensure that the human remains were treated with respect.

It is likely that a high percentage of archeological resources identified through archaeological impact assessment could be associated with the history of Aboriginal people in Canada. We want to make sure that this legislation respects the concerns of groups culturally and historically associated with archaeological sites. In considering how best to deal with archaeological resources, the



Department of Canadian Heritage would welcome the views of Aboriginal people on the questions identified below and on other issues that could be relevant to the development of appropriate legislation, policies and procedures. These legislative proposals would not affect any arrangements for the management of archaeological resources where these arrangements form part of comprehensive claims or self-government agreements.

- How could the determination of cultural association with particular sites or collections be carried out?
- When a site is a gathering place or has been visited by many Aboriginal groups over time, what decision-making process could be put in place to respect competing concerns?
- How could we deal with situations where the site is so old that we cannot make a connection with a modern Aboriginal group or community?
- When we know that different Aboriginal people or a combination of Aboriginal and non-Aboriginal people occupied a site, how could we decide what to do with artefacts that are collected?
- When there is no way of determining the date or cultural association with a collection of archaeological artefacts, how could we handle them?
- Do you have any suggestions as to how we might balance scientific interests with the cultural interests of associated groups if they are in conflict?

What about archaeological resources on reserve lands?

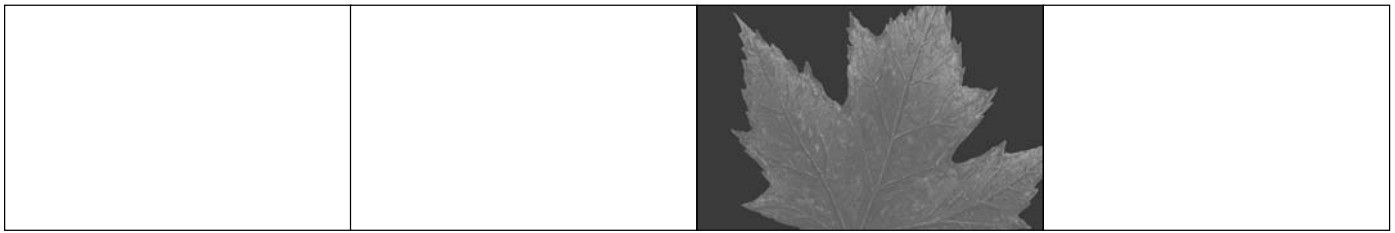
The previous section dealt with the broad issue of archaeological resources on lands under federal jurisdiction. This section deals with the more specific question of how best to ensure that archaeological resources on reserve lands receive the respect they are due.

Reserves covered by the First Nations Land Management Act (FNLMA) already have the means to protect archaeological resources through their land codes. First Nations which have opted into the FNLMA could develop a code for archaeological impact assessments and permits similar to those provided for environmental assessments.

Most reserves, however, are not covered by the FNLMA. For these reserves, a number of possible approaches have been identified as a basis for discussion.

Option 1 — We want the Act but with specific regulations

Under this option, the provisions relating to the protection of archaeological



resources in the proposed Canada Historic Places Act **would apply to all reserves not covered by the FNLMA, with specific archaeology regulations** developed in cooperation with First Nations for reserve lands. The Act would take effect once the regulations were in place.

*A SCENARIO TO
ILLUSTRATE
OPTION 2*

One example might be of a First Nation wishing to work with a third party to conduct a development project such as a gas station on reserve land. Under this scenario, where the First Nation has opted into regulations under the proposed legislation, the Band Council would be obligated to follow the procedures established under these regulations to provide appropriate protection to any archaeological resources which might be disturbed or destroyed as part of the development project.

Option 2 — We would like the choice to opt in

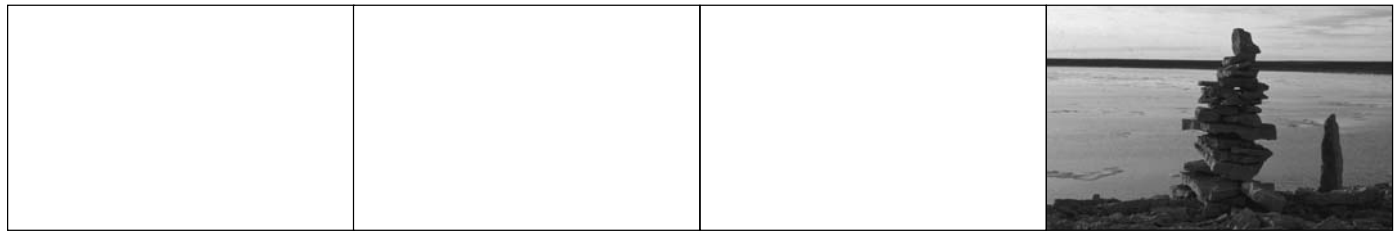
This option provides for individual First Nations **choosing to opt into** the archaeological provisions of the proposed Act.

Option 3 — We like the proposed Act completely

The third option would be the **application of the Canada Historic Places Act and all of its regulations** to all federal lands, including reserves not covered by the FNLMA.

Option 4 — We have some different ideas

There might be other possibilities not considered here. The Department of Canadian Heritage is seeking the insights of First Nations on how best to ensure that archaeological resources on reserves are respected.



WHAT ABOUT OTHER WAYS TO PROTECT HISTORIC PLACES?

Future phases of the Historic Places Initiative could include possible financial incentives to encourage the conservation and restoration of historic places, and a national trust. It could also consider tools that meet the heritage conservation needs of Aboriginal people – once discussions with Aboriginal people have taken place. We are interested in receiving suggestions for other means to help engage Canadians more fully in the protection of their historic places.

Aboriginal Historic Place Tools

Dialogue over the last two years with an Aboriginal heritage advisory committee composed of representatives of First Nations, Inuit and Métis communities has suggested that the general measures proposed to engage Canadians do not always meet the specific needs of Aboriginal people. The advisory committee has identified certain needs that could be addressed through the program: tools that encourage capacity building and information sharing by Aboriginal people to identify and protect historic places; tools that are available to all Aboriginal people and that relate to community needs; and sufficient time for Aboriginal people to identify their needs. Public discussions have begun with Aboriginal people, the provinces and territories to identify tools required. Those discussions will move ahead at the same time as discussion is proceeding on the legislation and other measures outlined in this document.

National Historic Sites

The Minister of Canadian Heritage is also committed to continue to work closely with Aboriginal people to enhance the commemoration of their history within the system of National Historic Sites of Canada. This has meant greater emphasis by Parks Canada on consultation through the nomination process and a recognition of the importance of oral history. Aboriginal people have worked closely with Parks Canada to identify possible National Historic Sites, develop them and present them. National Historic Sites, including those at Kiix?in Village and Fortress in British Columbia, Blackfoot Crossing in Alberta, Riel House in Manitoba, Sahyoue and Edacho in the Northwest Territories, Arvia’juaq and Qikiqtaarjuk in Nunavut, Christ Church Royal Chapel in Ontario, Old Wendake Historic District in Quebec, and Augustine Mound in New Brunswick, reflect the diversity of historic places representing Canada’s Aboriginal heritage that First Nations, Inuit, and Métis are proud to share.



SEEKING INPUT

The Minister of Canadian Heritage is interested in hearing from First Nations, Métis and Inuit on the proposals for the Government of Canada to protect historic places within areas of federal jurisdiction and to encourage a culture of heritage conservation in Canada.

Readers are asked to provide feedback. The views of Aboriginal people are important and will be carefully considered in finalizing the legislation that will be brought before Parliament.

Please forward any comments to:

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K1A 0M5

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E-mail: HPI_IEH@pch.gc.ca



SOME QUESTIONS FOR CONSIDERATION

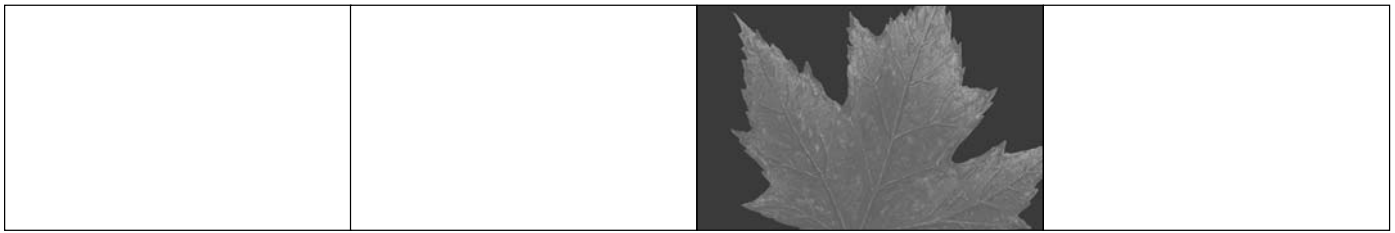
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2. What about protecting archaeological resources ?

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SOME QUESTIONS FOR CONSIDERATION

3. What about archaeological resources on reserve lands?

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