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s.14 ; s.16 ; s.22

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s.13 ; s.14 ; s.16

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s.14 ; s.16 ; s.22

copy filed in HSMA files
together with Binder contents

Ministry of Tourism, Sport and the Arts
BRIEFING NOTE FOR MINISTER

Ref #: 9990

FOR DECISION

Date: October 17, 2006
Updated: January 11, 2007

Title: Adoption of *Standards and Guidelines for the Conservation of Historic Places in Canada*

Issue:

Need to adopt conservation standards for issuing permits for designated Provincial heritage sites and Provincial heritage properties of historical value.

Background:

- The Heritage Branch (Branch) is responsible for the appropriate conservation of historic places protected under the *Heritage Conservation Act*. They include 35 Provincial heritage sites (designated under s. 9) and 20 Provincial heritage properties managed by the Branch (established under s. 23), including 11 devolved Provincial heritage properties (Attachment 1). Only two Provincial heritage sites, Emily Carr's House of All Sorts and the Alexandra Lodge, are in private ownership. The legislation stipulates that no alterations can be made to Provincial heritage sites and Provincial heritage properties without a permit from the Minister or his/her designate.
- The Heritage Site Management Agreements for devolved Provincial heritage properties state that each site will "adhere to the standards of heritage stewardship, site management and programs set by the Province." Currently no standards have been set.
- The Heritage Branch is using the pan-Canadian *Standards and Guidelines for the Conservation of Historic Places in Canada* (S&Gs) developed as part of the national Historic Places Initiative (HPI) for issuing permits. Adopting the S&Gs will clarify stewardship expectations, provide a rational, fair and impartial basis on which to make decisions regarding permits, and give validity to the process. Since the Branch is already using the S&Gs for permits, there will be no change from existing practice.

First Nations Considerations:

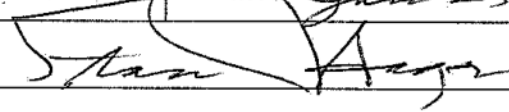
s.16

Discussion:

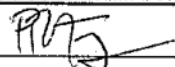

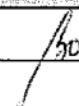
- Former TSA Minister Olga Ilich felt that the S&Gs would add an additional level of regulation for private property owners (only affects two properties), while her predecessor, Community, Aboriginal and Women's Services Minister Murray Coell, had copies sent to all local governments in BC stating they are "the national benchmark of conservation principles and practices" (Attachment 2).
- Following Minister Coell's letter, the City of Victoria has adopted the S&Gs by bylaw for all designated heritage properties (485, mostly in private ownership) and so has the City of Vancouver for historic places in the Downtown Eastside (including Gastown, Chinatown, the Hastings Street Corridor and Victory Square). Neither municipality has received any criticism about their adoption.
- The Federal government and three provinces have formally adopted the S&Gs and two provinces are in the process of adopting them besides BC. Attachment 3 a spreadsheet showing levels of adoption across Canada.
- No criticism is anticipated for the Province.

Recommendation:

Adopt as ministerial policy the *Standards and Guidelines for the Conservation of Historic Places in Canada* as the conservation standards for permits for Provincial heritage property and designated Provincial heritage sites of historic value.

Approved / Not-Approved	Date: Jan 25 / 07
Honourable Stanley B. Hagen:	
Comments:	

Contact: Alastair Kerr, Acting Manager, Heritage Programs
Telephone: 356-1194

Approvals			
Dir: 	ED:	ADM: 	DM: 

I:\trd_div_common\briefing_notes\9990 Adoption of S&G - DECISION.doc

Provincial Heritage Properties

HISTORIC SITE (Location)	Devolved?	Ownership	Management
Barkerville Historic Town	Yes	Province of BC	15 Year Heritage Site Management Agreement (HSMA) with Barkerville Heritage Trust
Richfield Courthouse	Yes	Province of BC	15 Year HSMA with Barkerville Heritage Trust
Blessing's Grave	Yes	Province of BC	15 Year HSMA with Barkerville Heritage Trust
Historic Hat Creek Ranch	Yes	Province of BC	15 Year HSMA with Friends of Historic Hat Creek Ranch Society
Cottonwood House	Yes	Province of BC	15 Year HSMA with School District 28
Fort Steele Heritage Town	Yes	Province of BC	15 Year HSMA with Friends of Fort Steele Society
Wild Horse Creek Historic Site (east of Fort Steele)	Yes	Province of BC	15 Year HSMA with Friends of Fort Steele Society
Craigflower Manor National Historic Site (Town of View Royal)	Yes	Province of BC	15 Year HSMA with The Land Conservancy of BC
Craigflower Schoolhouse, National Historic Site and Kosapsom Archaeological Site (Municipality of Saanich)	Yes	Province of BC	15 Year HSMA with The Land Conservancy of BC
Point Ellice House National Historic Site (City of Victoria)	Yes	Province of BC	15 Year HSMA with Capital Mental Health Association
Helmcken House (City of Victoria)	Yes	Province of BC/Royal BC Museum	RBCM direct management
Emily Carr House National Historic Site (City of Victoria)	Yes	Province of BC	15 Year HSMA with Clio Arts Associates
Kilby Store and Farm, Harrison Mills (Municipality of Kent)	Yes	Province of BC	15 Year HSMA with District of Kent
Historic Yale (Yale)	Yes	Province of BC	15 Year HSMA with The Yale & Dist. Historical Society
The Grist Mill and Gardens at Keremeos (Village of Keremeos)	Yes	Province of BC	15 Year HSMA with W J Stelmaschuk and Associates Ltd.
Tod House (Municipality of Oak Bay)	No	Half owned by Province of BC and half owned by District of Oak Bay	Joint management pending completion of the ongoing Free Crown Grant process to District of Oak Bay

McLeod's Lake Post (north of Prince George)	No	Province of BC	Heritage Branch direct management
Cole Island National Historic Site (City of Colwood)	No	Province of BC	Heritage Branch direct management
Earl Grey Cabin (in Purcell Wilderness Conservancy)	Yes	Province of BC	Ministry of Environment (BC Parks) direct management
Hosmer Historic Coal Mining Site (east of Fernie)	No	Province of BC	Heritage Branch direct management

First Nations Archaeological Heritage Properties

ARCHAEOLOGICAL SITE (Location)	Devolved?	Ownership	Management
s.18; s.18.1	No	Province of BC	Heritage Branch direct management
	No	Province of BC	Heritage Branch direct management
	No	Province of BC	Heritage Branch direct management
	No	Province of BC	Heritage Branch direct management
	No	Province of BC	Heritage Branch direct management
	No	Province of BC	Heritage Branch direct management
	No	Province of BC	Heritage Branch direct management

January 2007

Ref: 104863

June 15, 2004

«MAYORTITLE» and Council
«JURLOCATION»
«STREET_ADDRESS»
«CITYPROVINCE» «POSTAL_CODE»

Dear «POSITION» «NAME» and Council:

I am pleased to be able to provide your community with information regarding an important national program designed to conserve and protect Canada's historic places. The Historic Places Initiative has been developed by the Government of Canada in partnership with provincial and territorial governments, for the purpose of fostering a greater appreciation of our historic places and to strengthen Canada's capacity to take appropriate action to conserve and maintain the integrity of our historic places.

As part of the Historic Places Initiative, a number of pan-Canadian conservation tools have been developed. *The Canadian Register of Historic Places* will be an on-line access to listings of formally recognized historic places across Canada. The register, located at www.historicplaces.ca, will be Canada's first single source of information about our historic places, when it goes live later this year.

The Standards and Guidelines for the Conservation of Historic Places in Canada is the nationwide benchmark of conservation principles and practices. It was developed to guide interventions to historic places, in order to achieve a balance between conservation and functional requirements. A printed version is being produced and will be distributed to local governments and other key stakeholders when it becomes available. The electronic version of the document is located at www.pc.gc.ca.

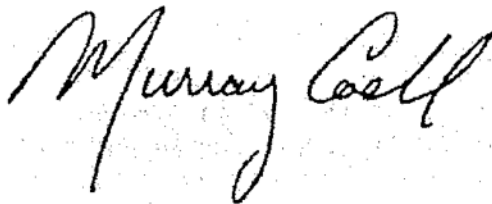
The Commercial Heritage Properties Incentive Fund program can provide assistance to support the preservation and rehabilitation of commercially viable historic places in Canada. The properties must be listed on the *Canadian Register of Historic Places* and the rehabilitation work must meet the *Standards and Guidelines for the Conservation of Historic Places in Canada*. In addition, the property must have an existing or new commercial purpose and eligible applicants must be a taxable Canadian corporation. For more detailed information on this funding program, please visit www.pc.gc.ca/commercialproperties.

.../2

Mayor and Council
Page 2

I encourage you to review the Historic Places Initiative Web site and the enclosed program material and share it with your community. For more information on how your community can participate in this initiative, please contact the provincial Heritage Branch in Victoria at 250 356-1432.

Yours truly,

A handwritten signature in black ink, reading "Murray Coell". The signature is fluid and cursive, with the first name "Murray" written in a larger, more prominent script than the last name "Coell".

Murray Coell
Minister

Enclosures

Minister:file copy Branch:file copy Branch:pending copy ARCS/ORCS#: 0280-30
Date Typed: June 15, 2004 Prepared by: HB:FBell:dh
Document Location: i:\heritage_branch\heritage_vic\admin\minlet\2004\104863 hpi letter to mayors & chief councillor.doc

Le français suit

Jurisdiction	1. Policy Endorsement (HPI) and distribution	2. Endorsement and use	3. Formal Adoption by Jurisdiction	4. Condition for Program Funding (HPI)	5. Use for Project Funding	6. Use for Designated Properties Owned by Jurisdiction
Newfoundland and Labrador	✓	✓	✓		✓	
Prince Edward Island	✓	✓		✓		✓
Nova Scotia	✓	✓	(In progress)	✓		
New Brunswick	✓	✓		✓		✓
Québec	✓					
Ontario	✓	✓				✓(With other documents)
Manitoba	✓	✓	(In progress)	✓	✓	✓
Saskatchewan	✓	✓	✓		(In progress)	✓
Alberta	✓	✓	✓		✓	✓
British Columbia	✓	✓	(In progress)	✓		
Yukon	✓	✓			✓	
Northwest Territories	✓					
Nunavut	✓					
Federal (Parks Canada/ FHBRO)	✓	✓	✓		✓	✓
Total	14	11	4	5	5	7

Attachment 3

Shakesides Draft letter

From: McFarland, Theresa FLNR:EX
To: Tinney, Roger TACS:EX <Roger.Tinney@gov.bc.ca>
Sent: June 27, 2019 11:21:39 AM PDT
Attachments: image001.png,^{s.22} Shakesides Heritage Branch Letter-DRAFT-27 June 2019.docx
Hi Roger,

Here is the draft letter I put together for the Shakesides,^{s.22} inquiry.

Kind regards,
Theresa



Theresa McFarland
Heritage Stewardship Officer-Register and Collections
BC Register of Historic Places | Heritage Branch
Ministry of Forests, Lands, Natural Resource Operations and Rural Development
Phone: 778 698-4190
Theresa.McFarland@gov.bc.ca

s.22

Thank you for your inquiries regarding Shakesides, the home of Hamilton Mack Laing (1883-1892) in Comox, B.C. I can see why this site is of great interest to you and others in your community.

As of 1994, the authority for heritage conservation (designation, Community Heritage Register listing, etc.) was transferred to the local government level. Municipalities and regional governments can now choose to recognize or protect a property within their boundaries using the provisions of the Local Government Act, section 15. The decision to use these tools rests with Comox municipal council.

If Comox municipal council is amenable to your desire to formally protect and conserve this property, Heritage Branch planners may be able to provide information on the process if requested. Heritage BC, the not-for-profit advocacy organization that provides heritage conservation advice and training in B.C. could provide information on their funding programs for heritage conservation and awareness.

Sincerely,



OUTLOOK
ENGINEERING AND
LANDSCAPE ARCHITECTURE
Places People Love

1326 Docliddle Road
Comox BC V9M 2P9
T. (250) 339-5222
www.outlookela.com

November 26, 2020

Town of Comox
1809 Beaufort Avenue
Comox BC V9M 1R9

Attention: Jordan Wall, Chief Administrative Officer

Dear Sir:

Shakesides Museum Viewpoint: Design Update

This letter is to follow up on our recent site discussions where a review of Outlook's earlier conceptual designs was requested. We have updated our drawings to suit.

We trust you find the attached images reflect your current needs.

Sincerely,

Outlook Engineering and Landscape Architecture Inc.

Per

Tim O'Brien,

P. Eng. LMBCSLA

Professional Engineer (Civil), Landscape Architect

Email: outlookela@shaw.ca

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s.14 ; s.16 ; s.18 ; s.18.1

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s.14 ; s.16 ; s.18

From: [Green, Susan J FLNR:EX](#)
To: [Tinney, Roger FLNR:EX](#)
Subject: FW: Shakesidess.2 (home of Hamilton Mack Laing)
Date: April 12, 2018 1:59:50 PM

Hi Roger, there is one more email, see below.

Susan

From: Green, Susan J FLNR:EX
Sent: Tuesday, August 23, 2016 4:11 PM
To: Tinney, Roger FLNR:EX
Subject: FW: Shakesidess.22 (home of Hamilton Mack Laing)

Hi Roger,

FYI - I received some correspondence (below) from a citizen about this site in Comox that has been in the news lately. s.22 and perhaps thinks that if he sends that to us the site will be protected by the province, which is not the case. I've redirected him to the Town of Comox.

I don't think this is a big issue but I thought you'd want to be aware of it.

Susan

From: Green, Susan J FLNR:EX
Sent: Tuesday, August 23, 2016 3:45 PM
To: s.22
Subject: RE: Shakesidess.22 (home of Hamilton Mack Laing)

Hello s.22

I received your email and attachments, however I believe you need to contact the Town of Comox directly about this matter.

In 1994, authority for heritage conservation (designation, Community Heritage Register listing, etc.) was transferred to the local government level. Municipalities and regional governments can now choose to recognize or protect a property within their boundaries using the provisions of the Local Government Act, section 15. It is up to your local Mayor and Council to decide whether or not to use these tools.

I would suggest that you contact the Town of Comox to discuss the options for this site. The most recent contact I have for the Town is Regina Bozerocka, Planner. If Regina is not available, you could speak with the Clerk or CAO.

If you or the Town are looking for conservation advice or funding, you might also contact Heritage BC, the advocacy organization for heritage in BC. HBC provides general advice and administers the Heritage Legacy Fund on behalf of the Province. The HLF provides funding for physical conservation and interpretation of historic places in British Columbia. You can reach HBC through their website at <http://www.heritagebc.ca/>.

Best wishes,

Susan J. Green | Registrar | BC Register of Historic Places
Heritage Branch | Ministry of Forests, Lands and Natural Resource Operations
Office: 250.356.1435 | www.gov.bc.ca/bcheritage

-----Original Message-----

From: s.22
Sent: Monday, August 22, 2016 1:08 PM
To: Green, Susan J FLNR:EX
Subject: Shakesides s.22 (home of Hamilton Mack Laing)

Dear Susan,

Please find attached ^{s.22}

for Shakesides, the home of Hamilton Mack Laing

(1883-1982) in Comox B.C.

Mack Laing was an Ornithologist, Botanist and Naturalist well known Nationally and Internationally.

His property and home were left to the Town of Comox through a legal Trust which has been ignored by the Town.

s.22

Could you please confirm receipt of the SoS and its cover letter.

Thank you,

s.22

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s.13 ; s.14 ; s.16 ; s.22

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Withheld pursuant to/removed as

s.14

From: [Tinney, Roger FLNR:EX](#)
To: [Green, Susan J FLNR:EX](#)
Subject: RE: Request Provincial designation on site in Comox
Date: April 3, 2019 10:49:10 AM

Sure

From: Green, Susan J FLNR:EX
Sent: April 3, 2019 9:07 AM
To: Tinney, Roger FLNR:EX <Roger.Tinney@gov.bc.ca>
Subject: FW: Request Provincial designation on site in Comox

Hi Roger,

I think this call is likely about the Mack Laing house in Comox (Shakesides). s.14; s.22
s.14; s.22

Susan

From: Lise, Tessa FLNR:EX
Sent: March 29, 2019 11:20 AM
To: Green, Susan J FLNR:EX <Susan.J.Green@gov.bc.ca>
Subject: Request Provincial designation on site in Comox

Hi Susan,

s.22 called and would like to get a heritage site in Comox designated provincially, not just locally, as the person associated with the site had provincial significance.
Could you please call s.22 I also have an email: s.22

s.22 might be best to call first.

Thank you,
Tessa

From: s.22
To: [Tinney, Roger FLNR:EX](#)
Cc: s.14
Subject: Re: A Voice You Cannot Ignore
Date: June 13, 2019 11:48:13 AM

Hi Roger,

I followed s.14 advice and reviewed the Community Charter legislation. I found two sections that are relevant to the Mack Laing issue (copied below).

Sections 2(2)(f) and 2(2)(g) are of relevance to your department.

2-2-f states: "the authority of municipalities is balanced by the responsibility of the Provincial government to consider the interests of the citizens of British Columbia generally"

What that means is that a balance must be struck between the interests of the Town of Comox and the **interests of the citizens of British Columbia generally**.

2-2-g states: "the Provincial government and municipalities should attempt to resolve conflicts between them by consultation, negotiation, facilitation and other forms of dispute resolution."

Settling this matter via the Supreme Court certainly does not conform to the principle stated in 2-2-g.

Roger, you have a responsibility to the citizens of BC in general. As I have stated numerous times, the voices of the citizens of BC are not being heard in this matter. I believe a very strong case can be made that Mack Laing was a person of historical interest to the Province of BC. As such you have a responsibility to represent the citizens of BC in protecting a valuable heritage site.

If you have received any instructions, e-mails or memos of any kind from the Attorney General's Office regarding the Mack Laing issue, I am formally requesting that you disclose that information to me under the requirements of FOI.

I am also encouraging you to request intervenor status in this case on behalf of the citizens of the Province of BC.

s.14

Regarding section 184 it would seem that there are two criteria specified in 184 subsection 3 that must be met: the intention of the will-maker and the best interests of the municipality. In my opinion, the proposed viewing

platform fails to meet either the intention of the will-maker and no reasonable justification has been provided to suggest that it is in the best interests of the municipality.

Cheers,
s.22

Property accepted in trust

- 184** (1) All money that is held by a municipality and is subject to a trust must be invested in accordance with section 183 until it is required for the purposes of the trust.
- (2) If, in the opinion of a council, the terms or trusts imposed by a donor, settlor, transferor or will-maker are no longer in the best interests of the municipality, the council may apply to the Supreme Court for an order under subsection (3).
- (3) On an application under subsection (2), the Supreme Court may vary the terms or trusts as the court considers will better further both the intention of the donor, settlor, transferor or will-maker and the best interests of the municipality.
- (4) Section 87 [*discharge of trustee's duty*] of the *Trustee Act* applies to an order under subsection (3).

Principles of municipal-provincial relations

- 2** (1) The citizens of British Columbia are best served when, in their relationship, municipalities and the Provincial government
- (a) acknowledge and respect the jurisdiction of each,
 - (b) work towards harmonization of Provincial and municipal enactments, policies and programs, and
 - (c) foster cooperative approaches to matters of mutual interest.
- (2) The relationship between municipalities and the Provincial government is based on the following principles:
- (a) the Provincial government respects municipal

authority and municipalities respect Provincial authority;

- (b) the Provincial government must not assign responsibilities to municipalities unless there is provision for resources required to fulfill the responsibilities;
- (c) consultation is needed on matters of mutual interest, including consultation by the Provincial government on
 - (i) proposed changes to local government legislation,
 - (ii) proposed changes to revenue transfers to municipalities, and
 - (iii) proposed changes to Provincial programs that will have a significant impact in relation to matters that are within municipal authority;
- (d) the Provincial government respects the varying needs and conditions of different municipalities in different areas of British Columbia;
- (e) consideration of municipal interests is needed when the Provincial government participates in interprovincial, national or international discussions on matters that affect municipalities;
- (f) the authority of municipalities is balanced by the responsibility of the Provincial government to consider the interests of the citizens of British Columbia generally;
- (g) the Provincial government and municipalities should attempt to resolve conflicts between them by consultation, negotiation, facilitation and other forms of dispute resolution.

On Jun 12, 2019, at 7:45 PM, s.14 wrote:

Dear s.22

The Attorney General's position in this matter is set out in his amended response to Comox's petition to vary the charitable purpose trust created by Hamilton Mack Laing in his will. Comox relies on section 184 of the *Community Charter* to vary the trust.

If anyone else is interested in being involved in this court proceeding, it is open to them to apply to the court to be an intervener.

As s.14 and I have noted in our earlier emails, this matter is currently before the court and it would not be appropriate for us to engage in further comment.

Thank you,

s.14

Legal Services Branch | Ministry of Attorney General
s.14

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From: s.22
Sent: Monday, June 10, 2019 8:40 PM
To: s.14
Cc: Tinney, Roger FLNR:EX
Subject: Re: A Voice You Cannot Ignore

Hi s.14

I did receive s.14 June 9th e-mail. Thank you. It turns out that the first one that s.14 sent went into my junk box for some odd reason.

Thank you for having heard and considered my comments. I hope you will also take the time to read some of Mack's Baybrook manuscript. If you do it will help understand how grotesque the idea of the viewing platform is. It does not conform to the cy-près doctrine in any way shape or form. There are better alternatives that are practical, affordable and more closely meet the objectives of Mack's will (i.e., conform to the cy-près doctrine).

Both you and s.14 keep insisting that I speak to representatives of the Town of Comox. You are operating on the assumption that "the system works". That is, that Town staff are good and honourable people who have the best interests of the residents at heart and that the elected officials have taken the time to educate themselves on the issues and are operating according to democratic principles. It might surprise you to learn that in many small rural communities, the system falls short. If you take the time to examine the past behaviour of the Town's

administration, especially as it concerns the management of Mack Laing's trusts, you will discover that not all is well in the Town of Comox.

I remain adamant that other voices need to be heard... most certainly the K'omoks First Nation as well as Heritage BC. Mack was both a provincial and national person of interest. It is very inappropriate for the Town of Comox administration or elected officials to determine that a "viewing platform" meets the criteria of the cy-près doctrine. I believe that the people of the province of BC have a right to be heard through Heritage BC or through Heritage and Conservation BC. I also think a good case might be made for federal intervention.

I will not be seeking intervenor status. s.22
s.22

However, they should not be the only intervenors in this case. To repeat myself, other voices need to be heard!

I can only hope that you will listen, reflect and then act according to your conscience and the law.

Cheers,
s.22

On Jun 10, 2019, at 12:58 PM, s.14
wrote:

Dear s.22

The email s.14 sent to you on June 7, 2019, was resent to you last night. Please confirm you have received s.14 email.

We have heard and considered your comments. As noted in s.14 email, a copy of your comments has been kept in the Attorney General's file related to this matter.

s.14 and I are legal counsel for the Attorney General of British Columbia. We do not represent you and we cannot provide you with legal advice. If you would like legal advice on seeking intervenor status in this matter so that you can present your views to the court, we encourage you to obtain legal representation. You may or may not wish to use the Canadian Bar Association of BC's lawyer referral service.

Alternatively, you may or may not wish to discuss your concerns regarding the Mack Laing court proceedings with your local government representatives on the Town of Comox's council, who is a party to this matter, or with the Mack Laing Heritage Society, who is currently an intervenor in this matter.

Thank you,

s.14

Ministry of Attorney General | Legal Services Branch

s.14

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From: s.22

Sent: Sunday, June 9, 2019 7:47 PM

To: s.14

Cc: Tinney, Roger FLNR:EX

Subject: Re: A Voice You Cannot Ignore

I did not receive an email from s.14 on June 7th.

Please resend.

In my opinion, the “before the courts” excuse is inappropriate. The government of BC has an obligation to respond in a reasonable manner to well considered comments made by a citizen of this Province.

Would you kindly advise me how I might be able to present my views on this matter before the Court?

Regards,
s.22

Sent from my iPad

On Jun 9, 2019, at 7:34 PM, s.14
wrote:

Dear s.22

The response to your earlier emails is set out in s.14 email
of June 7, 2019.

As this matter is before the court, it would not be appropriate for me to
engage in further comment.

Thank you,

s.14

Legal Services Branch | Ministry of Attorney General

s.14

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From: s.22

Sent: Sunday, June 09, 2019 11:16 AM

To: s.14

Cc: Tinney, Roger FLNR:EX

Subject: Re: A Voice You Cannot Ignore

Hi s.14

Forgive me in advance for teasing you a bit about your use of the word “shortly” in your e-mail of May 10th (one month ago). For laypeople, the word shortly typically means in the next week or so. In the legal profession, “shortly” means sometime before the Supreme Court’s Jordan rule takes effect. :-)

I just finished reading Mack Laing’s manuscript, “Baybrook: Life’s Best Adventure”. Reading the manuscript is like taking a time machine trip back 100 years into the past. The world he describes is steps away and yet so very different. The manuscript provides deep insight into the life of a BC pioneer.

I don’t expect you to read the entire manuscript, but I would strongly encourage you to read the final chapter. Shortly after his wife Ethel dies of cancer, he takes in a local high school student named Don to help him with the chores on his nut orchard. The chapter provides real insight into the “state of mind” of Mack Laing. The following excerpt may be of interest to you...

“I told him [Don] I would have to bunk him in the middle room. I’d add him to my museum! When I explained that the tall floor-to-ceiling cases were filled with bird specimens - smell the naphthaline? - he sniffed and replied: “So that’s what it is! Gosh, I hope they don’t all squawk in the middle of the night!”

“I explained that the main bedroom was spare for the guest room, that the den, my sanctum sanctorum, was out of bounds, that is best bet for studying would be at the big table in the living room. We would mostly eat at the kitchen table and serve off the range, time being the scarcest commodity on the place. Don glanced around his accommodation and exclaimed, half to himself, “Gee, I’m really going to learn something here!”

It will be obvious to anyone reading the final chapter of Mack’s

Baybrook manuscript (hopefully including the judge hearing your case) that his desire was to provide a place for other young people like Don to learn about the natural world around them. A viewing platform is certainly no match for floor-to-ceiling cases filled with bird specimens smelling like naphthaline!

I look forward to hearing from you sometime before the Comox Glacier melts. :-)

By the way, thank you for postponing the case to allow input from the K'omoks First Nation! s.18
s.18

Cheers,
s.22

On May 10, 2019, at 9:38 AM, s.14
s.14 wrote:

Dear s.22

I am co-counsel with s.14 in the matter of
the Town of Comox v. Attorney General of British
Columbia.

We will respond to your April 23 and May 8, 2019 emails
shortly.

Thank you for your patience,
s.14

Ministry of Attorney General | Legal Services Branch
s.14

This communication (both the message and any attachments) may be confidential and protected by solicitor-client privilege. It is intended only for the use of the person or persons to whom it is addressed. Any distribution, copying, or other use by anyone else is strictly prohibited. If you have received this communication in error, please destroy the email message and any attachments immediately and notify me by telephone or by email.

From: s.22
s.22
Date: May 8, 2019 at 8:49:53 PM PDT
To: s.14
s.14

Cc: <Roger.Tinney@gov.bc.ca>
Subject: A Voice You Cannot Ignore

Hi s.14

I've been waiting patiently for the "substantive" reply that you promised to my lengthy missive on the need to include other "voices" in the Mack Laing court proceedings.

One of the voices that I ought to have mentioned during our conversation is the K'omoks First Nation.s.18
s.18

At the March 27th Public Meeting, Comox Mayor Russ Arnott was asked s.18; s.18.1
s.18; s.18.1

s.18; s.18.1 Mayor Arnott stood up and gave an unqualified affirmation that every effort would be made s.18; s.18.1
s.18; s.18.1 and that he had consulted with Chief Nicole Remple concerning plans for the demolition of Shakesides and the construction of the viewing platform. (As an aside, I find it a bit ironic that the Town is s.18; s.18.1

quick to dismiss the need to conserve the heritage of an important BC pioneer.)

As it turns out, Mayor Arnott's answer at the public meeting was "less than factual" see article below.

<https://decafnaion.net/2019/04/22/comox-failed-to-consult-with-kfn-over-mack-laing-park/>

It is an understatement to say that the Attorney General's office would be remiss in not inviting the K'omok's First Nation to participate as an intervenor in the legal proceedings involving Mack Laing's will. You may want to ponder the consequences of failing to include their involvement.

I look forward to you reply to my previous email and to this one.

Cheers,
s.22

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Withheld pursuant to/removed as

s.14 ; s.22

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Withheld pursuant to/removed as

s.14

From: s.22
To: [Tinney, Roger FLNR:EX](#)
Subject: Re: FOI
Date: June 19, 2019 8:34:26 AM

Hi Roger,

My rationale for requesting copies of communication between the Attorney General's Office and Heritage Conservation is the concern that one branch of government may be interfering with the actions of another branch. The Attorney General's Office is responsible for the appropriate execution of charitable trusts. Your office is responsible for the protection and management of heritage sites. The Mack Laing issue involves both. The Attorney General's position regarding the Mack Laing trust should not have any bearing on the determination as to whether Shakesides represents of significant heritage site of provincial interest. If the Attorney General's Office has provided advice or directions to your office on this matter, it would be inappropriate.

I believe that there is sufficient evidence to suggest that Shakesides is an historically important provincial heritage site and at the very least merits some investigation and consideration by your office. I also believe that Heritage BC ought to be represented in the matter before the court.

Have you made any decisions with regard to the Mack Laing issue? What actions, if any, do you plan to take?

Cheers,
s.22

On Jun 18, 2019, at 3:12 PM, Tinney, Roger FLNR:EX
<Roger.Tinney@gov.bc.ca> wrote:

Hi s.22

In your last email you made reference to an FOI request. I don't think that will provide you with any information further than what I have already shared with you. However, if you feel compelled you will have to go through the formal FOI request/process.

<image001.png>

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s.14 ; s.22

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s.14 ; s.16 ; s.22

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s.14 ; s.22

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s.14 ; s.16 ; s.22

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s.14

From: [Pfahler, Ursula FLNR:EX](#)
To: [Tinney, Roger FLNR:EX](#)
Cc: [Casault, Genevieve FLNR:EX](#)
Subject: RE: Hat Creek and Shakesides
Date: September 3, 2019 3:27:18 PM
Attachments: [image001.png](#)

Hi Roger,
Our phone call is from 1:30-2:30, so we could join the second half, if that works for you.
Ursula

From: Tinney, Roger FLNR:EX
Sent: September 3, 2019 3:26 PM
To: Pfahler, Ursula FLNR:EX <Ursula.Pfahler@gov.bc.ca>
Subject: RE: Hat Creek and Shakesides
Can you join in for the first half, that will give you the bulk of the info

Signature clipped



-----Original Appointment-----

From: Pfahler, Ursula FLNR:EX
Sent: September 3, 2019 3:20 PM
To: Tinney, Roger FLNR:EX
Subject: Tentative: Hat Creek and Shakesides
When: September 4, 2019 2:00 PM-3:00 PM (UTC-08:00) Pacific Time (US & Canada).
Where: Balfor Room

Hi Roger,
Genevieve and I are scheduled for a conference call with Indigenous Tourism BC until 2:30.
Ursula

From: [Linzey, Richard FLNR:EX](#)
To: [Tinney, Roger FLNR:EX](#); [Casault, Genevieve FLNR:EX](#); [Laanela, Erika FLNR:EX](#)
Subject: FW: Shakesides in Comox
Date: September 9, 2019 3:25:50 PM
Attachments: [image001.png](#)
[1973_09_19a Indenture.pdf](#)
[1982_03_01 Laings Probated Will.pdf](#)
[image001.jpg](#)

FYI - not sure if this is fresh intel, but thought it was helpful. Heritage BC intervened because as they see it, a term of a municipal heritage covenant, albeit an unusual one, has been breached.

Richard

From: Gordon Macdonald [<mailto:gord@heritageworks.ca>]

Sent: Saturday, September 7, 2019 10:45 AM

To: Linzey, Richard FLNR:EX

Subject: Shakesides in Comox

Re Mack Laing

Town of Comox currently has \$256k in the Mack Laing Trust.

Laing's intention was pretty clearly stated in his will:

Capture.JPG



That the house is currently in such a poor state of repair is entirely the responsibility of the Town of Comox and the natural consequence of their choices over the past 46-years. Heritage BC is concerned that when an individual makes a gift of private property for the purpose of heritage conservation, and when that gift is accepted by government, government must not be allowed to break that trust.

Copy of the will attached.

Interesting dilemma.

Gord

--

HERITAGEWORKS LTD.

www.heritageworks.ca

Gord Macdonald & Ben Gourley

Gord's Cel:s.22

THIS INDENTURE, made the 19th day of September, in the year of our Lord one thousand nine hundred and seventy-three:

IN PURSUANCE OF THE "SHORT FORM OF DEEDS ACT"

B68514

BETWEEN:

HAMILTON M. (MACK) LAING, Naturalist, of
1431 Comox Avenue, Comox, in the Province of
British Columbia,

hereinafter called "the Grantor"

OF THE FIRST PART

A N D:

THE CORPORATION OF THE TOWN OF COMOX, a Municipal
Corporation, of Comox, in the Province of British
Columbia,

hereinafter called "the Grantee"

OF THE SECOND PART

WHEREAS the Grantor is the owner in fee simple in possession under Certificate of Indefeasible Title No. 21970-N issued subject only to registered Charge No. 46170-G in respect of Reservations of Minerals etc. in favour of Esquimalt and Nanaimo Railway Company, of all and singular the parcel or tract of land and premises situate, lying and being in Comox Assessment District, in the Province of British Columbia, the same being more particularly known and described as:

Lot two (2), District Lot eighty-seven (87), Comox
District, Plan 3387, EXCEPT that part of the said Lot
included within the boundaries of Plan 16654,

and which said parcel or tract of land and premises is hereinafter referred to as "the said property";

AND WHEREAS the Grantor is desirous that upon his death, the said property shall be used in perpetuity as a nature park, and is ready and willing to convey the said property to the Grantee by way of gift, subject to the conditions hereinafter set forth, as to use of the said property;

AND WHEREAS the Grantee is ready and willing to accept the said property by way of gift subject to the said conditions:

NOW THEREFORE THIS INDENTURE WITNESSETH that in consideration of the sum of One (\$1.00) Dollar of lawful money of Canada now paid by the Grantee to the Grantor (the receipt whereof is hereby by the Grantor acknowledged); and other good and valuable consideration, the Grantor does hereby grant unto the Grantee, its successors and assigns, in trust, in perpetuity, as a public nature park, for recreation and conservation as hereinafter dealt with, forever, all and singular that certain parcel or tract of land and premises situate, lying and being in Comox Assessment District, in the Province of British Columbia, and being more particularly known and described as:

Lot Two (2), District Lot eighty-seven (87), Comox District, Plan 3387, EXCEPT that part of the said Lot included within the boundaries of Plan 16654,

SUBSTITUTE FORM "A" - APPLICATION TO REGISTER FEE SIMPLE.

DECLARED VALUE \$50,000.00

KINDLY DELIVER TITLE TO: GORDON & MORRIS, 477 Cumberland Road, Courtenay,
B.C. Tel. 338-5311, per:

Arthur J. Masters

subject however, to the said hereinbefore recited Charge No. 46170-G, and subject also to the conditions hereinafter set forth as to the trust hereinbefore mentioned and the use of the said lands as such public nature park; and together with the grant of the said lands subject as aforesaid, all buildings, fixtures, commons, ways, profits, privileges, rights, easements and appurtenances to the said hereditaments belonging, or with the same or any part thereof held or enjoyed or appurtenant thereto, and the estate, right, title, interest, property, claim and demand of the Grantor in, to, or upon the said premises,

TO HAVE AND TO HOLD unto the Grantee and its successors and assigns the owners from time to time and at any time of the said lands, in trust, in perpetuity, FOREVER, as a public nature park, for recreation and conservation, subject nevertheless to the reservations, limitations, provisos and conditions expressed in the original grant thereof from the Crown, the said Charge No. 46170-G, and subject to the conditions hereinbefore referred to as to the said trust, and the use of the said lands which are as follows:

1. The said property shall be used as a public nature park, for recreation and conservation purposes, and in accordance with the said use, the said property shall be left to the greatest extent possible in its natural state, the natural flora to be left undisturbed and to be encouraged, additional plantings, (if any) to be suited to and in keeping with the setting of a nature park; and the use of any buildings now constructed upon the said property or any replacing present structures shall be restricted to the comfort and convenience of those members of the public wishing to enjoy the quiet beauty of a nature park, and in every way possible, any building constructed upon the said property shall be of design and decoration to harmonize with the nature park setting; provided however, that the Grantee at any time and from time to time may make use of the said property or any part thereof and of any building constructed thereupon for the enjoyment and well being of any prescribed group of people, but in no event shall such special use exclude the general public from the use for recreation and conservation purposes of the said property as a nature park or in any way whatsoever adversely affect such use.

2. Public vehicular traffic within the said property shall not be permitted; provided however that the Grantee shall have the right to permit vehicular traffic if necessary for the advancement and success of any use of the said area for the benefit of any prescribed group of people, and also for park maintenance purposes; and provided also that provision for limited parking may be made within the said property immediately adjoining any public road allowance.

. And the Grantee for itself, its successors and assigns, the owners from time to time and at any time of the said property, hereby acknowledges its acceptance of the grant of the said property, in trust, in perpetuity as a public nature park for recreation and conservation, subject to the said Charge 46170-G, and to the said conditions as

hereinbefore set forth.

The Grantor covenants with the Grantee that he has the right to convey the said lands to the Grantee notwithstanding any act of the Grantor; and that the Grantee shall have quiet possession of the said lands free from all encumbrances, save as aforesaid.

This agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns.

IN WITNESS WHEREOF the Grantor has hereunto set his hand and seal, and the Grantee has caused its corporate seal to be hereunto affixed by and under the signatures of its proper officers in that behalf, the day and year first above written.

SIGNED, SEALED AND DELIVERED by
the Grantor, in the presence of:

W. H. Gordon
477 Cumberland Road,
Courtenay, B.C.,
Solicitor.

)
(
)
(
)
(
)
(
)
(

Hamilton M. Laing

Hamilton M. Laing

THE CORPORATE SEAL of THE CORPORATION OF THE TOWN OF COMOX
was hereunto affixed, in the presence of:

B. J. Munn, Mayor

R. E. Kew, Municipal Clerk.

FOR MAKER

I HEREBY CERTIFY that on the 19th day of September, 1973, at the City of Courtenay, in the Province of British Columbia, HAMILTON M. (MACK) LAING, who is personally known to me, appeared before me and acknowledged to me that he is the person mentioned in the annexed instrument as the maker thereof, and whose name is subscribed thereto as party, and that he knows the contents thereof, and that he executed the same voluntarily, and that he is of the full age of nineteen years.

IN TESTIMONY WHEREOF I have hereunto set my hand at Courtenay, in the Province of British Columbia, this 19th day of September, 1973:

W. R. L. Gordon

A Commissioner for taking affidavits for
British Columbia.

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s.3

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s.14 ; s.16 ; s.22

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s.14 ; s.16 ; s.22

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Withheld pursuant to/removed as

s.14

From: [Tinney, Roger FLNR:EX](#)
To: [Laanela, Erika FLNR:EX](#)
Cc: [Casault, Genevieve FLNR:EX](#)
Subject: Shakesides
Date: September 17, 2019 4:11:32 PM
Attachments: [image001.png](#)

Hi Erika,

The Town of Comox contacted me to advise the CAO is no longer employed there, as of yesterday. However, **Al Fraser, Superintendent of Parks** said he would be happy to give you a guided tour. If you want to give him a call and make arrangements for a time/day he said his schedule is very flexible.

Al's office number is 250-339-2421

Cell number is: s.22

Signature clipped



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s.14

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Withheld pursuant to/removed as

s.14 ; s.22

From: [Laanela, Erika FLNR:EX](#)
To: afraser@comox.ca
Cc: akenning@comox.ca; Casault, Genevieve FLNR:EX; Csicsai, Paulina FLNR:EX; Tinney, Roger FLNR:EX
Subject: RE: Visit to Mack Laing Park
Date: September 19, 2019 12:56:00 PM
Attachments: [image001.png](#)

Hello again,
Wonderful! We will call when we arrive in town.
Thanks for the quick reply, and see you next week.
Erika Laanela
Cel. s.22

From: afraser@comox.ca <afraser@comox.ca>
Sent: September 19, 2019 12:54 PM
To: Laanela, Erika FLNR:EX <Erika.Laanela@gov.bc.ca>
Cc: akenning@comox.ca
Subject: RE: Visit to Mack Laing Park

Good Day Erika,
I would be glad to show you around the site. I will be available to meet you next Thursday and suggest you give me a call when you arrive in Comox. My mobile number is s.22
Regards,
Al Fraser
Superintendent of Parks
Town of Comox
(250) 339-2421
afraser@comox.ca

From: Laanela, Erika FLNR:EX <Erika.Laanela@gov.bc.ca>
Sent: Thursday, September 19, 2019 12:41 PM
To: Al Fraser <afraser@comox.ca>
Cc: Csicsai, Paulina FLNR:EX <Paulina.Csicsai@gov.bc.ca>; Tinney, Roger FLNR:EX <Roger.Tinney@gov.bc.ca>; Casault, Genevieve FLNR:EX <Genevieve.Casault@gov.bc.ca>
Subject: Visit to Mack Laing Park

Hello Mr. Fraser,
My colleague, Paulina Csicsai, and I are planning to come up to Comox on Thursday, September 26 to visit Mack Laing Park. I understand that Roger Tinney in our office was given your name as a contact and it was suggested that you might be able to show us around the site.
Is Thursday convenient for you? We will be driving up from Victoria, so we could potentially meet you at the park at around 1:30 pm.
Please let us know if this works with your schedule.
Many thanks,



Erika Laanela
Senior Heritage Policy Advisor
Integrated Resource Operations | Heritage Branch
erika.laanela@gov.bc.ca
Forests, Lands, Natural Resource Operations and Rural Development

The Heritage Branch acknowledges it carries out its work on the traditional territories of Indigenous nations throughout British Columbia. We pay our respects to the Elders, past and present, descendants and custodians of these lands. We honour the knowledge keepers and the continuing relationships with Indigenous peoples in BC that develop through our work together. The Heritage Branch is grateful to the Lkwungen-speaking people, today known as the Esquimalt and Songhees First Nations, on whose traditional territories we operate our main offices.

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Withheld pursuant to/removed as

s.14

Lise, Tessa FLNR:EX

From: Tinney, Roger FLNR:EX
Sent: September 19, 2019 12:45 PM
To: Laanela, Erika FLNR:EX; Casault, Genevieve FLNR:EX; Csicsai, Paulina FLNR:EX
Subject: FW: Shakesides House, Comox BC
Attachments: Bates Report Shakesides December 2015.pdf; Condition Assessment 2017.pdf; Heritage BC and Shakesides 2019.docx; Shakesides Business Plan REVISED.pdf; Statement of Significance 2016.pdf

Please see attached and note below from Mack Laing Society



Roger Tinney MCIP

*Manager of Stewardship and Historic Place Operations
Heritage Branch*

Integrated Resource Operations Division

Ministry of Forests, Lands and Natural Resource Operations

Direct: 778-698-4193 | Cell: 250-812-0276

Roger.tinney@gov.bc.ca

From: print@ebys.com <print@ebys.com>
Sent: September 13, 2019 3:39 PM
To: Tinney, Roger FLNR:EX <Roger.Tinney@gov.bc.ca>

s.22

Shakesides House, Comox BC

Mack Laing Heritage Society of the Comox Valley

P.O. Box 1494, Comox BC, V9M 8A2

Email: macklaingsociety@gmail.com

Website: www.macklaingsociety.ca

*Winner of 2016 Heritage BC Award
Education and Awareness*



Cc:

Subject:

Roger Tinney
Manager, Stewardship & Historic Place Operations
Heritage Branch,
Victoria, BC

Re: Shakesides and the Mack Laing Trust

Dear Mr. Tinney,

s.22

the BC Association of Heritage Professionals has informed us of your call to her regarding Shakesides. There exist several important documents describing the condition and the heritage value of this building.

Please find attached:

- Bates Engineering Report (2015). This report attests to the structural soundness of the building, it does point out a few details which need attention.
- Statement of Significance (2016). This report outlines the national significance of both the man and the building.
- Condition Assessment (2017). Acts as a guide to prioritize work required in the conservation process.
- A REALISTIC BUSINESS PLAN For Shakesides Nature House (2019). This is a summary of widespread local commitments of businesses, skilled trades and volunteers to restore Shakesides for community use and public enjoyment without creating a financial burden for the Town of Comox. The budgets of museums of similar proportions in other communities were considered in creating this business plan.
- Heritage BC letter to Attorney General Hon. David Eby (2019). Paul Gravett has followed the situation of Shakesides for many years.

Sincerely,

s.22

s.22 Mack Laing Heritage Society
s.22

s.22
s.22 Mack Laing Heritage Society
s.22

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s.14 ; s.16 ; s.18 ; s.18.1

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s.14 ; s.18 ; s.18.1

From: [Tinney, Roger FLNR:EX](#)
To: [Casault, Genevieve FLNR:EX](#)
Subject: RE: Shakesides
Date: October 16, 2019 12:50:28 PM
Attachments: [image001.png](#)
[image002.png](#)

Thanks, s.13

s.13

Signature clipped



From: Casault, Genevieve FLNR:EX <Genevieve.Casault@gov.bc.ca>
Sent: October 16, 2019 12:25 PM
To: Tinney, Roger FLNR:EX <Roger.Tinney@gov.bc.ca>
Subject: RE: Shakesides

Thank you Roger, s.13

s.13

Thanks,
Geneviève

From: Tinney, Roger FLNR:EX <Roger.Tinney@gov.bc.ca>
Sent: October 16, 2019 11:57 AM
To: Casault, Genevieve FLNR:EX <Genevieve.Casault@gov.bc.ca>; Linzey, Richard FLNR:EX <Richard.Linzey@gov.bc.ca>
Subject: RE: Shakesides

Thanks Genevieve,
Two small suggestions noted below

Signature clipped



From: Casault, Genevieve FLNR:EX <Genevieve.Casault@gov.bc.ca>
Sent: October 16, 2019 11:41 AM
To: Linzey, Richard FLNR:EX <Richard.Linzey@gov.bc.ca>
Cc: Tinney, Roger FLNR:EX <Roger.Tinney@gov.bc.ca>
Subject: Shakesides

Hi Richard,

As discussed this morning, here are a few bullets regarding Shakesides. Can you please take a look and let me know what you think? It might be too much information so happy to cut things down/modify once you review.

Background

- Shakesides is an oceanfront property originally built in 1950 in the Town of Comox and owned by Hamilton Mack Laing, an influential naturalist, photographer and writer.
- Laing bequeathed the property to the Town of Comox to be used for the public's enjoyment as a nature park. He also left a **s.13** sum of money in his trust to turn the property into a natural history museum.
- Over time, the buildings on the property fell into disrepair and one was torn down; "Shakesides" remain.
- Private citizens and heritage associations have raised concerns about the state of the property and the fact that Mack Laing's wishes have not yet been honoured.
- **s.12; s.14; s.16**
-

Findings

- Two Heritage Branch staff members visited Shakesides on September 26th. The visit was guided by the Town of Comox's Superintendent who provided them with access to the house, otherwise inaccessible to the public.
- **s.12; s.13; s.14; s.16**
-
-
-
-

Thank you,



Geneviève Casault

Manager, Heritage Programs and Services

Integrated Resource Operations | Heritage Branch

Cell (250) 380-8489 | genevieve.casault@gov.bc.ca

Forests, Lands, Natural Resource Operations and Rural Development

The Heritage Branch acknowledges it carries out its work on the traditional territories of Indigenous nations throughout British Columbia. We pay our respects to the Elders, past and present, descendants and custodians of these lands. We honour the

knowledge keepers and the continuing relationships with Indigenous peoples in BC that develop through our work together. The Heritage Branch is grateful to the Lkwungen-speaking people, today known as the Esquimalt and Songhees First Nations, on whose traditional territories we operate our main offices.

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s.13 ; s.14 ; s.22

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Guidance on Provincial Heritage Property Management

Introduction

The Province of British Columbia owns a portfolio of Provincial Heritage Properties that are administered by the Heritage Branch and operated by not-for-profit site managers under several different types of agreements. This document provides guidance on Provincial Heritage Property Management and is to be read in conjunction with Site Managers' contractual or tenancy agreements.

It describes who is *accountable* for making decisions and authorizing activities related to Provincial Heritage Properties and who is *responsible* for delivery of services and carrying out projects at Provincial Heritage Properties. It also describes procedures for undertaking projects at Provincial Heritage Properties.

Note: An agreement between the Heritage Branch and a site manager may consist of a Heritage Site Management Agreement, a Heritage Property License, or a Lease under the *Land Act* or *Heritage Conservation Act*. All of these types of agreements are referred to as a "Management Agreement" in this document. Site Managers, tenants and licensees are referred to as "Site Managers" in this document.

Heritage Site Management Resources

Policies and best practices for heritage stewardship are described in:

1. Parks Canada's [Standards and Guidelines for the Conservation of Historic Places in Canada](#)
2. Heritage Branch's Provincial Heritage Property Documentation Standards
3. Heritage Branch Collections Policy

Applications to undertake works at Provincial Heritage Properties should be submitted to the Heritage Branch's Manager of Stewardship and Historic Place Operations using **Form HB1: Application for Project Funding and/or Heritage Alteration Permit**.

Heritage Site Management Funding

The Province provides annual operating assistance to some Provincial Heritage Properties under the terms of Management Agreements. Heritage Branch may provide supplementary funds to Site Managers for specific projects, such as heritage conservation. Other provincial funding may be available for other activities undertaken at Provincial Heritage Properties related to rural economic development, water management, wildfire risk reduction, disaster recovery, or climate change adaptation, as examples.

Site revenues may be generated through a variety of sources including general admission sales, special events, gift shop sales, food service, and other visitor services. These revenues are re-

including site revenues to Heritage Branch annually or from time to time per their Management Agreement.

Site Managers are encouraged to seek additional funding from outside sources such as the Heritage Legacy Fund (administered by Heritage BC), or the National Cost-Sharing Program for Heritage Places (administered by Parks Canada). Please contact Heritage Branch's Manager of Stewardship and Historic Place Operations for letters of support for outside funding applications.

Heritage Property Management – Activity Categories

This guidance document contains information for site managers on the following categories of Provincial Heritage Property management activities.

1. Site and Project Planning
2. Real Property and Facilities Maintenance
 - A. Routine Maintenance and Minor Repairs
 - B. Urgent Works and Services
 - C. Major Repairs and Replacement
3. Facilities Development and Capital Works Projects
4. Collections Management and Curatorial Functions
5. Security and Risk Management
6. Programming and Interpretation
7. Visitor Services and Commercial Activities
8. Marketing and Promotion
9. Operational Administration and Financial Management

1. Site and Project Planning

Site managers are encouraged to develop Conservation Plans for the Provincial Heritage Properties and their associated collections. A Conservation Plan describes the long-term conservation policies and goals for the Heritage Property and provides context on how individual projects contribute to the overall conservation of the site. Site managers are encouraged to seek the services of consultants who can provide expertise in the diverse disciplines associated with the management of historic places and development of Conservation Plans or other forms of site and project planning.

Financial assistance can be requested from Heritage Branch for specialized planning and consulting services including:

- Heritage Consultants
 - Historic building conservation
 - Heritage recording
 - Conservation of collections

- Values-based heritage planning
- Indigenous heritage planning
- Archaeological assessment
- Support for development of site interpretation plans
- Business Consultants
 - Business planning for new projects or initiatives
 - Business case development (required for facility development or re-development)
- Architectural / Engineering Services
 - Architectural plans
 - Engineering drawings for new construction or planned alterations
 - Landscape architecture and planning

2. Real Property and Facilities Maintenance

Real property and facilities maintenance refers to the ongoing, cyclical and recurring work and investments required to maintain a Provincial Heritage Property in good condition and accessible to the public. This work can be divided into three general subcategories:

- Category 2A- Routine Maintenance and Minor Repairs;
- Category 2B – Urgent Works and Services, and
- Category 2C - Major Repairs and Replacement (often carried out on a longer-term cycle).

While routine maintenance and minor repairs are generally the responsibility of the Site Manager and can be undertaken without consulting Heritage Branch, Site Managers should consult with Heritage Branch when planning or undertaking more significant maintenance projects or when Heritage Branch funding is requested. Heritage Branch can provide advice and assistance in determining when a Heritage Alteration Permit is required for works. Table 1 provides additional details on these categories and examples of different types of maintenance projects.

Table 1: Provincial Heritage Property – Property and Facilities Maintenance

Type of Project	Category 2A – Routine Maintenance and Minor Repairs	Category 2B – Urgent Works and Services	Category 2C – Major Repairs and Replacement
Responsible	Site Manager	Site Manager	Heritage Branch
Heritage Alteration Permit Required?	Not required if maintenance and repairs use comparable materials and techniques.	In <i>certain</i> circumstances – always check with Heritage Branch when contemplating any work.	In <i>most</i> circumstances – always check with Heritage Branch when contemplating any work.
Exterior fabric	Localized painting in same colour; siding maintenance, window caulking, weather	Accidental damage, premature failure of hardware, lower cost damage from seasonal	Complete building system repair or conservation of the building fabric. Complete building painting,

	stripping, door adjustment and hardware maintenance	conditions. Low cost damage from break-ins or vandalism	cladding conservation or restoration; conservation of windows on a whole building scale. High cost damage from seasonal conditions, break-ins and vandalism.
Roofing	Seasonal review, re-caulking, removal of tree litter	Weather damage to gutters, flashings or isolated roofing damage	Replacing building roof
Interior construction	Janitorial services and winterization. Includes built in construction such as cabinetry and closets, built in seating benches. In barns this includes stalls and mangers	Accidental damage, premature failure of hardware. May include consequential damage from another system failure, plumbing leakage, roof leakage	Depending on the building may be a single room conservation, or conservation of an interior building system (floor structure, wall system). Hazardous materials abatement
Stairs and stairways	Adjustments due to seasonal conditions, maintaining railings, stair treads and nosings	Breakdown of component of stairway, elevated walkway and guard rails and hand rails	Overall conservation or re-construction of a stairway
Interior Finishes	Painting trim and higher traffic wear, janitorial and seasonal cleaning, timely replacement and repairs to high traffic areas (thresholds, shoe mats etc.), window cleaning and localized painting, weather stripping maintenance. Pest control, rodent and insect	Accidental damage, low cost damage from failure in another system, replacement of high traffic wear points: thresholds, door closers, low cost damage from break-in; damage from pests	Depending on the building, may be a single room conservation of finishes, or a finish throughout the building (flooring, painting)
Plumbing	Operational maintenance, drain clearing, washer and cartridge replacements, servicing and repair of toilet flushing. Water system pump maintenance, filtration and treatment	Isolated plumbing failure versus end of life failure. Includes periodic replacement of water treatment elements that have a service life exceeding a year	Replacement of a plumbing system that is failing (drains, septic tank, water lines, plumbing fixtures, possibly hot water tanks)
Heating, Ventilation and AC	Seasonal servicing of equipment, filter and belt replacements, periodic duct clearing, inspection and minor repairs to	Motor replacement, compressor replacement, fan replacement, control and sensing equipment replacements	System replacement of failing or end of life of heating system unit (furnace, AC unit, hot water heating piping)

	ducting and piping. Also includes stand alone and built in cooling and ventilation equipment.		
Fire Protection	Annual inspection and maintenance, maintenance of secondary equipment including pumps, compressors, controls, housekeeping of installation. Also includes fire detection and annunciation systems	Minor repair from accident such as freezing, occasional replacement of control items that fail, heat or smoke detectors. Damage from pest and rodents	System replacement of failing or end of life system including piping, pump, compressor. Replacement of obsolete and failure prone detection systems
Electrical	Light fixture cleaning, lamp replacement, diffuser maintenance and repair, replacement damaged devices and cover plates. Security systems including detection, alarm and monitoring system	Replacement of ballast in fluorescent lights, switches and breakers; wiring damage including damage from rodents or pests	System replacements such as panel and service replacements, replacement of obsolete and failure prone security systems. Replacement or restoration of electrical fixtures that are unsafe
Equipment	Maintenance of non plumbing or heating equipment that is fixed in place especially kitchen equipment, workshop equipment	Replacement of equipment components such as generic motors, belts, gaskets, fans	Replacement of failed and non-functioning equipment that is required for the continued operation of the site
Site	Maintenance of exterior elements including walkways, fencing, landscaping, irrigation of landscaping, landscaping pruning	Seasonal damage (snow or storm), isolated accidental damage replacement of parts of walkway system, stair treads	Danger tree removals, repair and replacement of failed fencing, large tree blow downs and storm damage, replacement of decks and walkways that are at end of life
Other	General: maintenance of window coverings, awnings, outdoor structures such as barbecues, shelters and lean to's	General: damage and failure from lack of maintenance. Premature failure of part of a generally sound item or system	End of life of system or object that is required for the continued operation of the site and where repair cost approaches replacement.

3. Facilities Development and Capital Works Projects

Periodically Site Managers may make proposals for new development projects at a Provincial Heritage Property. Proposals may be related to offering new visitor services or creating new sources of revenue. Projects may include rehabilitation of existing infrastructure for a new use, or the construction of new site infrastructure.

Heritage Branch must approve new facilities and capital works projects, to ensure that they are consistent with provincial objectives and the heritage values of the Provincial Heritage Property, and that any new assets will be sustainable in the long-term. Site Managers should be prepared to present Heritage Branch with a compelling business case that supports new facilities at a Provincial Heritage Property.

At minimum, the business case for a new facility should:

- demonstrate that the project is in keeping with the heritage and recreational values of the Provincial Heritage Property;
- avoid or minimize any impacts to designated aspects of the Provincial Heritage Property;
- show how the project would benefit site operation and decrease reliance upon public funding;
- outline the capital requirements and financial forecast;
- outline any ongoing maintenance requirements as a result of the new facility;
- establish operational and technological viability; and
- demonstrate the capacity of the project team.

4. Collections Management and Curatorial Functions

Collections management and curatorial functions include works associated with the accessioned Tier A, B, C, and D artifacts at the site, as indicated in the artifact schedule of the Management Agreement

Heritage Branch's Collections Management Policy sets out the requirements for stewardship of the collections by site managers. From time to time, the Provincial Registrar will monitor site managers' stewardship of provincial collections and may provide direction and request information requiring action by site managers. Heritage Branch is also responsible for the Provincial Heritage Artifact Database (PHAD) and for issuing tax receipts for donations to the Provincial Heritage Artifact Collection.

Site Managers are responsible for stewardship of Provincial Heritage Property collections in accordance with the Collections Management Policy under the terms of the Management Agreement, including:

- providing curatorial direction and recommendations on development of collections at the sites by submitting acquisition and deaccession requests;
- updating artifact information in PHAD and wherever possible providing public access to the collection and its records (except for confidential information);

- designating site personnel required to have basic training, knowledge, and/or combination of experience with the basic principles of historic preservation and the care, handling, and management of museum artifacts; and
- determining artifact conservation needs and priorities including treatment of artifacts, environmental monitoring, and collections storage.

Core curatorial services are funded through annual operating assistance provided under the Management Agreement. From time to time Heritage Branch may fund major collections projects such as: photographing artifacts for the Provincial Heritage Artifacts Database; collections audits; database cleaning; and repatriation of cultural materials.

Authorization is required for final decisions on accessioning, altering, loaning deaccessioning, or repatriating artifacts held in the collection. Please submit requests to the Provincial Registrar.

5. Security and Risk Management

Due to the historic and irreplaceable nature of Provincial Heritage Properties, security and risk management are vital. This entails:

- site monitoring;
- intrusion and fire detection and alarm systems;
- development of a risk register, including a vital records plan;
- business continuity planning.

Heritage Branch is accountable for security and risk management associated with the preservation and protection of Provincial Heritage Properties. Heritage Branch will, from time to time, monitor the level of risk management and security provided at a site and may provide direction requiring action by site managers.

Site managers are responsible for:

- security and risk management of buildings, and collections in accordance with the terms of the Management Agreement and the Collections Management Policy;
- ensuring that security and monitoring systems are maintained regularly and updated as required to confirm that they remain effective and reliable;
- developing an Emergency Management Plan for collections, as required in the Collections Management Policy;
- developing a strategy to address potential risks to the site, and procedures for a potential emergency or disaster.
- developing business continuity plans for site operations;
- notifying the Heritage Branch of stolen, missing, damaged or presumed lost artifacts;
- collections storage areas commensurate with good conservation and security practices; and

- controlling access to and safeguarding any personal information (such as personal information of donors, volunteers or members), which is considered confidential information under section 26(c) of the *Freedom of Information and Protection of Privacy Act*.

Funding for regular maintenance of security and risk management systems at the site is provided through provincial operating funding under the Management Agreement. Consult the Heritage Branch for additional funding (such as for new systems, or replacement/upgrade of existing systems).

6. Programming and Interpretation

The public value of Provincial Heritage Properties stems from their heritage significance and is embodied in their historic structures and cultural landscapes. Heritage values evolve over time with the needs and priorities of communities, and this may be reflected in changes to site programming and interpretation.

Programming and interpretation activities include:

- people as enactors and interpreters;
- preparation and printing of information about the site and its history; and
- online and social media presence to engage and educate the public about the heritage values of the site.

Site managers are responsible for maintaining provincial interpretation in accordance with the terms of the Management Agreement using provincial annual operating assistance.

From time to time, Heritage Branch will monitor interpretation and educational content at Provincial Heritage Properties and may provide direction requiring action by site managers. This may include requesting that site managers update interpretive and educational offerings to reflect new ways of understanding and presenting history and heritage. Provincial funding is available to support updates when requested by Heritage Branch.

7. Visitor Services and Commercial Activities

Visitor services and commercial activities are activities where a separate or supplementary transaction occurs, including:

- food services;
- accommodation;
- souvenir and merchandise sales; and
- entertainment.

Site managers are responsible for:

- providing food services depending on the terms of the Management Agreement;
- Maintenance of food service equipment;
- purchasing, maintaining, and replacing equipment not included in the equipment schedule of the Management Agreement.

Funding is available through Heritage Branch for end-of-life replacement of food service equipment listed in the equipment schedule of the Management Agreement.

8. Marketing and Promotions

Marketing and promotion are distinguished from programming and interpretation by the nature of the output.

Marketing includes:

- developing and distributing print and online media to encourage visitors to come to the site; and
- may include fundraising activities to promote the site to potential donors and benefactors (fundraising activities by the Site Manager in support of building the financial sustainability of site management operations).

Heritage Branch is not responsible for marketing and promotion of sites but reserves the right to comment on marketing and promotion if it believes it to be inappropriate.

Site Managers are responsible for undertaking marketing activities as they see fit and in keeping with their business planning, and for addressing any concerns raised by Heritage Branch.

9. Operational Administration and Financial Management

Operational administration includes:

- the staff and supplies that support the provision of all other services at the site by the site manager related to delivery of their responsibilities as specified in the Management Agreement and funded through the Province's annual operational funding
- any additional programs or services the Site Manager may offer, paid for through site revenues.

Site managers are responsible for maintaining adequate administrative staff and supplies to support their other responsibilities as described in their agreement with the Heritage Branch.



Heritage Branch

Protection and Recognition of Heritage Property* Operational Policy (*non-Archaeological)

Heritage Branch operates using a spectrum of powers to fulfil government's legal mandate for non-archaeological heritage ranging from advice to local governments to acquisition and disposal. This policy provides guidance on how decisions to exercise these powers are made.

1.0 Purpose

The purpose of this operational policy is to provide guidance to Heritage Branch and Ministry of Forests, Lands, Natural Resource Operations and Rural Development (FLNRORD) staff regarding the branch's responsibility for encouraging and facilitating protection and recognition of non-archaeological heritage property (described variously herein as heritage property and historic places).

2.0 Mandate

To recognise that the general public wishes to conserve historic places that represent the development of British Columbia and that have a significant place in its history; to provide for recognition and protection of Provincial heritage sites under authority of the *Heritage Conservation Act* (1996, RSBC, Chap. 187); to provide programs and services that are responsive to community objectives for historic places and objects; to advise other provincial ministries, agencies, and local governments on the use of heritage conservation tools in their enabling legislation pursuant to the purpose and intention of the *Heritage Conservation Statutes Amendments Act 1994*¹.

3.0 Authority

Legislative authority derives from the Heritage Conservation Act (1996, RSBC, Chap. 187, s. 9 Heritage Designation; s. 11.1 Provincial heritage property; s. 12.1 Heritage protection; and s. 18 Promotion of heritage value

¹ British Columbia has implemented a uniquely de-centralised heritage conservation approach not seen elsewhere in Canada. The 1994 *Heritage Conservation Statutes Amendments Act*, provided significant powers to local governments via the *Municipal Act*, for example, to encourage and facilitate heritage conservation as a public good. Other parts of provincial government also received the ability to deliver heritage conservation outcomes from this omnibus legislation, including, the *Park Act*, the *Mineral Tenure Act* and the *University Act*.

4.0 Policy statement

The Ministry of Forests, Lands, Natural Resource Operations and Rural Development (FLNRORD) will encourage and facilitate protection and recognition of historic places. When deciding when and how to encourage and facilitate protection and recognition the following factors shall be considered:

- the degree of local public support;
- the degree of support from other interest groups
- the views of the owner
- the evidence supporting the assertion of historical significance
- the financial sustainability of the proposal
- location on public or private land
- likelihood and estimate of financial compensation
- compatibility with adjacent land-use
- compatibility with other government objectives
- support of other agencies having jurisdiction over the land
- the likely effectiveness of recognition in achieving the proponent's objectives
- the likely effectiveness of protection in achieving the proponent's objectives
- the appropriateness of seeking recourse to Powers of the Minister including acquisition, partnership or other agreement in achieving the proponent's objectives pursuant to Heritage Conservation Act s. 20 Powers of the minister
- other factors to be considered as relevant to the circumstances

5.0 Procedures

5.1 General Considerations: The Heritage Branch will:

- prioritise actions based on urgency, government priorities and internal staff and financial resources
- consider the strength of public opinion, including the owner's opinion, on the heritage value of an historic place or object
- consider the practical feasibility of pursuing any contemplated action
- consider alignment of heritage conservation objectives with other government goals
- consider location and significance and determine if the local government has the capacity and experience to respond to the request for action, in particular considering the tools available in: The Local Government Act; The Vancouver Charter; The Islands Trust Act and the policy advice contained in Heritage Conservation a Community Guide
- encourage and facilitate necessary action by providing heritage planning services to the local government as needed

And in situations where provincial actions under Heritage Conservation Act powers are considered appropriate:

5.2 Heritage Recognition Procedures: Where recognition of an historic place is pursued:

- seek ministerial Order, or exercise delegated authority, to recognise an historic place or object pursuant to Heritage Conservation Act s. 18 Promotion of heritage value
- notify First Nations on whose traditional territories the historic place exists
- facilitate public involvement in developing a Statement of Significance that describes the historic place, its heritage values and character-defining elements
- record the historic place on the BC Register of Historic Places according to Heritage Conservation Act s. 3 Provincial heritage register and the Provincial Heritage Register Regulation 17/2020
- provide heritage planning and stewardship advice to the owner as necessary
- encourage owner to follow the Standards and Guidelines for the Conservation of Historic Places in Canada, adopted as the Provincial standard for heritage conservation (ministerial decision - CLIFF #9990 January 25, 2007) when altering the historic place.

5.3 Heritage Protection Procedures – Private Land: Where protection of an historic place is pursued on private land:

- obtain registered professional services to calculate financial compensation
- secure FLNRORD agreement in principle on designation pursuant to Heritage Conservation Act s. 9 Heritage designation;
- facilitate public involvement in developing a Statement of Significance that describes the historic place, its heritage values and character-defining elements
- consult First Nations on whose traditional territories the historic place exists
- prepare a Lieutenant Governor's Order in Council for approval; if approved:
- record the historic place on the BC Register of Historic Places
- provide heritage planning and stewardship advice and direct the owner to manage designated Provincial heritage sites according to the Standards and Guidelines for the Conservation of Historic Places in Canada when altering the historic place
- review applications to alter a Provincial heritage site, issue, decline to issue or issue a permit with conditions, and record the reason for decision.

5.4 Heritage Protection Procedures – Provincial Crown Land: Where protection of an historic place is pursued on provincial Crown land:

- obtain registered professional services to calculate financial compensation suitable to expropriate conflicting land-uses

- consider the financial and resource implications of administering the heritage values
- secure FLNRORD agreement in principle on designation as a Provincial heritage property pursuant to Heritage Conservation Acts. 11.1 Provincial heritage property;
- manage collections of heritage objects associated with the Provincial heritage property according to Heritage Branch's Collections Management Policy
- prepare a Lieutenant Governor's Order in Council for approval; if approved:
- record the historic place on the BC Register of Historic Places
- facilitate public involvement in developing a Conservation Management Plan that describes the historic place, its heritage values and character-defining elements and that provides tailored policies for managing the heritage values of the historic place
- administer alterations to the Provincial heritage property according to the Standards and Guidelines for the Conservation of Historic Places in Canada
- manage land-use within the Provincial heritage property according to the HCA-Application Regulation 373/94

5.5 Heritage Protection Procedures – Land Acquisition: Where acquisition of an historic place is pursued by the provincial Crown

- obtain registered professional services to calculate fair market value and establish condition of the property
- obtain registered professional services to calculate financial compensation suitable to expropriate conflicting land-uses
- consider the financial and resource implications of property management and administering the heritage values
- consider how acquisition would provide a practical step toward achieving disposition for sustainable future use
- secure FLNRORD agreement in principle on designation as a Provincial heritage property pursuant to Heritage Conservation Act s. 11.1 Provincial heritage property;
- prepare a Lieutenant Governor's Order in Council for both acquisition and designation approval; if approved:
- record the historic place on the BC Register of Historic Places
- facilitate public involvement in developing a Conservation Management Plan that describes the historic place, its heritage values and character-defining elements and that provides tailored policies for managing the heritage values of the historic place
- manage collections of heritage objects associated with the Provincial heritage property according to the Collections Management Policy 2019 [collections management policy - amendment 2020.pdf \(gov.bc.ca\)](https://www.gov.bc.ca/collections-management-policy-amendment-2020.pdf) administer alterations to the Provincial heritage property according to the Standards and Guidelines for the Conservation of Historic Places in Canada

- manage land-use within the Provincial heritage property according to the HCA-
Application Regulation 373/94

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