

Understanding Recent Indigenous Rights & Land Title Developments in British Columbia: What Tourism Operators Need to Know

Background and Context

Recent developments in Indigenous rights, Aboriginal title recognition, and judicial interpretation of reconciliation-related law in British Columbia are significant in both legal and policy terms for land-use decision-making. These developments do **not** create new legal obligations for individual tourism tenure holders; however, they do influence how governments interpret, apply, and implement existing laws, policies, and decision-making processes.

The cases and agreements summarized below represent important signals in the evolving reconciliation landscape. Their practical implications for tourism operations will depend on how governments operationalize these decisions through legislation, regulation, policy guidance, and engagement frameworks.

Key Legal and Policy Developments

Gitxaala v. British Columbia (Chief Gold Commissioner)

British Columbia Court of Appeal, 2025

On December 5, 2025, the British Columbia Court of Appeal released its decision in *Gitxaala v. British Columbia*, 2025 BCCA 430. In a split decision, the majority held that the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), as implemented in British Columbia through the Declaration on the Rights of Indigenous Peoples Act (DRIPA), must be used as an interpretive lens when applying provincial legislation.

The Court found that aspects of the Mineral Tenure Act regime were inconsistent with UNDRIP principles when interpreted through DRIPA. The decision affirms that DRIPA has immediate interpretive relevance for provincial decision-making, even as implementation pathways continue to evolve.

While this decision is specific to mineral tenure, it signals that provincial laws more broadly may be interpreted in a manner consistent with UNDRIP. Importantly, it does **not** create new, standalone legal obligations for tourism operators, nor does it alter existing tourism tenure terms absent further legislative, regulatory, or policy direction from government.

Cowichan Tribes v. Canada (Attorney General)

British Columbia Supreme Court, 2025

In *Cowichan Tribes v. Canada*, 2025 BCSC 1490, the British Columbia Supreme Court recognized that the Cowichan Tribes hold Aboriginal title over lands in the Richmond area, including lands held as fee simple. The decision also affirmed that provincial jurisdiction cannot unilaterally extinguish Aboriginal title and that established common law tests for infringement and justification continue to apply where Aboriginal title is recognized.

While the decision addressed questions related to fee simple interests, it did not automatically displace existing property rights or invalidate current regulatory regimes. The practical implications for governance, land-use planning, and regulatory frameworks remain to be worked through.

The Province of British Columbia has publicly stated its intention to appeal this decision. As a result, the legal findings are not final, and their application to provincial land-use governance and tenure frameworks remains subject to further judicial consideration.

Haida Title Lands Agreements and Recognition (2024–2025)

In parallel with recent court decisions, the Province of British Columbia and the Haida Nation entered into historic negotiated agreements recognizing Aboriginal title across Haida Gwaii. The Gaayhllxid/Gíihlagalgang “Rising Tide” Haida Title Lands Agreement, signed in April 2024, recognizes Haida title across the archipelago, including privately held lands.

The Province subsequently enacted legislation to implement this recognition. These agreements represent one of the first comprehensive negotiated recognitions of Aboriginal title in Canada and provide an important example of how Aboriginal title can be reconciled with existing legal and governance regimes through agreement rather than litigation.

Implications for Tourism and Land Use

Taken together, these decisions and agreements reflect an evolving legal and policy environment in British Columbia. They underscore the increasing recognition of Indigenous rights and title within provincial decision-making, while also highlighting the importance of clarity, consistency, and predictability for land-based sectors.

At this time:

- None of these developments impose new, direct operational requirements on tourism tenure holders.
- Existing tourism tenures, permits, and applications continue to be administered through established provincial processes.
- There has been no directive to pause, rescind, or materially alter existing adventure tourism, commercial recreation, or tourism tenures.

While DRIPA affirms that UNDRIP informs how provincial laws are interpreted, it does not transfer legal responsibility to operators to reinterpret court decisions or reconciliation frameworks independently. Clarity regarding implementation must come from government. Tourism, particularly adventure-based, wilderness, marine, cultural, and backcountry operations continues to rely on:

- Long-term tenure certainty
- Predictable and timely application and renewal processes
- Investment stability
- Respectful, collaborative partnerships with Indigenous Nations

As reconciliation agreements, court decisions, and title recognitions continue to advance, tourism operators are seeking clear, consistent, and sector-appropriate guidance to support continued operation, investment, and workforce stability.

Current Landscape

- The legal and policy environment is evolving; however, no immediate sector-wide regulatory changes affecting tourism tenures have been announced.
- Government has stated publicly that it intends to work with Indigenous Nations, industry, and local governments to clarify expectations and next steps.
- These developments reinforce the importance of early, ongoing, and respectful engagement with Indigenous Nations, particularly for tenure renewals, amendments, or new applications.
- Tourism's long-standing record of partnership with Indigenous communities remains a strength as new models of shared decision-making and stewardship emerge.
- Any changes to how reconciliation frameworks are operationalized must be clearly communicated by government and implemented through transparent policy or regulatory updates, rather than through ad hoc interpretation by individual operators.

How TIABC Is Engaging on Behalf of Members

1. Co-developing a Tourism Sector MOU with First Nations Leadership Organizations

TIABC is working with Indigenous Tourism BC (ITBC) to renew a memorandum of understanding with the First Nations Leadership Council (FNLC) and its member organizations, including the Union of BC Indian Chiefs and the First Nations Summit. This work is focused on strengthening collaboration on:

- Shared priorities for tourism planning and growth
- Clarity on expectations for engagement and consent
- Long-term investment certainty
- Opportunities for Indigenous tourism investment

- Models that support co-management and stewardship of Crown lands

This work is grounded in respect for Indigenous rights and in the tourism sector's need for clarity and predictability.

2. Participating in Government Working Groups

TIABC is actively engaged with:

- Ministry of Indigenous Relations and Reconciliation
- Ministry of Water, Land and Resource Stewardship
- Ministry of Tourism, Arts, Culture and Sport
- FrontCounter BC

Discussions are focused on resolving system-level issues, including:

- Tenure processes under evolving reconciliation frameworks
- Compatibility and conflict-resolution pathways
- Cumulative impacts and benefits of land-use decisions across multiple tenures and sectors, including tourism, conservation, and resource development
- Consistency across the province in tenure decision-making, engagement expectations, and application of reconciliation frameworks

3. Bringing Forward Industry Concerns and Opportunities

TIABC continues to communicate operator priorities related to:

- Investment certainty and long-term planning horizons
- Transparent guidance on engagement expectations
- Predictable processing times for tenure and permitting renewals
- Stewardship outcomes aligned with Indigenous and industry goals

Next Steps

- The Province has indicated that additional guidance, consultation, and engagement will occur in the coming months as implementation approaches continue to evolve.
- As government provides further clarification on its approach to implementation of the Declaration on the Rights of Indigenous Peoples Act (DRIPA) implementation, Aboriginal title, considerations, and reconciliation agreements, TIABC will share updates with members as information becomes available.
- TIABC will continue working in partnership with Indigenous Tourism BC (ITBC) and other sectoral allies to advocate for solutions that support both reconciliation objectives and sustainable tourism growth, reinforcing the importance of clarity, consistency, and predictability for tourism operators.

Questions and Ongoing Input

TIABC welcomes questions from tourism operators and will ensure that member input informs ongoing policy discussions. Members can expect further updates as additional information becomes available from government and Indigenous partners.

Important Notice

This briefing note is provided for general informational purposes only to help tourism operators understand recent legal and policy developments in British Columbia. It does not constitute legal advice and should not be relied upon as a substitute for obtaining advice from qualified legal counsel regarding specific circumstances or decisions.

The legal and policy landscape relating to Indigenous rights, Aboriginal title, and implementation of the *Declaration on the Rights of Indigenous Peoples Act (DRIPA)* continues to evolve, and the implications of recent court decisions will depend on future judicial, legislative, and policy developments. Members are encouraged to seek professional advice and to monitor official government communications for formal direction or regulatory change.

Selected Public References (for information)

1. ***Gitxaala v. British Columbia (Chief Gold Commissioner)*** B.C. Court of Appeal decision clarifying use of UNDRIP and DRIPA in interpreting provincial law and mineral tenure implications ([OKT Law summary](#)).
2. ***Gitxaala v. British Columbia (Chief Gold Commissioner)*** Practical implications and interpretive context ([Fasken law firm summary](#)).
3. ***Cowichan Tribes v. Canada (Attorney General)*** Summary of key findings on Aboriginal title and fee simple interests ([Mandell Pinder](#)).
4. ***Gaayhllxid / Giihlagalgang “Rising Tide” Haida Title Lands Agreement*** Public documentation of the negotiated recognition of Haida title. [GAAYHLLXID • GIIHLAALGANG “RISING TIDE” Haida Title Lands Agreement - BC Treaty Commission](#)
5. ***Haida Title Recognition and Implementation*** Insight on Aboriginal title and related developments. [BC Supreme Court Confirms Aboriginal Title Over Haida Gwaii | Cassels.com](#)
6. ***British Columbia’s Declaration on the Rights of Indigenous Peoples Act (DRIPA)*** Provincial legislative context and implementation. [Declaration on the Rights of Indigenous Peoples Act](#)