"Vancouver's Favourite Country Music Pub," Single Room Occupancy Hotels, and the Context of International Frameworks: Mapping Vancouver's Urban Law and Cultural Policy

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Introduction

The public and private spaces of cities, their design, and the urban law and policy that shapes the lived spaces within cities provides a potent example of overlapping and often contested heritage(s) and heritage spaces that may have built heritage merit, may carry a high intangible value as gathering spaces for art, culture, and performance, or may be both characterized by their tangible and intangible heritage merit.[1] The layers of diverging, contested, or interwoven heritage within the same urban spaces can diverge in what they mean to a group, community, or individual. They may represent significant moments of architectural grandeur, cultural capital, celebration, significant moments of horror that teeter within desires to forget their existence, or they may also represent a space for future cultural flourishing and community growth. Heritage space within a city may be less conventional than existing legal frameworks for assessing cultural heritage, value, or merit permit, and heritage assets can take numerous shapes involving sight, sound, smell, movement, and so on. This expanded and more inclusive manner of understanding the many iterations of what heritage can be in a city and what heritage spaces can signify for the many urban denizens

1. U.N. Educ., Sci. & Cultural Org. [UNESCO], *New Life for Historic Cities: The Historic Urban Landscape Approach Explained*, at 5, 9, 11, UNESCO Doc. CLT/2013/WS/11 (2013) [hereinafter UNESCO (2013)], https://whc.unesco.org/uploads/activities/documents/activity-727-1.pdf [https://perma.cc/RD2J-LF7K].

and stakeholders who find meaning and community within the "third places" of a city, creates a complex web within which urban law and policy must navigate.[2]

In addition to the mechanics of heritage preservation assessments and processes (and the laws and legislation surrounding cultural heritage protection) cities are increasingly developing neighbourhood plans and strategic cultural plans that engage with and shape how cultural heritage is understood, protected (or not protected), encouraged, or even strategically commodified in a city and neighbourhood. Whether or not these plans ultimately accomplish their purported goals is still unclear. Focusing on the case of Vancouver, Canada, this Article will explore the role of local cultural policy documents and cultural plans in localizing international frameworks and calls to action for the inclusive management, sustainable (re)development, and navigation of dissonant and overlapping cultural heritage spaces at the local city and neighbourhood level.[3] After a general description of Vancouver, this Article will first give a brief overview of applicable international frameworks for inclusive heritage management and preservation. It will then describe a number of neighbourhoods within Vancouver's Eastside and examine Vancouver's *Downtown Eastside Plan*.[4] Finally, it will turn to Vancouver's newly adopted cultural plan for 2020–2029, *Culture|Shift: Blanketing the City in Arts & Culture*, its associated documents, and how these documents navigate urban cultural heritage matters and some of the "third places" of Vancouver's Downtown Eastside. This analysis aims to identify the particular policies that take strides towards localizing the international frameworks for inclusive heritage management and preservation introduced earlier in the Article.[5]

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2. *See* RAY OLDENBURG, THE GREAT GOOD PLACE: CAFÉS, COFFEE SHOPS, BOOKSTORES, BARS, HAIR SALONS AND OTHER HANGOUTS AT THE HEART OF A COMMUNITY (2nd ed. 1997) (describing and exploring the importance of "third places"); UNESCO, General Conference Res. 36C/41(I), annex, Recommendation on the Historic Urban Landscape (Nov. 10, 2011) [hereinafter UNESCO (2011)] (recommending urban heritage conservation strategies, including managing historic areas within their broader urban contexts); LAURAJANE SMITH, USES OF HERITAGE (2006) (challenging traditional conceptions of heritage and proposing that heritage is a social, cultural, and political process); VIŠNJA KISIĆ, GOVERNING HERITAGE DISSONANCE: PROMISES AND REALITIES OF SELECTED CULTURAL POLICIES (Vicky Anning, Diane Dodd & Bas Lafleur eds., 2016) (examining heritage dissonance); SARA GWENDOLYN ROSS, LAW AND INTANGIBLE CULTURAL HERITAGE IN THE CITY (2020) (addressing the role and protection of intangible cultural heritage in the urban context).

3. *See, e.g.*, KISIĆ, *supra* note 2 (exploring the navigation of heritage dissonance using cultural policies and specific policy tools).

4. CITY OF VANCOUVER, DOWNTOWN EASTSIDE PLAN (2015) [hereinafter DTES PLAN].

5. CITY OF VANCOUVER, CULTURE|SHIFT: BLANKETING THE CITY IN ARTS & CULTURE— VANCOUVER CULTURE PLAN 2020-2029 (2019).

I.   International Guiding Documents for Inclusive Urban Heritage Policies

A)   *Unesco's Recommendation on the Historic Urban Landscape*

Within the broader framework of international sustainable urban development goals, the United Nations Educational, Scientific and Cultural Organization's (UNESCO) "Recommendation on the Historic Urban Landscape" (HUL Recommendation) emphasizes localizing the inclusive approaches to cultural heritage contained within the document—the "HUL Approach."[6] Instead of focusing on replacing existing frameworks for heritage conservation, the HUL Recommendation is a tool upon which member states can draw from for implementing heritage policies that better incorporate an intergenerational and inclusive understanding of culture, cultural diversity, and both intangible as well as tangible built heritage.[7] The HUL Recommendation encourages a methodology centered around a "balance" approach towards heritage and culture in the urban context and which engages a holistic, interdisciplinary, and inclusive understanding of a city's heritage assets.[8] This understanding of heritage assets involves a weighing of tangible and intangible heritage concerns; divergent interests in preserving the past alongside awareness of present and future (re)development concerns; the array of diverse perspectives, cultures, and stakeholders within a city whose interests and views can overlap and/or conflict within the same space; and also balances the different roles (and jurisdiction) of the various levels of government involved—local, regional, and national/federal—alongside international interests.[9] The HUL Recommendation also highlights the potential complementarity of different development

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6. *See* UNESCO (2011), *supra* note 2, ¶¶ 13, 22, 24, 25; WORLD HERITAGE TRAINING & RSCH. INST. FOR THE ASIA & THE PAC. REGION, CITY OF BALLARAT, TONGJI UNIV., FED'N UNIV. AUSTL., HUL GUIDEBOOK: MANAGING HERITAGE IN DYNAMIC AND CONSTANTLY CHANGING URBAN ENVIRONMENTS 9 (2016) [hereinafter HUL GUIDEBOOK]; International Conference on World Heritage and Contemporary Architecture – Managing the Historic Urban Landscape, *Vienna Memorandum and Decision*, 4 ¶31, UNESCO Doc. WHC-05/15.GA/INF.7 (Sept. 23, 2005).

7. *See e.g.*, HUL GUIDEBOOK, *supra* note 6, at 9, 11 (describing how the HUL Approach integrates environmental, social, and cultural concerns into urban development by recognizing the interconnectedness of these values in creating heritage); UNESCO (2012), *supra* note 2, ¶¶ 5, 12 (noting how the HUL Approach recognizes the need to integrate urban heritage conservation strategies with the human environment to ensure these interventions work with the region's heritage in harmony).

8. UNESCO (2011) *supra* note 2, ¶ 11; *see also* UNESCO (2013), *supra* note 1, at 9, 11.

9. UNESCO (2013), *supra* note 1, at 9; UNESCO (2011), *supra* note 2, ¶¶ 11, 13, 22–23, 25.

objectives engaged in a city space.[10] In all, this inclusive balancing approach is framed as an invaluable recipe for sustainable urban development that equitably acknowledges culture, diversity, and the human right to culture at the municipal level.

Applying the HUL Approach is to look beyond traditional views of the historic center of a city in order to incorporate a broader conception of the city's historic characteristics, as well as the broader spatial reality of the diverse historic elements of a city.[11] The HUL Approach recognizes "layers" that have accumulated over time in a city,[12] or the "whole-life" or "whole history perspective" of a space.[13] These layers include the seen and unseen cultural and community infrastructure within a city and its built environment; the cultural practices, diversity, social values, and identities of a city's population; its geomorphology, hydrology, open spaces, and topography; and a city's general urban structure and economic processes.[14]

Steps in implementing the HUL Approach can be sorted into seven central action items which engage both traditional and innovative tools that are adaptable to the local contexts. These include: (1) undertaking a holistic assessment of the city's natural, cultural, and human resources; (2) applying participatory planning methods and stakeholder consultations to decision-making processes regarding conservation aims and actions; (3) assessing the vulnerability of urban heritage to socioeconomic pressures, as well as the impacts that climate change has had and will continue to have on urban heritage; (4) integrating urban

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10. UNESCO (2011), *supra* note 2, ¶ 18; *see also* UNESCO (2013), *supra* note 1, at 9.

11. *See* UNESCO (2013), *supra* note 1, at 12–13; UNESCO (2011), *supra* note 2, ¶¶ 5, 8–9. However, as a cautionary note, while the HUL Approach provides a useful model for conceptualizing and localizing an inclusive and expansive understanding of cultural heritage, it has also been critiqued for its vulnerability in its potential utilization within heritage commodification processes. *See, e.g.*, Tolina Loulanski, *Revising the Concept for Cultural Heritage: The Argument for a Functional Approach*, 13 INT'L J. CULTURAL PROP. 207, 228 (2006); Matthew Hayes, *The Coloniality of UNESCO's Heritage Urban Landscapes: Heritage Process and Transnational Gentrification in Cuenca, Ecuador*, 57 URB. STUD. 3060, 3065–69 (2020). These processes can lead to the comparative valorization of certain iterations, expressions, and understandings of intangible cultural heritage over others. *See* Hayes, *supra*, at 3070–73. This valorization can offset the original aims of the HUL Approach.

12. UNESCO (2013), *supra* note 1, at 12–13; UNESCO (2011), *supra* note 2, ¶¶ 5, 8–9.

13. For more on this perspective, see Carolyn Gibbeson, After the Asylum: Place, Value and Heritage in the Redevelopment of Historic Former Asylums (2018) (Ph.D. thesis, Newcastle University) (on file with Newcastle University School of Arts and Cultures) [hereinafter Gibbeson, *After the Asylum*]; Carolyn Gibbeson, *Not Always Nice: The Effect of a Whole-Life Perspective on Heritage and Redevelopment*, 12 J. URB. REGENERATION & RENEWAL 32 (2018) [hereinafter Gibbeson, *Not Always Nice*].

14. *See, e.g.*, UNESCO (2013), *supra* note 1, at 12–13; UNESCO (2011), *supra* note 2, ¶¶ 5, 8–9.

heritage values and their vulnerability status into the wider framework of city development processes and decision-making; (5) prioritizing policies and actions specific to conservation and development, which also includes good stewardship; (6) establishing the appropriate partnerships and local management frameworks; and (7) developing mechanisms for coordinating the various activities between different actors and stakeholders.[15]

Finally, for the sake of prioritizing actionability, a flexible toolkit intended to evolve over time is outlined within the guiding documents for implementing the HUL Approach.[16] This locally-adaptable toolkit can be divided into four interdependent general categories: (1) community engagement tools; (2) knowledge and planning tools; (3) regulatory systems; and (4) financial tools.[17] These four categories incorporate the importance of learning about and recognizing diverse and divergent local histories, cultural significance(s), and heritage viewpoints. The identification and inclusion of associated stakeholders must then engage these parties in intercultural dialogue, mediation, and negotiation with the objective of developing broader consensus-based cultural heritage goals, actions, planning, and regulation that can draw on international—as well as local—public and private funding and financing mechanisms in order to safeguard tangible and intangible heritage assets from a broad base of diverse heritage viewpoints.[18]

B)   UN-Habitat and the New Urban Agenda

Subsequent to the 2015 adoption of the 2030 Agenda for Sustainable Development and the associated 17 Sustainable Development Goals, the United Nations Conference on Housing and Sustainable Urban Development (Habitat III) led to the adoption of the New Urban Agenda (NUA) in late 2016.[19] This international standard-

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15. *E.g.*, UNESCO (2013), *supra* note 1, at 16; HUL GUIDEBOOK, *supra* note 6, at 11, 13; *see also* UNESCO (2011), *supra* note 2, ¶¶ 22–24 (discussing tools that can be used in implementing the HUL Approach, including the cooperation of public and private stakeholders through formal partnerships).

16. HUL GUIDEBOOK, *supra* note 6, at 14–15.

17. *Id.* at 14–15; *see also* UNESCO (2011), *supra* note 2, ¶¶ 22–24 (describing how these tools should be adapted to local contexts by stakeholders implementing them).

18. *See, e.g.*, HUL GUIDEBOOK, *supra* note 6, at 14–15; UNESCO (2011), *supra* note 2, ¶¶ 22–25; Jonathan S. Bell, *The Politics of Preservation: Privileging One Heritage over Another*, 20 INT'L J. CULTURAL PROP. 431 (2013); BRIAN GRAHAM, G.J. ASHWORTH & J.E. TUNBRIDGE, A GEOGRAPHY OF HERITAGE: POWER, CULTURE & ECONOMY 217–19 (Anke Ueberberg ed., 2000).

19. *E.g.*, *United Nations Conference on Human Settlements – Habitat I*
Vancouver, Canada, 31 May-11 June 1976, United Nations: Confs. | Habitat, UNITED NATIONS, https://www.un.org/en/conferences/habitat/vancouver1976 [https://perma.cc/M7A8-JT95]; *see* G.A. Res. 71/256, New Urban Agenda (Jan. 25, 2017).

setting action blueprint draws on the HUL Recommendation and also lays out specific goals for the next twenty years pertaining to the urban environment. The NUA prioritizes responsive, context-appropriate municipal legal frameworks that work towards greater urban equality, justice, and inclusivity within urban governance and decision-making processes.[20]

Considering the ongoing inequalities that persist in most cities, including Vancouver, the NUA crafts a basis for cities to consider how their legal frameworks can be shifted to better address local human and cultural rights. The "right to the city" for a wide diversity of urban denizens is centrally important to the NUA, and this necessitates engagement with the many diverse and meaningful spaces of culture and cultural heritage in the city.[21] As the formative Habitat III Issue Papers highlighted in advance of the NUA's adoption, the "[s]ocial inclusion of disadvantaged groups, particularly in the redevelopment of urban areas and cultural spaces, can be facilitated through wider recognition of their cultural identity."[22]

Once again, in the spirit of balancing divergent and overlapping interests, the NUA notes that the "potential disruptive impacts of urban development" should be reconciled with the use, value, and sustainability of cultural heritage assets, and that local communities should be involved in this process.[23]

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20. *G.A. Res. 71/256, New Urban Agenda, ¶¶104, 126 (Jan. 25, 2017).

21. *Id.* ¶ 11 (describing the "right to the city" as "a vision of cities for all, referring to the equal use and enjoyment of cities and human settlements, seeking to promote inclusivity and ensure that all inhabitants, of present and future generations, without discrimination of any kind, are able to inhabit and produce just, safe, healthy, accessible, affordable, resilient and sustainable cities and human settlements to foster prosperity and quality of life for all").

22. U.N.-Habitat & U.N. Dep't of Econ. & Soc. Affs., *Urban Rules and Legislation*, *in* U.N. Conference on Housing and Sustainable Urban Development, *Habitat III Issue Papers*, 41–46 (May 31, 2015).

23. G.A. Res. 71/256, New Urban Agenda, ¶¶ 124–125 (Jan. 25, 2017).

II. Vancouver's Downtown Core, Neighbourhoods, and Local Area Plans

Figure 1. Map of Downtown Eastside Depicting Local Plan Areas
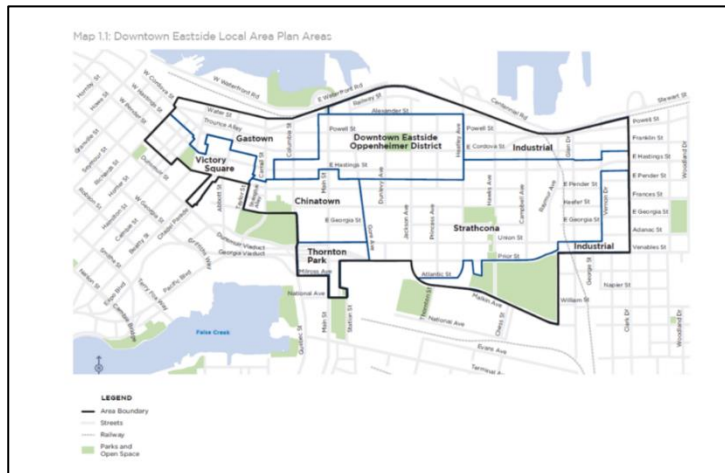
Vancouver's Downtown Eastside Plan (DTES Plan) includes a number of diverse and distinct sub-areas, including Chinatown, Strathcona, Industrial Area, Thornton Park, Victoria Square, Gastown, and the Oppenheimer District.[24] Vancouver's Downtown Eastside presents a case study of the difficulties faced in operationalizing the HUL Approach and in carrying out the balancing approach to managing divergent interests in a historic urban landscape. As Vancouver's DTES Plan notes, the area is "home to some of Vancouver's oldest neighbourhoods and the historic heart of the city."[25] Competing visions and stakeholder interests are bound up within its streets, buildings, and spaces. While the area carries interest for developers aware of Vancouver's tight housing market and the artist presence in the area that has made it popular for a subsequent wave of gentrification, rejuvenation, redevelopment, and rising property values.[26] Those who currently call the area home do not necessarily see the same future for

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24. *See* DTES PLAN, *supra* note 4, at 4 (providing the map depicted in Figure 1). For figures depicting the Downtown Eastside via aerial imaging and dividing the area into sub-areas and neighborhoods, see *infra* Appendix: Figures 2, 3.

25. DTES PLAN, *supra* note 4, at 17.

26. *See, e.g.*, *id.* at 10, 110, 112 (summarizing the DTES Plan's intention for artist presence in the area).

the area and are wary of the displacement that results as previously marginalized areas of the urban landscape are retaken by a city.[27] Even a rapid, superficial visual experience of the space reveals the bubbling realities of housing precarity, Vancouver's (as well as Canada and North America's) drug use crisis, opioid overdose epidemic, alternative spatiotemporal life patterns, ill-equipped mechanisms for supporting community mental and physical health, and the informal economy.[28]

A) Gastown and the Oppenheimer District

At all times, East Hastings Street teems with life, community, trade, found furniture, makeshift temporary housing, and garbage alongside a chaotic, irreverent, determined spirit. The street betrays the mechanics of urban marginalization, addiction, precarity, and a dearth of safe, warm, and available options to spend the day or night. Walking through the area, two empty, boarded-up, and condemned single-room occupancy hotels (SROs), the Regent Hotel and the Balmoral Hotel, dominate the portion of the Oppenheimer District where East Hastings Street spatially bends and becomes West Hastings Street. Both structures carry heritage value yet are simultaneously heavy with the toll taken by years spent operated by accused slumlords.[29] These buildings continue to await their ultimate tangible fate subsequent to their recent closure and eventual expropriation by the city.[30]

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27. *Id.* at 10, 110.

28. *See, e.g.*, John Kurucz, *How Do You Explain Vancouver's Downtown Eastside to Tourists? It's Complicated . . .*, Vancouver is Awesome (Aug. 19, 2019), https://www.vancouverisawesome.com/courier-archive/news/how-do-you-explain-vancouvers-downtown-eastside-to-tourists-its-complicated-3105503 [https://perma.cc/WJR5-PT9Y] (describing how tourists encounter open drug use and individuals experiencing homelessness, mental health crises, and addiction issues in the Downtown Eastside).

29. *See, e.g.*, The Canadian Broadcasting Corporation, *Sahota Family Pleads Guilty, Agrees to $150K Fine Over Bylaw Violations in 2 Hotels*, CBC News (Apr. 22, 2019), www.cbc.ca/news/canada/british-columbia/sahota-family-guilty-bylaw-violations-1.5106793 [https://perma.cc/K2RQ-WB3B]; Wendy Stueck & Mike Hager, *For Low-Income Residents in Vancouver, a Different Kind of Real Estate Crisis*, The Globe & Mail (Mar. 18, 2019), www.theglobeandmail.com/canada/british-columbia/article-for-low-income-residents-in-vancouver-a-different-kind-of-real-estate [https://perma.cc/8V68-YWJL]; *see also* James Farrer, *Grimy Heritage: Organic Bar Streets in Shanghai and Tokyo*, 3 Built Heritage 76, 76 (2019) (discussing how spaces that are derelict and "grimy" can also serve "important social functions as spaces of creativity and community formation").

30. *See, e.g.*, Kendra Mangione, *Expropriation Notices Filed for Balmoral, Regent SRO Hotels*, CTV News (Jan. 30, 2018), bc.ctvnews.ca/expropriation-notices-filed-for-balmoral-regent-sro-hotels-1.4033717 [https://perma.cc/H7JU-BDC4]; James McElroy, *Vancouver Council Votes Unanimously to Expropriate 2 DTES Hotels for $1 Each*, CBC News (Nov. 6, 2019), www.cbc.ca/news/canada/british-columbia/regent-balmoral-council-vote-value-1.5349259 [https://perma.cc/NM3M-5JJN]; Mike Hager & Frances Bula, *Vancouver Paid*

Located in the same area as these two heavy buildings is North America's first legal supervised drug consumption site, Insite.[31] Run by Vancouver Coastal Health, street drug users are provided with clean injection paraphernalia and booths where they can inject previously-attained illicit drugs under the supervision of trained healthcare workers who are able to swiftly intervene in the case of an overdose.[32]

Next to the Oppenheimer District sits Gastown. Designated as a National Historic Site in 2009, Vancouver's oldest municipal neighbourhood and commercial center is known for its heritage assets.[33] It is also known for, as Destination Vancouver—an organization whose mandate is to support Vancouver's tourism industry—notes, its "historic charm."[34] As a year-round tourist attraction, its proximity to a nearby cruise ship terminal ensures that its well-maintained cobblestone streets are full to the brim with people during the summer months. Gastown also attracts locals and new residents interested in purchasing or living in a condo in a historic, vibrant part of Vancouver, or simply spending time exploring Gastown's tourist-oriented boutiques, and carefully curated galleries, bars, and restaurants. As Destination Vancouver suggests, "[i]t's a gathering place for stylish locals and an ideal neighbourhood to explore on foot."[35] That is, however, as long as one does not follow the bend in Hastings Street where West turns to East and Gastown turns into the Oppenheimer District just half a block past Carrall Street. The visual contrast between the Oppenheimer District can be jarring, as the environment of Hastings Street is flipped on its head and suddenly transforms from well-kept designated heritage buildings, shops, and model examples of mixed-use development to abandoned SROs and temporary street encampments, found objects, and

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More Than $7.5-Million for Decrepit Hotels Owned by Sahota Family, THE GLOBE & MAIL (Dec. 11, 2020), www.theglobeandmail.com/canada/british-columbia/article-vancouver-paid-more-than-75-million-decrepit-hotels-sahota-family [https://perma.cc/XS6L-XVW2]; *see also* Gibbeson, *After the Asylum, supra* note 13; Gibbeson, *Not Always Nice, supra* note 13.

31. *See Insite*, P.H.S. CMTY. SERVS. SOC'Y, https://www.phs.ca/program/insite/ [https://perma.cc/ZD2S-9KKE].

32. *Id.*

33. *Gastown Historic District National Historic Site of Canada*, PARKS CAN.: DIRECTORY OF FED. HERITAGE DESTINATIONS, https://www.pc.gc.ca/apps/dfhd/ [https://perma.cc/F8KT-ZTE6] (type "Gastown" into "Keyword" search bar; then click "Search;" then follow hyperlink under "Results").

34. *See, e.g., Gastown Neighbourhood Guide*, DESTINATION VANCOUVER, www.destinationvancouver.com/vancouver/neighbourhoods/gastown [https://perma.cc/FMJ7-KQCN].

35. *Id.*

groups of people gathered sitting, reclining, or just boisterously hanging out along the sidewalks.[36]

Right before the bend in Hastings Street is a block that displays the clearest transformation from the Oppenheimer District into Gastown. At the end of the first block where East Hastings transforms into West Hastings, a remaining open SRO that is now primarily for older adults—the Grand Union Hotel—stands next to a fenced-off community garden. The old brick building's bleak windows sport a tattered assortment of mismatched and limp yellowed and coloured curtains in various states of disrepair that line up above its hotel bar with a sign proclaiming the pub to be "Vancouver's Favourite Country Music Pub." Having once housed the Miner's Liberation League nearly a hundred years ago, the pub's historic layers have seen it house a variety of communities over the years.[37] These days, when the bar is open for business—as advertised—the venue frequently presents country music on its small, simple, elevated corner stage fronted by a small dance floor. During those times, it is filled with a motley crew of people: a varied demographic of friends, strangers, and those in between. Some of these people dance wildly and blissfully on the dance floor to the live country music often performed by a sole musician on the no-frills stage; others sit alone at the bar holding some of Vancouver's least expensive and most straightforward alcoholic beverages in hand; others chat animatedly with friends at the simple tables around the space, or sit quietly. Yet other small, curious, but vastly outnumbered groups wander away from the neighbouring Gastown cocktail lounges to come to the pub, attracted by the easily reified "dive bar" and gritty spectacle.[38] The pub can serve as a "third realm" space for live music and for community from the surrounding streets and SRO rooms above.[39]

On the same block but across the street, a "greasy spoon" style diner named "Save on Meats" has been shifted into—as reviews of those who have eaten there describe it—a surprisingly "charming" retro diner.[40] Proudly advertising its niche corporate identity as Canada's first

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36. *See* Nick Blomley, *Property, Pluralism and the Gentrification Frontier*, 12 CAN. J.L. & Soc'y 187 (1997); Justin McElroy, *The Biggest Change in the Downtown Eastside Isn't the Crime or Homelessness. It's the Geography.*, CBC NEWS (Aug. 21, 2019), www.cbc.ca/news/canada/british-columbia/dtes-vancouver-statistics-anecdotes-1.5253897 [https://perma.cc/8653-325K].

37. MARK LEIER, REBEL LIFE: THE LIFE AND TIMES OF ROBERT GOSDEN, REVOLUTIONARY, MYSTIC, LABOUR SPY 35 (2nd ed. 2013).

38. *See, e.g.*, Farrer, *supra* note 29 (explaining the social functions of "grimy heritage").

39. *See, e.g.*, OLDENBURG, *supra* note 2 (explaining the concept of third spaces).

40. *See, e.g.*, Katherine Burnett, *Restaurants that Changed Vancouver: Save-on-Meats*, SPACINGVANCOUVER (Oct. 17, 2012), http://spacing.ca/vancouver/2012/10/17/restaurants

certified B Corporation diner and butcher,[41] Save on Meats is located in a brick heritage building built in 1891 along—what its Vancouver Heritage Foundation plaque describes as—the "once bustling Hastings Street corridor."[42] Certification as a "B Corporation" means a for-profit company meets the "highest standards of verified, overall social and environmental performance, public transparency and legal accountability."[43] Established in 1957, Save on Meats was one of only a few businesses in the area that managed to weather the economic downturn of Hastings Street.[44] As its heritage plaque also notes, Save on Meats proudly maintains an iconic neon sign featuring flying pigs that dominates its exterior—one of the last remaining iconic neon signs along Hastings Street.[45] The diner was featured on three different reality television shows ("The Big Decision," "Gastown Gamble," and "Diners, Drive-Ins and Dives"), though it has since closed to the public and turned its focus on providing free meals and tokens to local vulnerable communities.[46]

Save on Meats is not alone on the side of the street facing the Grand Union Hotel and the fence enclosed community garden. It shares the block with assorted businesses, including a newer and already-popular moderately-priced Moroccan restaurant, a café and a raucous no-frills karaoke, live metal, and punk bar that is below the former three-story Palace Hotel (also a former SRO) that once housed the infamous brothel operated by Kiyoko Tanaka-Goto until her internment alongside other Japanese Canadians by the Government of Canada during World War II.[47] It is also joined by the old Cosmopolitan Hotel—purchased by the Central City Foundation (CCF)—that now has what CCF describes as forty-two safe rooms above the first floor.[48] It has been

-that-changed-vancouver-save-on-meats/ [https://perma.cc/77MY-S9KC].

41*. See* B Lab, *Save on Meats*, www.bcorporation.net/en-us/find-a-b-corp/company/save-on-meats [https://perma.cc/M6HL-7ZK9].

42*. See Save on Meats*, PLACES THAT MATTER, www.placesthatmatter.ca/location/save-on-meats [https://perma.cc/82A5-56XE].

43. Michael Bell, *What is a Certified B Corporation?*, DELAWAREINC.COM, https://www.delawareinc.com/blog/what-is-a-certified-b-corporation/ [https://perma.cc/U945-48LM].

44*. Save on Meats*, *supra* note 42.

45*. Id.*

46*. Id.*; *Save on Meats*, https://saveonmeats.ca/ (last accessed Jan. 28, 2023).

47*. See Nikkei Legacy Project*, LEAVING HOME: THE LIVES OF JAPANESE PICTURE BRIDES, https://www.discovernikkei.org/en/journal/2016/11/22/leaving-home/ [https://perma.cc/CG9F-DRQD].

48*. See Cosmopolitan Hotel*, CENT. CITY FOUND., www.centralcityfoundation.ca/about-us/social-purpose-real-estate/the-cosmopolitan-hotel   [https://perma.cc/C9DT-QJZR].

repurposed by the Vancouver Women's Health Collective—a women-only health and wellness center for vulnerable individuals from Vancouver's Downtown Eastside.[49]

On the next block, heading further west down West Hastings Street, away from East Hastings Street, sits the old Woodward's Building that used to house the department store which went bankrupt and closed in 1993.[50] Originally built in 1903, Woodward's was an anchor of Vancouver's shopping district and provided important local employment.[51] While the historic building has since been partially demolished and has now been transformed into a mixed-use combination of market and non-market housing units, assorted corporate service locations, stores, shops, restaurants, and part of Simon Fraser University's downtown campus, the initial redevelopment of the building was stalled for years.[52] During the years it was vacant, it eventually became a center of local resistance and protest by community activists, actors, and stakeholders over its future use which, it was hoped, would contain social housing.[53] A short-lived squat of the building in 2002 was followed by the erection of a tent city outside of the building until its eventual removal by police.[54]

The struggle over the future of the Woodward's Building is just one of the sites where competing visions and stakeholder interests have arisen, and continue to arise, in relation to the future of the area and the historic spaces implicated. These clashing stakeholder interests, goals, and views continue to move further along Hastings Street and have continued to surface with conflicts over condo developments and other market-oriented, mixed-use spaces.[55] These conflicting interests continue to arrive as (re)development moves along East Hastings and

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49. *Id.*

50. *Woodward's*, H.B.C. Hist. Found., https://www.hbcheritage.ca/history/acquisitions/woodwards-stores-ltd [https://perma.cc/7FH2-7SQW].

51. *Id.*

52. *See* Kristen Gagnon, *Inclusivity as Architectural Program: A Reflection on Vancouver's Woodward's Redevelopment Five Years On*, Arch Daily (Dec. 22, 2014), https://www.archdaily.com/580467/inclusivity-as-architectural-program-a-reflection-on-vancouver-s-woodward-s-redevelopment-five-years-on [https://perma.cc/D6VK-ELNZ].

53. *See* Akshay Kulkarni, *20 Years After Woodsquat, The Protest That Began at an Old Vancouver Department Store Continues to Resonate*, CBC News (Sept. 17, 2022), https://www.cbc.ca/news/canada/british-columbia/woodsquat-retrospective-2022-1.65 86412 [https://perma.cc/H6EB-DHSA].

54. *See id.*; *Activists Want Action Now That Woodward's Squat is Over*, CBC News (Dec. 15, 2002), https://www.cbc.ca/news/canada/activists-want-action-now-that-woodward-s-squat-is-over-1.331071 [https://perma.cc/6UX8-FPR6].

55. *See* Gagnon, *supra* note 52.

crosses the rough dividing line described above between the Oppenheimer District and Gastown.[56]

Only a few blocks after West Hastings turns into East Hastings, the informal economy along East Hastings operates alongside social life on the streets and is especially visible as the street transitions into a nighttime setting. In addition to the open trade of illegal drugs, vendors lay other wares down on outstretched blankets or tarps—a very different kind of "night market" than Metro Vancouver's sanctioned formal night markets that are popular tourist destinations. In the description of this complex local informal economy, the DTES Plan acknowledges that it is "related to the survival livelihoods of at least half of its residents who are dependent on Income Assistance and pensions."[57] The DTES Plan also notes that "[a]ctivities that make up this realm include self-employment through micro-enterprise, binning, vending, bartering and volunteering for income supplementation."[58] Recognizing the realistic value of the area's longstanding informal economy to its residents, and attempting to balance these interests with redevelopment interests that conflict with the visual manifestation and chaotic characteristics of this informal economy, the DTES Plan notes that "[t]he street market is an example of a community-based economic initiative bringing substantial opportunities for residents and a more permanent home for such vending markets is being sought."[59]

B) Vancouver's Strathcona Neighbourhood and Hogan's Alley

Next to the Downtown Eastside neighbourhood is Vancouver's oldest residential neighbourhood, Strathcona, though the distinct boundaries between the two neighbourhoods are murky.[60] Some of the area has experienced an influx of development interest and revival, while many other parts are in a comparative state of disrepair and neglect.[61] The stark differences between these structures and the

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56. *See* Blomley, *supra* note 36; Neil Smith, The New Urban Frontier: Gentrification And The Revanchist City (1996).

57. DTES Plan, *supra* note 4, at 22.

58. *Id.*

59. *Id.*

60. *See Strathcona*, City of Vancouver, https://vancouver.ca/news-calendar/ strathcona.aspx#:~:text=%7C,History,identical%20apartments%20buildings%20and%20 townhouses [https://perma.cc/YRZ9-F6TJ].

61. *Compare, e.g., Assembly In Strathcona, East Vancouver*, Vancouver New Condos, https://www.vancouvernewcondos.com/properties/assembly-in-strathcona-east-vancouver/ [https://perma.cc/V7Q6-AMQT] (describing a new community of city homes being developed in Strathcona neighborhood), *with* Bridgette Watson, *Strathcona Residents Take to The Streets Calling For Government Help For Homeless people*, CBC News

growing number of newly-renovated, designated heritage houses are a visual representation of the realities of economic disparity within the area.

The history of Strathcona is dotted with various extensive urban renewal initiatives, property expropriation, and demolition and development proposals which were characterized by institutionalized racism and disproportionately affected and displaced socioeconomically marginalized communities in Vancouver.[62] For example, at the time of its displacement, Hogan's Alley—an alley and T-shaped intersection officially known as Park Lane—was the only Black community in Vancouver.[63] Hogan's Alley was a core cultural and community center for Vancouver's Black population from the early 1900s until the early 1970s, when it was eventually expropriated and demolished to make way for the City to build a new viaduct.[64] This demolition crystalized the dearth of recognition by the City of the important community space held within Hogan's Alley and its cultural heritage value that had been under threat during years of City-initiated (re)development and urban renewal initiatives that paid no attention to community voices or well-being.[65]

C) *Chinatown in Vancouver*

Also next to Vancouver's Downtown Eastside—again with only approximately defined borders—is Chinatown, another neighbourhood that demonstrates the daily realities of Vancouver's housing crisis, opioid overdose crisis, and overarching redevelopment and displacement pressures.[66] A large number of distinct buildings contribute to the marked visual aesthetic of Chinatown. The neighbourhood has served as a community hub to the growing local

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(Sept. 29, 2020), https://www.cbc.ca/news/canada/british-columbia/strathcona-protest-1.5742948 [https://perma.cc/R9VF-6M4T] (describing an encampment of hundreds of homeless individuals near Strathcona Park).

62. *See, e.g.*, Stephanie Allen, Fight the Power: Redressing Displacement and Building a Just City for Black Lives in Vancouver (June 12, 2019) (unpublished manuscript) (on file with author); AYDA AGHA, PERPETUAL AFFORDABILITY AND COMMUNITY CONTROL OF LAND, CANADIAN HOUSING AND RENEWAL ASSOCIATION CONGRESS SESSION SERIES 6 (2018).

63. *See What was Hogan's Alley*, HOGAN'S ALLEY SOC'Y, https://www.hogansalleysociety.org/about-hogans-alley/ [https://perma.cc/YLJ8-FMZ3]; Allen, *supra* note 62.

64. *What was Hogan's Alley*, *supra* note 63.

65. *See* Allen, *supra* note 62, at 25–42; *see also* AGHA, *supra* note 62 (discussing the role of rezoning and expropriation).

66. *See, e.g.*, Ayilya Thampuran, *"Post-Apocalyptic Scenes": Poor Tourist Reviews Hurt Chinatown Businesses*, DAILY HIVE: URBANIZED (Aug. 12, 2022), https://dailyhive.com/vancouver/poor-reviews-hurting-struggling-chinatown [https://perma.cc/9458-V3BA] (detailing problems with homelessness and drug use in Chinatown).

Chinese community, established even before Vancouver was incorporated in 1886.[67] The numerous restaurants and eateries that sprung up in the area to cater to the local population have provided a strong business presence in the neighbourhood.[68] While the physical boundaries of Chinatown have largely remained the same over time, not unlike Chinatowns throughout most of North America, Vancouver's Chinatown community faces increasing displacement pressures through rising costs of rent and living expenses.[69] These pressures are felt acutely by small businesses such as the local restaurants and eateries that do not necessarily have a profit margin to enable themselves to survive the rising costs of remaining in the neighbourhood.[70] Heritage Vancouver and Canada's National Trust, for example, have each placed Vancouver's Chinatown on their endangered places list.[71]

At the provincial level, Vancouver's Chinatown was designated as a historic district in 1971 under the old Historic Sites Protection Act, which has since been replaced by the Heritage Conservation Act.[72] This designation included the "heritage value" of buildings and properties that were vacant or occupied, which enabled the protection of the neighbourhood as a historic district.[73]

At the federal level, Chinatown was designated as a National Historic Site of Canada in June 2010 on account of "its physical fabric, its development as a self-segregated enclave, due in part to racially motivated hostility elsewhere in the city prior to the Second World War, and its ongoing uses [that] reflect the many contributions and struggles of Chinese Canadians throughout most of their history in this country."[74]

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67. *See, e.g.*, PAUL YEE, SALTWATER CITY: AN ILLUSTRATED HISTORY OF THE CHINESE IN VANCOUVER 17 (4th ed. 2006).

68. *Id.*; Eva Li, Peter S. Li & Li Zong, *Profile of Small Businesses Among Chinese in Vancouver*, 48 CANADIAN ETHNIC STUD. 53, 53 (2016).

69. *See* BETHANY LI, ANDREW LEONG, DOMENIC VITIELLO & ARTHUR ACOCA, ASIAN AM. LEGAL DEF. & EDUC. FUND, CHINATOWN THEN AND NOW: GENTRIFICATION IN BOSTON, NEW YORK, AND PHILADELPHIA (2013).

70. *Id.*

71. *See, e.g.*, *2018 Top 10 Watch List*, HERITAGE VANCOUVER, http://heritagevancouver.org/category/top10-watch-list/2018 [https://perma.cc/PH5C-L8EH]; *2016 Top 10 Endangered Places List*, NAT'L TRUST FOR CAN., https://nationaltrustcanada.ca/nt-endangered-places/vancouvers-chinatown [https://perma.cc/SP7E-YK8C]; s*ee also* LESLIE SHIEH & JESSICA CHEN, CHINATOWN, NOT COFFEETOWN: AUTHENTICITY AND PLACEMAKING IN VANCOUVER'S CHINATOWN 37 (2018).

72. *See Vancouver's Chinatown National Historic Site of Canada*, PARKS CAN.: DIRECTORY OF FED. HERITAGE DESIGNATIONS, www.pc.gc.ca/apps/dfhd/page_nhs_eng.aspx?id=12951 [https://perma.cc/HV54-BYGB]; Heritage Conservation Act, R.S.B.C. 1996, c 187 (Can.).

73. Heritage Conservation Act, R.S.B.C. 1996, c 187 (Can.).

74. *See Vancouver's Chinatown National Historic Site of Canada*, *supra* note 72.

Turning back to the local level mechanics of what meaningful cultural heritage engagement and protection requires in the context of localizing international guiding frameworks like the HUL Recommendation, at the municipal level the policies that shape the ability for cultural heritage to flourish in a context-specific manner are of key importance, as the majority of heritage conservation occurs at the local level.[75] Vancouver's new cultural plan, discussed subsequently, acknowledges the important role played by underrepresented communities who, over the years, have mobilized to advocate to have their voices and narratives heard and to be included in the shaping of neighbourhood spaces.[76]

An example of a community being included in the shaping of their neighbourhood space is the Vancouver Chinatown Revitalization Committee (Committee).[77] This Committee was assembled in 2001 in response to the area's economic decline.[78] The Committee included stakeholder groups experiencing economic decline and, notably, also included both youth groups and family associations in order to access a variety of narratives that reached beyond commercial interests in the neighbourhood and represented a holistic view of social and cultural interests and needs in the neighbourhood.[79] This work, combined with engagement with the City, ultimately resulted in the 2002 *Chinatown Vision*[80] and the 2012 *Chinatown Neighbourhood Plan & Economic Revitalization Strategy*.[81] Chinatown Vision sought to protect and encourage the flourishing of the neighbourhood's history, community, and its tangible and intangible spaces through a diversity of economic and cultural initiatives.[82]

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75. *See, e.g.*, MINISTRY OF TOURISM, PARKS, CULTURE AND SPORT, HERITAGE CONSERVATION BRANCH, COMMUNITY HERITAGE PROGRAMS: A GUIDE FOR MUNICIPALITIES 3 ("With their planning and regulatory authority, and their familiarity with community values and issues, municipal governments are well-positioned to be leaders in conserving and developing these valuable [social, economic, and environmental benefits that come from protecting historic places].").

76. CITY OF VANCOUVER, CULTURE|SHIFT, *supra* note 5, at 16.

77. *See Chinatown Revitalization: In Depth*, CITY OF VANCOUVER, https://vancouver.ca/home-property-development/chinatown-revitalization-in-depth.aspx#history [https://perma.cc/5H4T-S547].

78*. Id.*

79*. See* CITY OF VANCOUVER, LAND USE AND DEVELOPMENT POLICIES AND GUIDELINES, CHINATOWN VISION DIRECTIONS (2002).

80. *See* Jessica Chen-Adams, Chinatown Revitalization Program: Chinatown Vision (2002).

81*.* CITY OF VANCOUVER, CHINATOWN NEIGHBOURHOOD PLAN & ECONOMIC REVITALIZATION STRATEGY (2012).

82. *See* CHEN-ADAMS, *supra* note 80*.*

A second phase of Chinatown Vision turned to the expansion of intergenerational engagement, housing concerns, and economic revitalization initiatives that were intended to build on Chinatown's identity as a social and cultural hub for the community.[83] The second phase also included a city-sanctioned, three-year Chinatown Community Plan that focused on strategic rehabilitation of built structures, intensification of housing stock in the neighbourhood, parking access, and revised approaches to community development for Chinatown as well as the Downtown Eastside.[84]

Despite Chinatown's heritage designated status at the municipal, provincial, and federal level in Canada, grassroots mobilization to pursue an application for UNESCO World Heritage designation for Chinatown highlights an important element of understanding cultural heritage in the neighbourhood.[85] The many intangible cultural heritage elements of the neighbourhood—such as culinary spaces and traditions, sights, sounds, and scents—are not necessarily captured within existing dominant legal frameworks for heritage preservation which largely surround the notion of built-heritage merit. A salient layer revealed by the issue of cultural heritage protection in Chinatown is how a focus on tangible elements of cultural heritage can ultimately contribute to an erosion and displacement of the intangible elements—such as culinary culture and culinary spaces. Where a key component of intangible cultural heritage preservation in a neighbourhood such as Vancouver's Chinatown requires active participation in passing down customs, practices, and techniques from one generation to the next, the act of preservation is more complex than with tangible cultural heritage preservation.[86]

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83. *See* JESSICA CHEN-ADAMS & HELEN MA, CHINATOWN COMMUNITY PLAN: PROGRESS REPORT (2006) (explaining the potential for Chinatown to play a social and cultural role for the community).

84. *Id.*

85. *See* MARY CLARE ZAK, HISTORICAL DISCRIMINATION AGAINST CHINESE PEOPLE IN VANCOUVER 8–9 (2017); *World Heritage Status Would Make Vancouver's Chinatown Permanent Symbol of Resilience, B.C. Says*, CBC NEWS (Sept. 17, 2018), https://www.cbc.ca/news/canada/british-columbia/world-heritage-status-would-make-vancouver-s-chinatown-permanent-symbol-of-resilience-b-c-says-1.4826844 [https://perma.cc/68V5-BMEW].

86. *See, e.g.*, Bill Ivey, *Issues in Intangible Cultural Heritage*, *in* ACCESS IN THE FUTURE TENSE 34, 35–36 (Council on Libr. & Info. Res. ed., 2004).

III. Vancouver's Downtown Eastside Plan and Heritage Spaces in the Downtown Eastside

An example of the differential treatment of heritage spaces in Vancouver is visibly apparent as one walks by the empty boarded historic buildings like the Regent Hotel and the Balmoral Hotel SROs, and past the Grand Union Hotel, to the well-kept heritage buildings of Gastown. As the DTES Plan itself notes, the Vancouver Heritage Register includes only about 20% of all registered heritage buildings across the city.[87] This figure is significantly out-of-date and only accounts for currently-registered heritage buildings.[88] It also largely relies on traditional notions of what constitutes heritage and merits previous heritage protection and acknowledgment.[89] The DTES Plan notes the need to update the Register both with more complete inclusion of existing tangible heritage spaces and greater inclusion of less tangible moments bound up in the spaces of a city.[90]

As for plans for better intangible and tangible management of heritage spaces and places, the DTES Plan identifies two incentive-based heritage conservation programs: the Heritage Building Rehabilitation Program and the Heritage Façade Rehabilitation Program.[91] The DTES Plan, however, acknowledges the geographic limitations of these programs, as they include only Gastown, Chinatown, Victory Square, and Hastings Street Corridor.[92] Nonetheless, the DTES Plan proposes adapting these programs to provide support for building owners' tangible and intangible conservation efforts throughout the Downtown Eastside area and to better acknowledge the area's tangible and intangible heritage value.[93]

Specifically, the DTES Plan identifies the local legal and policy tools available to the City of Vancouver to incentivize better and more inclusive heritage preservation. For example, the use of variances and relaxing existing regulations are highlighted as particularly useful tools for incentivizing heritage preservation, alongside grants and property tax exemptions.[94] Further, the DTES Plan identifies "the creation and transfer of heritage amenity density" as another key tool.[95] These

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87. DTES PLAN, *supra* note 4, at 136.
88. *Id.*
89. *Id.*
90. *Id.* at 136, 140, 172.
91. *Id.* at 136, 140.
92. *Id.* at 136.
93. *Id.* at 136, 140.
94. *Id.* at 172.
95. *Id.*

transferable heritage density bonuses involve the use of rezoning to allocate community amenity contributions—development-related investment gathered from property developers—to the purchase of heritage amenities.[96] Here, a developer might agree to legally protect and rehabilitate a heritage building that is on the development site in exchange for an increase in density of the proposed development project. However, the ability to transfer this bonus is an important element; it permits a developer to transfer the density bonus from a "donor" site to another "receiver" site where there may be a greater potential for development—as long as both sites are within designated areas or zones.[97]

Developed over a two-year period, the DTES Plan represents a significant effort by the city to gain local knowledge about the distinct characteristics of the sub-areas that make up what is often broadly categorized as Vancouver's Downtown Eastside. Largely through the Local Area Planning Process (LAPP) Committee, an understanding of "place" and the important "places" that exist within the Downtown Eastside neighbourhood were prioritized in developing the DTES Plan.[98] This prioritization accompanied the LAPP Committee's emphasis on the importance of developing the DTES Plan with an implementation strategy that addresses both the social and physical aspects of a neighbourhood in a coordinated manner.[99] While the Downtown Eastside is brimming with tangible heritage, buildings, and places, its people and their historic and community roots in the neighbourhood are a key asset of the area.[100]

In line with the HUL Recommendation, the DTES Plan expands on and summarizes its understanding of "place" for a community by noting that "[e]ach community's sense of place can often be linked to significant historical events, spiritual connections to previous generations, diverse faiths, access to resources, the physical environment and built form."[101] Further, the DTES Plan acknowledges that "[s]pecial and valuable places

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96. *Id.* at 170, 172.

97. *Incentives for Developers: Transferable Heritage Density Bonuses*, CITY OF VANCOUVER https://vancouver.ca/home-property-development/density-incentives-for-developers.aspx [https://perma.cc/47LX-9BQF].

98. *See* DTES PLAN, *supra* note 4, at 26 (describing how in creating the DTES Plan, the LAPP Committee would "reach out to as much of the DTES community as possible to document what is important to everyone"); *see also id.* at 37–58 (detailing the "places and people of the Downtown Eastside").

99. *Id.* at 26.

100. *Id.* at 37.

101. *Id.*

are often connected by important walking routes and streets."[102] Within these explanations, the DTES Plan unpacks additional specifics of the local context where—at least in writing—a concerted effort is made to balance the acknowledgement of and the links between tangible and intangible heritage in the city.[103] The fact that this understanding of "place" serves as the backbone of the DTES Plan would appear to be taking great strides towards the goals and approaches that are articulated by the HUL Recommendation.[104]

The social impact report that led to the development of the DTES Plan emphasized the existence of many community assets of critical importance for residents and, in line with the HUL Approach, noted that these assets are not only physical buildings; these assets include people, places, and other intangibles, "such as feeling safe and connecting with one's own culture."[105] The report noted the "many vulnerable groups living in the neighbourhood who are struggling with complex challenges including homelessness, poverty, housing issues, unemployment, drug use, crime, loss of affordable retail and restaurants in the neighbourhood, poor nutrition and food insecurity."[106] While the report explained that, "[o]verall, residents value a sense of belonging, feeling accepted and being at home within the neighbourhood while having essential health and social services close by," it also situated this within the context of "the fears low income residents have around gentrification, being displaced, discriminated against and losing their critical connections and assets."[107]

Also in line with the HUL Approach—at least on paper—the DTES Plan discusses the balancing of interests that will need to take place as it comes into effect.[108] A balance of competing interests must be struck in order to mitigate the risks that future development, actions, policies, and land use change pose for current vulnerable residents.[109] Part of this effort will require ongoing monitoring and evaluation of the potential public benefits alongside the change and social impacts that will also

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102. *Id.*

103. *See id.* at 37–58.

104. *See* UNESCO (2011), *supra* note 2, ¶ 5 (noting the need for "identifying, conserving and managing historic areas within their broader urban contexts, by considering the interrelationships of their physical forms, their spatial organization and connection, their natural features and settings, and their social, cultural and economic values.").

105. DTES PLAN, *supra* note 4, at 9; *see* CITY OF VANCOUVER, DOWNTOWN EASTSIDE SOCIAL IMPACT ASSESSMENT: REPORT (2014).

106. DTES PLAN, *supra* note 4, at 9.

107. *Id.*

108. *Id.* at 34.

109. *Id.* at 10.

result.[110] While the DTES Plan is set out within a thirty-year timeframe, ten-year "targets"—the Social Impact Objectives—are proposed in order to compliment ongoing monitoring and evaluation of the Plan's achievements, effects, changes, and so on.[111] Of the nine listed objectives, four are of particular relevance to the culture and heritage of the community space of Downtown Eastside. These objectives seek to:

> • Ensure diverse development that is respectful of heritage assets, surrounding scale, urban pattern, and social and community context.
> • Improve the overall quality, accessibility, and inclusiveness of the public realm in the DTES, recognizing the uniqueness of each sub-area.
> • Maintain the diversity of existing businesses and commercial uses and support affordable commercial spaces for social enterprises, micro enterprises and small businesses providing low-cost goods and services for residents.
> • Retain, preserve, and celebrate local heritage, arts and culture for all.[112]

The DTES Plan includes the "city-wide principle of enhancing culture, heritage, and creativity within the city."[113] To this end, planning within the Downtown Eastside should strive to ensure that:

> • The arts, cultural, and heritage assets of the area are identified, and key assets are protected;
> • The local creative economy is strengthened;
> • Community arts and artists are supported and celebrated; and
> • The area's diverse cultural heritage is recognized and celebrated (including Aboriginal, Japanese-Canadian, Chinese-Canadian, labour movement, etc.).[114]

Nonetheless, the DTES Plan frames much of how place is situated in the document through the language of "placemaking".[115] Placemaking does not necessarily effectively incorporate the value of "keeping" and what can be thought of as "placekeeping", which is something that the community expressed strongly during the community engagement process.[116] Placemaking, as a culture-based (re)development strategy and ideally a collaborative stakeholder process, can certainly have many

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110. *Id.*

111. *Id.* at 11.

112. *Id.*

113. *Id.* at 15.

114. *Id.*

115. *Id.* at 39.

116. *Id.* at 39, 58, 63–79; *see also* U.N.-Habitat, Convention on Biological Diversity, U.N.-Women, *Public Space*, *in* U.N. Conference on Housing and Sustainable Urban Development, *Habitat III Issue Papers*, 80–85 (May 31, 2015).

positive benefits.[117] But a prioritizing of the placemaking lens can also lead to a coding of spaces targeted for placemaking as previously "dysfunctional" or "decrepit," which in this context carries with it a tendency to displace the more marginal, transgressive, and/or vulnerable stakeholders within the space in question.[118] Placekeeping, on the other hand, can more effectively identify the intangible heritage characteristics of a place or space and shift the focus from what is not there or is perceived to be lacking, deficient, or problematic to a focus on what already exists and can be preserved or nourished.[119] While the DTES Plan incorporates many aspects of placekeeping, its value-framing, once operationalized into concrete redevelopment plans, will require careful attention regarding the Plan's effects on equitable intangible (as well as tangible) heritage protection for all involved stakeholders.

IV. Inclusive Urban Heritage Policies, Politics, and Vancouver's New Cultural Plan: *Culture | Shift*

A key objective of Vancouver's strategic cultural plans is policy alignment that integrates the city's cultural ecology and cultural heritage objectives into its municipal planning processes, decisions, and resulting laws and legislation. The city plans to achieve these goals through the incorporation of culture and cultural heritage matters into land-use planning, local area plans, housing policy, and work towards local sustainable development and diverse community engagement.[120] Vancouver's new ten-year cultural plan for 2020–2029, *Culture|Shift: Blanketing the City in Arts and Culture*, was presented by Vancouver city staff to City Council on September 10, 2019.[121] In addition to the presentation, there was time for members of the public to discuss how they had been engaged in the development of the plan, their thoughts on its final version, and how the plan would be implemented in the future.

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117. *See, e.g.*, Sara Ross, *Protecting Urban Spaces of Intangible Cultural Heritage and Nighttime Community Subcultural Wealth: A Comparison of International and National Strategies, The Agent of Change Principle, and Creative Placemaking*, 7 W.J. LEGAL STUD. 1 (2017); SHOSHANAH GOLDBERG-MILLER, PLANNING FOR A CITY OF CULTURE: CREATIVE URBANISM IN TORONTO AND NEW YORK 4 (2017).

118. Ross, *supra* note 117, at 4, 9.

119. *Id.*

120. *See, e.g.*, CITY OF VANCOUVER, CULTURE|SHIFT, *supra* note 5, at 18.

121. *Regular Council Meeting Minutes*, CITY OF VANCOUVER (Sept. 10, 2019), https://council.vancouver.ca/20190910/documents/regu20190910min.pdf [https://perma.cc/5Z25-5A4Q]. See BRANSILAV HENSELMANN, *CULTURE|SHIFT: BLANKETING THE CITY IN ARTS AND CULTURE*, VANCOUVER CULTURE PLAN 2020-2029 (2019), for the information that was presented to the City Council.

Public attendees spoke largely in favour of the plan and its development.[122]

Vancouver's first cultural plan was in place between 2008 and 2018 and, as many cultural plans set out to do, it worked towards establishing the economic, social, and environmental value of culture.[123] It also prioritized culture as an element of sustainability to be considered within decision-making leading up to the development of city policies.[124] As the preamble to the new cultural plan describes, the prior cultural plan and its associated documents "generated increased investment that stabilized cultural sectors during times of economic flux and recession."[125] This investment was helpful for creating interest and the realistic potential for preserving urban cultural heritage as part of sustainable urban (re)development, whether this was through, for example, partnerships that were generated to promote local cultural tourism or otherwise.[126] But there were other effects as well. As the new cultural plan describes, over the years that the first cultural plan was in place, various communities expressed concern that this plan also resulted in a particular formula of cultural planning intended to "regenerate" or "revitalize" the city in a manner that led to increased gentrification pressures.[127] These pressures can ultimately result in the displacement of local people and communities as well as local businesses and organizations.[128]

In addition, these communities identified discrimination that was embedded into the processes and methods of that plan, including a lack of acknowledgment of or support for marginalized and underrepresented cultures and communities.[129] In response to these concerns, the new cultural plan draws inspiration from other cultural plans—for example, of Auckland and Sydney—in order to engage in what the new plan describes as more "[c]ontemporary approaches" that "attempt to engage and represent more diverse publics."[130] As the new cultural plan acknowledges,

> These shifts are credited to underrepresented communities who mobilized to advocate for more equitable inclusion. These

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122. *See Regular Council Meeting Minutes*, *supra* note 121 (noting that sixteen public attendees spoke in support of the recommendations).

123. CITY OF VANCOUVER, CULTURE|SHIFT, *supra* note 5, at 16.

124. *Id.*

125. *Id.* at 20.

126. *Id.*

127. *Id.*; *see also*, McElroy, *supra* note 31.

128. *See, e.g.*, CITY OF VANCOUVER, CULTURE|SHIFT, *supra* note 5, at 20.

129. *Id.* at 16.

130. *Id.* at 20.

communities pushed for more complicated narratives that leave room for generative forms of critique and failure, and ways to harness urban development to root existing local culture, people, and cultural assets in a place.[131]

This advocacy regarding prior iterations of and eras of cultural planning paradigms also led to the renaming of the new cultural plan—originally known as Vancouver's "Creative City Strategy"—to its current name: "CULTURE|SHIFT."[132] A more inclusive and community-defined understanding of culture and cultural heritage is interconnected with this shift in paradigms in a manner that represents strides towards the localization of the HUL Recommendations.

Turning to some of the new aims for cultural heritage identification and management for the city that appear within the new cultural plan for Vancouver, one goal is to "Prioritize Intangible Cultural Heritage and Promote Cultural Redress."[133] This goal aims to better recognize the diversity of cultural heritage and cultural landscapes of communities that have historically been marginalized within Vancouver. In working towards this goal, some of the identified initiatives narrow in specifically on identifying new forms of supporting cultural heritage in these communities, and others broaden mechanisms for understanding cultural knowledge, practices, and spaces that are associated with a community's cultural heritage.[134] The new cultural plan narrows in on examples of future support, including:

• Work with interdepartmental partners to support research [and] engagement required for development at Hogan's Alley as a key action to advance cultural redress for Black communities [and] communities of the African diaspora.

• Support the development of Chinatown intangible cultural asset mapping [and] management [and] UNESCO designation.

• Support the work to celebrate the past [and] plan for the future of the Punjabi Market [another heritage area in Vancouver].

• Support the Japanese Canadian community in exploring space opportunities [and] preservation of tangible [and] intangible cultural heritage. [Japantown is located within the Downtown Eastside.][135]

In addition, Vancouver's City Heritage Program is specifically identified as the area where these objectives might be operationalized through "heritage statements, incentives, registry [and] other

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131. *Id.*

132. *Id.* at 17.

133. *Id.* at 11 (implementing Strategic Direction 3 "Cultural Equity and Accessibility").

134. *Id.* at 63.

135. *Id.*

mechanisms."[136] These tools can be used to "further support new approaches to intangible [and] tangible cultural heritage."[137]

In line with the HUL Recommendations—and in the vein of a more inclusive approach to heritage identification and preservation—is the *Cultural Infrastructure Plan: Making Space for Arts and Culture*.[138] This document—associated with Vancouver's new cultural plan—narrows in on the space-related actions needed to operationalize the new cultural plan.[139] Drawing on a 2018 report,[140] the Cultural Infrastructure Plan states that "[t]here is an opportunity to expand the current City definition of 'heritage' to include broader cultural, place-based, and values-based assessments of built and intangible community assets."[141] In identifying this opportunity, the Cultural Infrastructure Plan proposes in particular that "protection efforts should add important cultural spaces to the City's Heritage Registry in order to leverage existing heritage incentives including: grants for seismic upgrades, amenity shares, increased density, development cost levy exemptions, and tax abatement as incentives to preserve cultural spaces."[142]

The Cultural Infrastructure Plan also reiterates one of the key recommendations from the 2018 report, recommending that

> The City [] prioritize the preservation of arts and cultural spaces, including production spaces, music and performance spaces that hold or foster specific cultural heritage traditions, intangible cultural assets and industrial land used for art production and other industrial uses. The present gap in preservation efforts may risk the loss of spaces that are sorely needed and heavily utilized.[143]

The document further describes a new approach for the city regarding cultural heritage protection that "is about managing historic places and cultural neighbourhoods in ways that allow for change, yet at the same time reflects, honours, and carries-forward the values of a specific place."[144] The Cultural Infrastructure Plan further emphasizes the importance of prioritizing cultural heritage, equity, and redress in order to "support the ongoing vitality of cultural heritage and

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136. *Id.*

137. *Id.*

138. CITY OF VANCOUVER, MAKING SPACE FOR ARTS AND CULTURE: VANCOUVER CULTURAL INFRASTRUCTURE PLAN (2019).

139. *Id.*

140. BRANISLAV HENSELMANN & ALIX SALES, MAKING SPACE FOR ARTS AND CULTURE: 2018 CULTURAL INFRASTRUCTURE PLAN (2018).

141. *Id.* at 23.

142. *Id.*

143. *Id.* at 17.

144. *Id.* at 23.

recognition of cultural redress in neighborhoods where communities have suffered from discriminatory policies and actions, including expropriation of land and property."[145] It notes, for example, this process as a step to follow the City of Vancouver's apology for historical discrimination experienced by Vancouver's Chinese population.[146]

The *Vancouver Music Strategy* also accompanies Vancouver's new cultural plan.[147] It proposes further exploration for "expanding cultural heritage designation to include non-traditional music spaces."[148] This strategy aims to protect the ongoing existence and infrastructure surrounding music venues and music culture, communities, and their practice in Vancouver.[149] Protecting these music spaces speaks to an important component of intangible cultural heritage for many communities.[150]

Conclusion

International frameworks for equitable and sustainable heritage management provide a vision, important guidance, and courses of action for cultural heritage in cities. However, it is localization within a city's urban policies that brings meaningful change at the everyday, neighbourhood level. It is here where streetscapes are experienced by the denizens of a city; the daily experience of a city and how culture and heritage are navigated can be marginalizing, empowering, or somewhere in between. Local cultural heritage policies that are increasingly appearing within community and neighbourhood development plans—a city's strategic cultural plans or directions, and other similar documents—are key spaces where what is espoused within, for example, UNESCO's HUL Recommendation, can be applied.

Frequently, application at this level of government can result in more effective and context-appropriate policies for local cultural heritage interests than broader federal or provincial (or state) policies. This Article turned to a number of local contexts and neighbourhoods within Vancouver's downtown core, and examined where and how

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145. *Id.* (promoting the plan's second goal: "Prioritize Cultural Heritage, Equity and Accessibility").

146. *Id.*

147. CITY OF VANCOUVER, VANCOUVER MUSIC STRATEGY: DRAFT FINAL REPORT (2019).

148. *Id.* at 38.

149. *See id.* at 5, 10.

150. *See generally* SPRINGERBRIEFS, MUSIC AS INTANGIBLE CULTURAL HERITAGE: ECONOMIC, CULTURAL, AND SOCIAL IDENTITY (Blanca de-Miguel-Molina, Virginia Santamarina-Campos, María de-Miguel-Molina & Rafael Boix-Doménech eds., 2021) (exploring how music is an intangible cultural resource).

heritage spaces were engaged within a number of Vancouver's local plans and policy documents. These plans and policies ultimately shape the existence, treatment, and experience of cultural heritage spaces in these neighbourhoods.
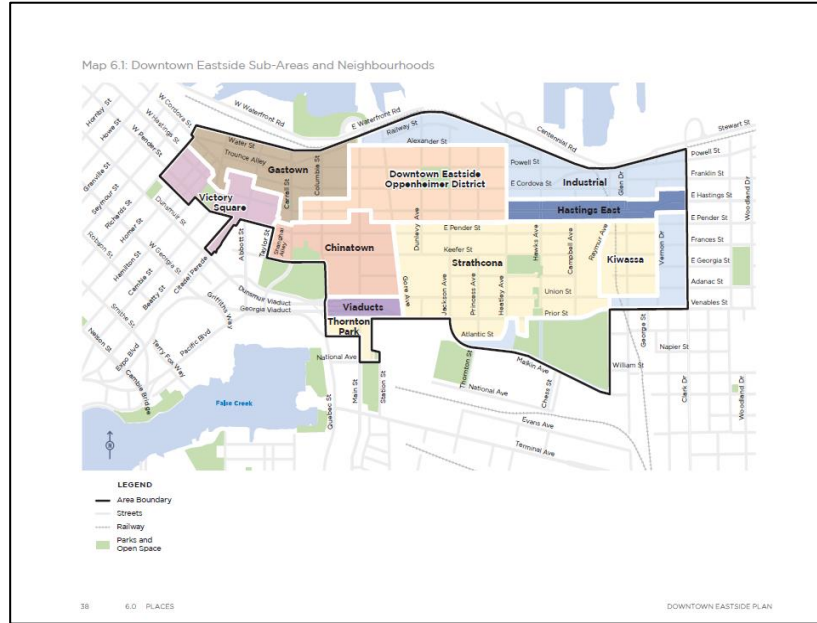
As this Article demonstrates, important strides in localizing elements of the HUL Recommendation and the NUA appear throughout the document. The processes and methodology applied in developing these documents represent significant improvements in accessing the wide diversity of stakeholders within the affected communities— notably where traditionally marginalized voices are slowly beginning to figure more prominently than before. Yet there is room for improvement; documents, policies, and their development is only the first step within cities such as Vancouver. It remains to be seen when and how these policies, goals, and strategies will be fully implemented, and what the results will be in the years to come.

Appendix

Figure 2. Aerial Imaging of Downtown Eastside[151]

Figure 3. Map Depicting Downtown Eastside Sub-Areas and Neighbourhoods[152]