

Caution:

This consultation draft is intended to facilitate dialogue concerning its contents. Should the decision be made to proceed with the proposal, the comments received during consultation will be considered during the final preparation of the regulation. The content, structure, form and wording of the consultation draft are subject to change as a result of the consultation process and as a result of review, editing and correction by the Office of Legislative Counsel.

CONSULTATION DRAFT

ONTARIO REGULATION

To be made under the

ONTARIO HERITAGE ACT

CRITERIA FOR EXEMPTIONS UNDER SECTION 66.1 OF THE ACT

Definitions

1. (1) In this Regulation,

“Ministry” means the ministry of the Minister; (“ministère”)

“significant known archaeological site” means an archaeological site that the Lieutenant Governor in Council has determined, in accordance with subsection (2), to have significant cultural heritage value or interest. (“important site archéologique connu”)

(2) For the purposes of the definition of “significant known archaeological site” in subsection (1), the determination of the Lieutenant Governor in Council must include consideration of at least one of the following:

1. A determination by a person licensed under Part VI of the Act, based on archaeological fieldwork undertaken on the site, that the site has further cultural heritage value or interest.
2. An identification by an Indigenous community of the site as having cultural heritage value or interest, based on information the Lieutenant Governor in Council considers appropriate and sufficient.

Criteria

2. The following criteria must be met for a property to be eligible for an exemption by order under section 66.1 of the Act:

1. A minister has,

- i. considered the archaeological potential of the property by applying the processes and criteria established by the Ministry,
 - ii. notified all Indigenous communities that have or may have aboriginal or treaty rights that may be adversely impacted by an order under section 66.1 of the Act in respect of the property that the minister intends to recommend to the Lieutenant Governor in Council that such an order be made, and
 - iii. submitted a report to the Lieutenant Governor in Council, containing,
 - A. information respecting the considerations under subparagraph i, and
 - B. a recommendation respecting the specific requirements mentioned in subsection 66.1 (2) of the Act to which an order respecting the property could apply.
- 2. The ministry of the minister mentioned in paragraph 1 has provided written confirmation to the Lieutenant Governor in Council that all Indigenous communities that have or may have aboriginal or treaty rights that may be adversely impacted by the proposed order have been notified of the recommendation mentioned in subparagraph 1 iii B.
- 3. Activities are taking place in the property or are being proposed that, in the opinion of the Lieutenant Governor in Council, are or will be economically significant or strategically important to the Ontario economy.
- 4. The property does not include, in whole or in part, any of the following:
 - i. A significant known archaeological site, including a significant known archaeological site to which Part III.1 of the Act applies.
 - ii. A burial site within the meaning of subsection 1 (1) of the *Funeral, Burial and Cremation Services Act, 2002*.
 - iii. An aboriginal peoples burial ground within the meaning of section 97 of the *Funeral, Burial and Cremation Services Act, 2002*.
 - iv. A cemetery within the meaning of subsection 1 (1) of the *Funeral, Burial and Cremation Services Act, 2002*.
 - v. A site of a former Indian residential school.

- vi. An archaeological site that was identified as part of a designation under section 29, 34.5, 41 or 52 of the Act or as part of a registration on title of an easement under clause 10 (1) (c) or section 37 of the Act.

Excluded requirements

3. Despite section 66.1 of the Act, no order may be issued exempting a property from a requirement set out in sections 51.1 to 51.3, 61.1, 62, 64 or any provision of Part VI.1 of the Act.

Commencement**4. [Commencement]**