



July 2, 2021

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Dear Mr. Wesley:

Re: ERO 019-2770 – Comments re: Updates to the Ontario Heritage Toolkit

We represent The Governing Council of the University of Toronto (the “University”).

The University has participated in the Province’s “Increasing Housing Supply in Ontario” consultation as one of the largest landowners in the City of Toronto, an investor of billions of dollars in new development projects to address a critical need for on-campus housing, affordable home ownership options for faculty and staff, and innovation space, and as an institution which celebrates and conserves its heritage. The University wishes to thank the Province for conducting a responsive consultation process and welcomes the coming into force of the *More Homes, More Choice Act*, 2019 amendments to the *Ontario Heritage Act* and the changes made to the recently posted regulation.

The University also welcomes the province’s update to the Ontario Heritage Toolkit. However, the University is concerned the five draft guides currently under review will not assist stakeholders make predictable and consistent determinations as to what has cultural heritage value in Ontario. Generally, the draft guides go beyond provincial policy, fail to account for heritage best practices, and do not provide sufficient clarity on the application of the criteria for cultural heritage value or interest in Ontario Regulation 9/06.

We have highlighted some of the University’s high-level comments below.

Inclusion of interior spaces inappropriate

The draft guides include a broad basis for the inclusion of interior spaces in designations, without regard for current use. Such inclusion goes beyond the Provincial Policy Statement and the intent of the *Ontario Heritage Act*, and may conflict with business operations, accessibility requirements, and interfere with adaptive reuse of heritage properties. Building interiors in a private home or business do not contribute to the economic and social rationale for heritage conservation and cannot, particularly where the public does not enjoy a right of access, contribute to a sense of place or readily be identified by a community. References and examples respecting interior spaces should be appropriately qualified in the guides.

Terminology should be made consistent with provincial policy

Despite the update, reference to the protection of cultural heritage value is still made. As “protect” may be interpreted as more stringent than the Provincial Policy Statement’s requirement to “conserve” and accepted heritage practice, such terminology should be avoided. Throughout the draft guides properties which have yet to be studied or designated are equated to designated properties of cultural heritage value. The distinction between properties which are listed, designated, or neither, should be maintained in the guides for clarity.

References to views, skylines and similar “attributes” are too broad

References to views and skylines and similar “attributes” are problematic as the conservation of such broad features has the potential to impact properties kilometers away, without notice. While conservation of views may be appropriate in some circumstances, guidance is required on the reasonable limits of such attributes and to ensure such conservation does not result in development control.

The University trusts that the further guidance expected on cultural heritage landscapes will also be clearer in this regard.

Best practices should be included

Absent in the draft guides is any discussion of adaptive reuse as a means to conserve cultural heritage value, which is recognized in Canadian and international best practices. In accordance with the *Ontario Heritage Act*, there may also be occasions where alteration or demolition is appropriate. The guides fail to provide any recognition or guidance in this regard.

Explicit recognition of the practice of long term, celebratory or commemorative action as a means to conserve cultural heritage value or interest would provide further flexibility to conserve historic or associative value that is not inherent in the built structure.

The draft guides also fail to recognize the impact on the landowner and the importance of the landowner’s goals and priorities. Consistent with the approach taken in other jurisdictions, the Toolkit should emphasize the importance of consensus-building in the process of determining cultural heritage value or interest, particularly given that assessment of heritage value is often subjective but should incorporate objectivity. For example, the notice of intention to designate is characterized as a way to “avoid demolition” of a property that has not been determined to have heritage. The University trusts that the forthcoming guide on heritage in planning will contain clearer guidance in this regard.

Further guidance respecting Regulation 9/06 criteria is needed

The University welcomes additional guidance on the application of criteria for cultural heritage value or interest set out in the Regulation 9/06. As drafted, the criteria listed in the Regulation may be interpreted to capture any property, regardless of its physical value or significance, and therefore has the potential to be misused. Best practices for thresholds or recognition of relative significance should be provided for in the guides. The Toolkit should acknowledge that relative significance should inform whether a property warrants designation.

The University is appreciative of the Province's efforts to eliminate development constraints and the opportunity to comment on the draft guides. The University welcomes the opportunity to review the additional guidance and otherwise discuss our comments further.

Yours truly,

Cassels Brock & Blackwell LLP

A handwritten signature in blue ink, appearing to read 'Signe Leisk', is positioned above the printed name.

Signe Leisk
Partner
SL/AP/nv/cm