

City Planning

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Heritage Policy and Programs
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RE: Proposed Amendments to the Ontario Heritage Act, Schedule 7 of the Protect Ontario by Unleashing our Economy Act, 2025 ([ERO 025-0418](#))

On behalf of the City of Toronto, I am pleased to submit the City's comments and recommendations to the legislative changes proposed to the *Ontario Heritage Act* by the *Protect Ontario by Unleashing our Economy Act, 2025* (Bill 5).

Below is a summary of the City's comments.

- The City of Toronto is **not supportive** of the proposed section 66.1 that would allow the Lieutenant Governor in Council to exempt property from any requirement in Part VI of the Ontario Heritage Act, including related regulations, or exempt a property from a requirement to conduct an archaeological assessment (except where required by the *Funeral, Burial, and Cremation Services Act*), if the exemption could potentially advance specified provincial priorities, including transit, housing, health and long-term care, other infrastructure, or other priorities that may be prescribed.
 - The City is concerned this section could undermine the responsible, proactive identification, conservation, and management of significant archaeological resources, including the province's Duty to Consult with Indigenous communities by pre-emptively exempting properties from archaeological assessment requirements.
 - This may also impact the City's work on its Archaeological Management Plan, which has been effective in guiding decision making on the identification and conservation of archaeological resources.
- The City of Toronto **supports** the proposed changes that would enhance the protection of archaeological resources and the enforcement of the provisions of Part VI of the Ontario Heritage Act, including the expansion of inspection powers and establishing a process through which a property that has not been subject to archaeological assessment requirements, but that is determined to have artifacts or an archaeological site on it, can be inspected and ordered to undergo assessment.
- The City of Toronto **supports** the proposed change that allows the Minister to direct artifacts or collections to be deposited with an Indigenous community.

- The City of Toronto **supports** the addition of a new Part VI.1 that would authorize investigations of offences committed under the Act, which would strengthen enforcement of the legislation.
- The City of Toronto **supports in principle** the new two-year limitation period for the prosecution of offences under the Ontario Heritage Act.

The enclosed attachment contains the City's full comments and recommendations on the proposed changes to the *Ontario Heritage Act*.

Should you have any questions regarding the City's submission or would like to arrange a meeting with City staff, please contact me directly or Corwin Cambray, Director, Strategic Initiatives, Policy & Analysis Section (Corwin.Cambray@toronto.ca or 416-338-1910).

Sincerely,

A handwritten signature in black ink, appearing to read "James Perttula".

James Perttula
On behalf of,

Jason Thorne, MCIP, RPP
Chief Planner and Executive Director
City Planning

Bill 5: Protect Ontario by Unleashing our Economy Act, 2025

Section of Schedule	Impact Assessment	Level of Support	Recommendation Modifications
Schedule 7 – Ontario Heritage Act			
2	<p>No change to the current inspection powers for the purpose of ensuring that a person licensed under S. 48 is complying with the Act and regulations and remains entitled to a license under the Act.</p> <p>Inspection powers are expanded to include the purpose of assessing whether any artifacts or archaeological sites are on any land, or land under water, but this type of inspection may only be conducted if directed by the Minister. Requiring Minister direction adds an unnecessary administrative step.</p>	Support in Principle	<p>The basis for the Minister to direct that an inspection take place under section 51.2(1)(b) is not described.</p> <p>It is recommended that section 51.2(2) requiring the Minister's direction to undertake an inspection under section 51.2(1)(b) be removed, to create a more efficient process for inspections to proceed in a timely and effective manner.</p>
2	<p>Addition of "land under water" to the existing powers of entry. An inspector conducting an inspection would be able to enter and inspect land under water on which a licensee is carrying out archaeological field work, or within a one-year period of when archaeological fieldwork was carried out.</p>	Support	
2	<p>No change to the current direction that if the inspector believes that a licensee has failed to comply with the Act, the regulations, or the terms and conditions of their license, then the inspector shall prepare a report to the Minister and the licensee.</p> <p>An inspector shall prepare a report if, in the case of an investigation under the new expanded inspection powers, the inspector believes that an artifact or archaeological site is present on land or land under water, an artifact has been removed, or an archaeological site has been altered.</p>	Support in Principle	<p>Since "inspection" and "investigation" have different meanings under the Act, it is recommended that 51.3(1)(b) "in the case of an investigation under clause 51.2(1)(b)" be amended to substitute the word "inspection" for the word "investigation."</p> <p>Clarification is needed to understand how an inspector will be able to assess whether artifacts or archaeological sites are present through an inspection under the new S. 51.2(1)(b), without undertaking an archaeological assessment, unless when they undertake their inspection, they immediately see artifacts that have been unearthed or a site that has been disturbed.</p> <p>What is the threshold for the inspector to believe that a site is present in order to provide a report to the Minister, who may then issue an assessment order to cause an archaeological assessment?</p>
3	<p>It is unclear if an inspection under 51.2 is required in advance of a Minister's assessment order. It appears possible within the wording of this new section, that information could be brought to the Minister's attention in ways other than through an inspection, which could form the basis of the Minister's assessment order. For example, if a First Nation had information about lands which may</p>	Partially Support	<p>It is recommended that a procedural regulation be developed, whereby if archaeological artifacts or sites are discovered outside of an archaeological assessment, including through an inspection, that an archaeological assessment must be undertaken. This would be a more efficient and streamlined process that would not require the extra step of a Minister's assessment order and could authorize the inspector to direct that the assessment take place.</p>

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Section of Schedule	Impact Assessment	Level of Support	Recommendation Modifications
	<p>contain an artifact or archaeological site, it appears possible that they could inform the Minister directly without an inspection being necessary for the Minister to issue an assessment order.</p> <p>The new language appears to establish a process through which a property that has not been subject to archaeological assessment requirements, but that is determined to have artifacts or an archaeological site on it, can then still be ordered to undergo assessment.</p>		
4	<p>Currently, section 66 of the Act authorizes the Minister to direct that artifacts taken under the authority of a licence or a permit shall be deposited in a public institution to be held in trust for the people of Ontario. New section 66 expands this authority to also apply to material in an archaeological collection, meaning that if material was not collected through an archaeological assessment undertaken by a licensed consultant, the Minister would be able to direct that archaeological collection to be deposited in an appropriate public institution in trust for the people of Ontario, or deposited with an Indigenous community.</p> <p>The new language explicitly includes the option that the Minister may direct artifacts or material in an archaeological collection to be deposited with an Indigenous community, and this wording does not appear to imply that the Indigenous community would hold the material in trust for the people of Ontario in the same way that a public institution would be obligated to do.</p>	Support	
5	<p>Subject to future regulations, if any, the Lieutenant Governor in Council may, by order, exempt a property from any of the requirements under provisions of Part VI of the Ontario Heritage Act, and any requirement to conduct an archaeological assessment under a provision of any other Act or regulation other than the Funeral, Burial, and Cremation Services Act, if such an exemption could potentially advance one or more of the following provincial priorities: transit, housing, health and long-term care, other infrastructure, other priorities that may be prescribed.</p>	Do Not Support	<p>The city is not supportive of an overbroad exemption to archaeological assessment requirements and the provisions of Part VI of the OHA.</p> <p>How will the Province honour its responsibilities and Duty to Consult with Indigenous communities by pre-emptively exempting properties from archaeological assessment requirements?</p> <p>Consider that this new section 66.1 is not consistent with the Provincial Planning Statement policy 4.6.5 which states “Planning authorities shall engage early with Indigenous communities and ensure their interests are considered when identifying, protecting and managing archaeological resources, built heritage resources and cultural heritage landscapes.”</p>

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	This new section would create the authority for overbroad exemptions to archaeological assessment requirements and would undermine municipal Archaeological Management Plans and obligations to Indigenous communities.		<p>More information is needed to understand how significant archaeological sites will be conserved if a property is exempt from archaeological assessment requirements.</p> <p>Future regulations and a process and framework for granting exemptions must be carefully articulated and developed with regard for municipal Archaeological Management Plans that have been developed and implemented to conserve archaeological resources, as encouraged by the PPS.</p>
6	The existing legislative framework only authorizes an inspector to inspect the activities of a licensee. If an individual other than a licensee commits an offence under Part VI of the Act, the only recourse was to rely on an investigation by the OPP, which rarely led to any consequences for bad actors. There have been incidences, including in the City of Toronto in recent years, where an individual knowingly destroyed an archaeological site in contravention of S. 48 of the Act, but there was no ability to investigate or lay charges by the Province since the individual was not a licensee. This new section of the Act appears to attempt to address this type of situation and is a welcome addition to the Act.	Support	
8	As the OHA does not currently provide an express limitation period, the current default limitation period under the Provincial Offences Act is six months after the date on which the offence was, or is alleged to have been, committed.	Support in Principle	It is recommended that this new section be applicable as of the date of Royal Assent, and going forward.