

DRAFT ERO 026-0216 Submission on Proposed Changes to the Standards and Guidelines for Consultant Archaeologists and Evaluation Criteria for Licensed Consultant Archaeologists April 5/26 deadline

Modernizing Ontario's archaeological framework can be beneficial if it improves clarity, transparency, and effectiveness. Maintaining strong, precautionary assessment processes is essential to protecting these resources and upholding commitments to reconciliation, responsible stewardship, and evidence-based land use planning. Thoughtful revisions that strengthen these principles will help ensure that Ontario's heritage framework remains both effective and credible for the long term.

However, modernization should not come at the cost of weakening the guardrails that exist to protect Ontario's archaeological heritage. Archaeological assessment requirements serve an essential public interest function. They help ensure that sites of cultural, historical, and spiritual significance—particularly Indigenous sites—are identified and protected before irreversible disturbance occurs. For this reason, any proposed changes should be carefully evaluated to ensure that they strengthen, rather than inadvertently erode, existing protections.

Several aspects of the proposal raise concerns in this regard:

The proposal to introduce new standards allowing "limited assessments" focused only on defined project areas may increase the risk that archaeological resources located outside those defined boundaries are overlooked;

Archaeological landscapes rarely conform neatly to modern development footprints. Cultural sites often extend across wider areas than initially identified, and artifacts may be dispersed beyond the immediate project area. The existing approach of assessing entire properties has served as an important precautionary guardrail to reduce the risk of inadvertently damaging sites. Allowing assessments to be limited to smaller portions of properties may increase the likelihood that culturally significant sites remain undiscovered until they are disturbed. Once archaeological resources are destroyed, they cannot be recovered. The precautionary nature of the current system is therefore essential;

The proposal to expand and formalize the "partial clearance" process also raises questions about whether development could proceed before archaeological investigation is fully completed. Allowing development outside a 50-metre buffer around identified sites while archaeological assessments continue elsewhere may introduce new risks to the integrity of archaeological landscapes. Archaeological sites are not always confined to clearly defined boundaries, and their cultural and historical context often extends beyond the area where artifacts have initially been discovered;

Permitting development to proceed in close proximity to sites before full assessment and mitigation are completed could undermine the intent of the archaeological review process;

The proposed approach also relies on a signed letter from the landowner or proponent acknowledging the presence of archaeological sites and committing to avoid impacts within

protected areas. While good-faith commitments are important, archaeological resources are non-renewable and require strong regulatory safeguards. Reliance on proponent commitments alone may not provide the same level of protection as more robust regulatory mechanisms, particularly in situations where properties change ownership or development plans evolve;

Archaeological assessments are deeply connected to Indigenous cultural heritage, burial sites, and traditional land use. As such, the framework governing archaeological protection must align with the principles of reconciliation and the recognition of Indigenous rights. Canada has endorsed the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), which affirms Indigenous peoples' rights to maintain, control, protect, and develop their cultural heritage and archaeological resources. Ensuring meaningful participation of Indigenous communities in identifying and protecting such sites is therefore essential. Any changes that reduce the scope of archaeological assessments risk undermining the spirit of these commitments; and

Ontario has three pillars of guardrail protections: archaeological, environmental and land use planning. These processes often intersect. Weakening precautionary assessment requirements in one area can have broader implications for the integrity of the system as a whole. If archaeological assessments become increasingly limited in scope or compressed in timing, there is a risk that the broader principle of thorough, evidence-based assessment before development could be gradually eroded.

Recommendations

To ensure that modernization strengthens rather than weakens archaeological protections, the following considerations are recommended:

1. Go by a case-by-case basis to maintain precautionary assessment approaches that evaluate entire properties where archaeological potential exists, particularly in areas of known cultural significance.
2. Ensure that development does not proceed until archaeological investigations and mitigation measures are fully completed and verified.
3. Reconsider reliance on proponent commitments as the primary mechanism for protecting archaeological sites and ensure strong regulatory protections remain in place.
4. Strengthen, rather than narrow, opportunities for Indigenous community engagement and leadership in archaeological assessment processes, consistent with reconciliation commitments and UNDRIP.
5. Ensure that any regulatory streamlining does not undermine the broader system of environmental and cultural heritage guardrails that protect Ontario's shared heritage.

Climate Action Newmarket Aurora believes it is essential to maintain strong, precautionary assessment processes and to uphold commitments to reconciliation, responsible environmental stewardship, and evidence-based land use planning.

Sources List

1. **Standards and Guidelines for Consultant Archaeologists (2011)** – Ontario Ministry of Citizenship and Multiculturalism
<https://www.ontario.ca/page/archaeological-assessments>
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<https://www.ontario.ca/laws/statute/90o18>
3. **Environmental Bill of Rights, 1993** – Government of Ontario
<https://www.ontario.ca/laws/statute/93e28>
4. **Provincial Policy Statement, 2020 – Cultural Heritage and Archaeology Policies** – Government of Ontario
<https://www.ontario.ca/document/provincial-policy-statement-2020>
5. **Impact Assessment Act** – Government of Canada
<https://laws-lois.justice.gc.ca/eng/acts/I-2.75/>
6. **United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)** – United Nations
<https://www.un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html>
7. **United Nations Declaration on the Rights of Indigenous Peoples Act** – Government of Canada
<https://laws-lois.justice.gc.ca/eng/acts/U-2.2/>
8. **United Nations Declaration on the Rights of Indigenous Peoples Act Action Plan (2023)** – Government of Canada
<https://www.justice.gc.ca/eng/declaration/ap-pa/index.html>
9. **Truth and Reconciliation Commission of Canada – Calls to Action** – Truth and Reconciliation Commission of Canada
https://www2.gov.bc.ca/assets/gov/british-columbians-our-governments/indigenous-peoples/aboriginal-peoples-documents/calls_to_action_english2.pdf