



April 3, 2026

Hon. Graham McGregor
Minister of Citizenship and Multiculturalism
56 Wellesley Street West, 14th Floor
Toronto, ON M7A 2E7

Submitted through the Environmental Registry and via email:

heritage.consultation@ontario.ca; graham.mcgregor@ontario.ca

RE: JOINT RESPONSE TO PROPOSED HERITAGE FRAMEWORK TRANSFORMATION (ERO NO. [026-0216](#))

Legal Advocates for Nature's Defence and the Friends of the Attawapiskat River jointly provide these comments to the Ministry of Citizenship and Multiculturalism (Ministry) in response to the proposed Heritage Framework Transformation: Proposals related to Ontario's Archaeology Program, including targeted changes to the Standards and Guidelines for Consultant Archaeologists (herein after referred to as the HFT proposals), posted to the Environmental Registry of Ontario (ERO) on March 6, 2026 (ERO No [026-0216](#)).

ABOUT LEGAL ADVOCATES FOR NATURE'S DEFENCE

[Legal Advocates for Nature's Defence](#) (LAND) is an environmental law non-profit dedicated to advancing access to justice in Northern Ontario, to protect nature and Indigenous rights. As the only environmental law organization based in Northern Ontario providing pro bono legal services, LAND is uniquely positioned to advise on the implications of legislative and policy changes affecting some of the province's most ecologically and culturally significant regions. Our work is grounded in years of legal advocacy, public legal education, and participation in law reform processes, with the goal of ensuring that critical legal perspectives from the North are represented and that decisions reflect the rights of communities most impacted by environmental harm.

ABOUT THE FRIENDS OF THE ATTAWAPISKAT RIVER

[The Friends of the Attawapiskat River](#) (the Friends) is an Indigenous, grassroots advocacy group dedicated to protecting the health of the waters, people and communities living downstream of the proposed Ring of Fire. The Friends is composed of community members from Attawapiskat, Peawanuck,

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Kashechewan, Fort Albany, Neskantaga and Moose Factory in Treaty 9 territory.¹ Together, they have a shared responsibility to protect their lands from exploitation and degradation. This means safeguarding the integrity of the boreal and muskeg (peatlands) of the Hudson Bay-James Bay lowlands, its significant contribution to mitigating climate change, and the health of their grandchildren and those not yet born.² The Friends work to amplify the voice of the Indigenous grassroots before the government, industry and decision-makers³ so that rights to know, participate and conserve the environment are respected and upheld.

The Friends' rights, as Indigenous peoples and Treaty rights holders, are directly impacted by the regressive reforms ushered in by Bill 5, including these proposals.⁴ The Friends are among the ancestral people of the lands where the Ring of Fire is proposed, who have lived in harmony with these lands given to them by the Creator since time immemorial. The Friends rely on the waterways, including the Attawapiskat, Kapiskau, Ekwau, Oppinagau, Albany and Winisk Rivers, for access to their territories, on which they depend for food, water, medicine and sacred spaces for traditional practices, ceremonies and burials. The health of these lands and waters are vital to maintaining the Friends' connection to their ancestors and to the land, water and wildlife.

OUR POSITION

We strongly oppose the HFT proposals and continue to call for the repeal of Bill 5, the *Protect Ontario by Unleashing Our Economy Act* (Bill 5), its amendments to the *Ontario Heritage Act* (OHA), and the proposed Archaeology Exemption Criteria regulation. As expanded on below, we are concerned that the government is continuing down a path that would allow them to evade their constitutionally required duty to consult, and undermine their commitment to reconciliation by disrespecting Indigenous cultural sovereignty, the Truth and Reconciliation Commission's (TRC) [Calls to Action](#)⁵, and the rights and principles enshrined in the [United Nations Declaration on the Rights of Indigenous Peoples](#) (UNDRIP)⁶.

¹ The Friends are not speaking on behalf of any of the communities or its leadership where its members are based (including but not limited to Neskantaga, Peawanuck, Kashechewan, Attawapiskat, Moose Factory and Fort Albany First Nations), but rather sharing the views and concerns of the grassroots. Furthermore, the Friends' comments do not constitute consultation in any way, nor discharge the Crown's duty to consult per section 35 of the *Constitution Act, 1982*.

² See the Friends' [Protection Declaration](#), calling for the respect of their natural law and right to protect and conserve their lands and waters where the Ring of Fire is proposed.

³ See the Friends' [submissions, comments and letters](#) to the Ontario and Canadian governments opposing government conduct (i.e. legislation, impact/environmental assessments, mineral exploration permits, and the Regional Assessment in the Ring of Fire Area) that threatens the health of Treaty 9 lands and waters and fails to respect Indigenous rights, and [submission](#) to the United Nations regarding the rights of Indigenous peoples.

⁴ See the Friends' [press release](#) regarding Bill 5 (May 9, 2025); [comments](#) on Bill 5 proposals posted to the ERO (May 17, 2025); [submission](#) to the Standing Committee on the Interior (May 26, 2025); and [joint media statement](#) with Ecojustice, Canadian Union of Public Employees, Neskantaga First Nation, Ontario Nature, Ontario Society of Professional Engineers, Toronto Zoo and Willands League (June 5, 2025). Michel Koostachin, Founder of the Friends, also voiced concerns in the [press conference](#) held at the Ontario Legislative Assembly on May 12, 2025, and [testified](#) before the Standing Committee on May 26, 2025.

⁵ Specifically Calls to Action 75 and 76, which focus on the identification and protection of residential school burial sites.

⁶ Specifically Articles 11(1), 12(1), and 31(1) of [UNDRIP](#).

PRELIMINARY MATTERS

1. Our concerns regarding the impacts of Schedule 7 of Bill 5 remain outstanding

As part of our comments, we request that the Ministry review our previous submissions:

- Submission to the Ontario Standing Committee on the Interior regarding Schedule 7 of Bill 5⁷
- Comments to the Ministry in response to the proposed Archaeology Exemption Criteria regulation⁸

These submissions highlight our concerns and recommendations - which remain outstanding - regarding the changes to the *OHA* precipitated by Schedule 7 of Bill 5⁹, as well as the proposed Archaeology Exemption Criteria regulation.¹⁰ Our concerns and recommendations include, but are not limited to, the following:

a) Archaeological assessments are essential to conserving cultural heritage

Archaeological assessments are essential to conserving archaeological artifacts and sites which hold cultural heritage and spiritual value. Moving forward with development without first completing an archaeological assessment means Indigenous sacred sites and ceremonial objects are at risk of remaining unidentified, with the potential to be disturbed or destroyed.

b) The province's discretion must be restrained

The amended *OHA* gives the provincial government largely unrestricted powers to access land, confiscate artifacts and archaeological resources, and approve development projects without conducting archaeological assessments, essentially permitting the destruction of lands with cultural heritage value, including Indigenous sacred sites.

The proposed Archaeology Exemption Criteria regulation sets out vague, immeasurable criteria that must be met before the province can exempt sites from archaeological assessment requirements. These criteria provide little to no clarity on how the government will determine if an activity is “economically significant” or “strategically important” or know - without having first conducted an archaeological assessment - whether the site is of “cultural heritage value or interest”.¹¹ The regulation does not provide any quality assurance or guarantee of adequate oversight to ensure that archaeological resources are not harmed, destroyed, or missed altogether in the course of developing a site.

c) Indigenous cultural sovereignty, which includes rights to control and protect cultural heritage, must be respected

⁷ See pages 10-12 of LAND's written submission to the Ontario Standing Committee on the Interior [here](#).

⁸ See LAND and the Friends' [Joint Response](#) to the proposed regulation under the *Ontario Heritage Act* - Archaeology Exemption Criteria (ERO NO. [025-1081](#)), dated November 10, 2025.

⁹ ERO No [025-0418](#).

¹⁰ ERO No [025-1081](#).

¹¹ See the proposed Archaeology Exemption Criteria [regulation](#).

Respecting indigenous cultural sovereignty includes upholding rights to maintain, protect and practice Indigenous culture. This means protecting artifacts and sites through practices like archaeological assessments that can lead to their identification, repatriation (returning them to their place of origin) and protection.

In the Ministry's [Summary of Feedback](#) from consultation with Indigenous communities on the proposed Archaeology Exemption Criteria regulation, they explicitly rejected the idea of Indigenous communities having a decision-making role with respect to exemptions, stating that the Ministry will "consider the perspectives of Indigenous communities".¹² This does not suffice if Indigenous peoples' rights, including their rights to maintain, protect and have access in privacy to their religious and cultural sites, to use and control their ceremonial objects and to maintain, control, protect and develop their cultural heritage, are to be respected.¹³ This conclusion is further supported by the government's decision not to reference *UNDRIP* and Free, Prior and Informed Consent, contrary to the feedback provided by Indigenous communities.

d) The province must not evade its constitutional duty to consult

The amended *OHA* and proposed Archaeology Exemption Criteria regulation demonstrate the province's attempt to evade constitutional obligations to consult Indigenous peoples (risking infringement of rights), because it is often archaeological assessments themselves that trigger the duty to consult, when artifacts or sacred sites are identified. As stated by the Chiefs of Ontario, most Indigenous ancestral burial sites are not already recorded or 'known', because the primary means of discovering these sites is through archaeological assessments.¹⁴ Exempting properties from the very processes that would trigger the duty to consult does not demonstrate a commitment to act honourably.¹⁵

Further, the proposed Archaeology Exemption Criteria regulation does not provide for adequate Indigenous engagement or consultation because, for instance:

- It remains unclear how Indigenous communities that "have or may have Aboriginal or treaty rights that may be adversely impacted"¹⁶ by an exemption order are identified, or processes by which Indigenous communities can express that their rights may be adversely impacted; and

¹² Indigenous Consultation Themes - [Summary of Feedback](#) and Considerations on the proposed Archaeology Exemption Criteria, p 7. This document was attached as a supporting document in the ERO posting for the proposed Archaeology Exemption Criteria regulation (ERO No [025-1081](#)). In referencing this document, we are not suggesting that the Ministry's 'consultation' was sufficient to discharge the constitutional duty to consult.

¹³ See Articles 11(1), 12(1), and 31(1) of *UNDRIP*.

¹⁴ Chiefs of Ontario's [Written Submission](#) to the Standing Committee on the Interior regarding Bill 5, *Protect Ontario by Unleashing Our Economy Act* (May 26, 2025).

¹⁵ This is supported by Canadian jurisprudence, for instance: in *Mikisew Cree First Nation v Canada (Governor General in Council)*, 2018 SCC 41, the Supreme Court of Canada stated that "it may not be consistent with s. 35 [of the Constitution Act, 1982] to legislate in a way that effectively removes future Crown conduct which would otherwise trigger the duty to consult." ([para 46](#)); in *Ross River Dena Council v Yukon*, 2012 YKCA 15, the Yukon Court of Appeal stated that "[s]tatutory regimes that do not allow for consultation and fail to provide any other equally effective means to acknowledge and accommodate Aboriginal claims are defective and cannot be allowed to subsist." ([para 37](#)).

¹⁶ Proposed Archaeology Exemption Criteria [regulation](#), ss 2(1)(ii) and 2(2).

- The government has only committed to *notifying* Indigenous communities of a recommended exemption order, which is not sufficient to meet the duty to consult, especially as there is no guaranteed opportunity to have their concerns heard and addressed.

2. The province has failed to act honourably in the development of the HFT

We have concerns about the government’s approach to consultation¹⁷ with Indigenous communities and community members on the Heritage Framework Transformation Initiative/improvements to Archaeology Operational Processes. The Ministry held six consultation sessions with respect to heritage framework transformation and species conservation between October 20 and November 6, 2025, which were available to “rights-holding Indigenous communities and community members” and “those representing such a community”.¹⁸ LAND requested to attend the consultation session on behalf of our client, the Friends of the Attawapiskat River. The Ministry denied our request to attend.

The Friends are comprised of rights-holding community members who have been actively engaged in the development and implementation of Bill 5¹⁹, and their exclusion from the consultation session is extremely problematic. As stated by the Ontario Superior Court of Justice, “Acting honourably is not a matter of form; it is a matter of substance. In the context of the duty to consult, it requires conduct that demonstrates a genuine and good faith intention to listen, consider and respond to Indigenous concerns.”²⁰ The Ministry’s decision to prevent us from attending the consultation session did not demonstrate a good faith intention to act honourably nor promote reconciliation.

As stated in the ERO posting, the Ministry is “continuing to consult and engage directly with Indigenous communities and organizations”²¹ on the updating of the Ontario Heritage Framework - as such, we request that both the Friends, as an Indigenous organization and LAND, as their legal counsel, be engaged by providing notice, information disclosure, and meaningful participation opportunities.

3. The HFT proposals are irrelevant under the amended *Ontario Heritage Act* and proposed Archaeology Exemption Criteria regulation

¹⁷ The Supreme Court of Canada in *Mikisew Cree First Nation v Canada (Governor General in Council)*, 2018 SCC 40 at [para 51](#) held that the duty to consult does apply to “the process by which subordinate legislation (such as regulations and rules) is adopted, as such conduct is clearly executive rather than parliamentary”.

¹⁸ As stated in an email from Rebecca Ramsarran (Assistant Deputy Minister, Heritage Policy and Programs Division, Ministry of Citizenship and Multiculturalism) and Chloe Stuart (Assistant Deputy Minister, Land and Water Division, Ministry of the Environment Conservation and Parks), dated October 21, 2025.

¹⁹ See the Friends’ [press release](#) regarding Bill 5 (May 9, 2025); [comments](#) on Bill 5 proposals posted to the ERO (May 17, 2025); [submission](#) to the Standing Committee on the Interior (May 26, 2025); and [joint media statement](#) with Ecojustice, Canadian Union of Public Employees, Neskantaga First Nation, Ontario Nature, Ontario Society of Professional Engineers, Toronto Zoo and Willands League (June 5, 2025). Michel Koostachin, Founder of the Friends, also voiced concerns in the [press conference](#) held at the Ontario Legislative Assembly on May 12, 2025, and [testified](#) before the Standing Committee on May 26, 2025.

²⁰ *Eabametoong First Nation v. Minister of Northern Development and Mines*, 2018 ONSC 4316 at [para 94](#).

²¹ ERO No [026-0216](#).

The HFT proposals, including amendments to the Standards and Guidelines for Consultant Archaeologists, are irrelevant under the amended *OHA* and proposed Archaeology Exemption Criteria regulation. If the province exercises its unrestrained discretion to exempt sites from archaeological assessments entirely, the Standards and Guidelines for Consultant Archaeologists and Compliance Criteria are redundant.

DETAILED RECOMMENDATIONS

Our recommendations reflect the principles and minimum actions we feel are necessary to safeguard and advance the protection of Indigenous cultural sovereignty and natural heritage. **We provide these recommendations without prejudice to our continued stance that Schedule 7 of Bill 5 and the proposed Archaeology Exemption Criteria regulation ought to be repealed.**

1. The HFT proposals cannot move forward without the consent and involvement of Indigenous peoples

First and foremost, we strongly encourage the Ministry to extend the comment period for the HFT proposals to at least 60 days. The short 30 day comment period within which people are expected to understand the existing 2011 Standards and Guidelines for Consultant Archaeologists (herein after referred to as the 2011 Standards) and what changes are being proposed is much too limited to enable informed public consultation - and consequently, informed government decisions - thereby failing to meet the spirit and intent of the *Environmental Bill of Rights, 1993*.²² The Ministry must facilitate public outreach and participation by hosting in-community engagement sessions, particularly as the HFT proposals will disproportionately impact certain communities, such as First Nation communities in Northern Ontario. The 2011 Standards are arguably the last remaining safeguard for protecting Indigenous artifacts and sacred sites, and changing these standards to streamline processes and “support efficient economic and infrastructure development”²³ risks jeopardizing Indigenous cultural sovereignty.

We reiterate that no changes to any archaeological assessment process, whether it be through legislation, regulations or policies, should be made without the free, prior and informed consent of Indigenous communities. This is necessary to respect the rights and principles enshrined in *UNDRIP*, including but not limited to the right to maintain, control, protect and develop their cultural heritage (Article 31(1)).

In the Ministry’s Summary of Feedback, Indigenous communities repeatedly called for clarity on their role in the archaeological assessment process and how their participation would be supported (i.e. funding, capacity building and training).²⁴ Consultation discussions and feedback “emphasized the importance of archaeological resources to Indigenous communities, and the need to mitigate the loss of

²² Ontario Auditor General, [Operation of the Environmental Bill of Rights, 1993](#) (2019) at p 46.

²³ As stated in the ERO posting (ERO No [026-0216](#)).

²⁴ Indigenous Consultation Themes - [Summary of Feedback](#) and Considerations, p 2, 3, 5, 6.

archaeological sites by enhancing the role of Indigenous communities in the process”.²⁵ The Ministry stated that their consultations on the HFT proposals would include discussions on this issue.²⁶ However, the 2026 Standards do not address this feedback and continue to exclude Indigenous communities from the assessment process.

2. The HFT proposals should not come into effect due to active litigation

A legal challenge brought by 14 Treaty 9 First Nations against Bill 5 was launched last year against the Ontario and federal governments, following the passing of Bill 5. Among other relief sought, the applicants are seeking to have Bill 5 struck down in its entirety as being unconstitutional, and are asking the court to grant an injunction that would prevent the government from using the unrestrained power ushered in by Bill 5.²⁷ As the HFT proposals, proposed Archaeological Exemption Criteria regulation, and amended *OHA* are all directly related to the passing of Schedule 7 of Bill 5, we strongly urge the Minister not to move ahead with these proposals due to active litigation.

3. The Standards and Guidelines should not be weakened

The proposed 2026 Standards and Guidelines for Consultant Archaeologists (herein after referred to as the 2026 Standards), as part of the government’s Red Tape Reduction package²⁸, raises serious concerns that economic interest will be prioritized above the protection of cultural and natural heritage. The following non-exhaustive list of recommendations are necessary to ensure that the Standards and Guidelines are not weakened.

a) Indigenous consultation must occur in all stages of a project

We support the recommendation of the Ontario Archaeological Society (OAS) to require consultation with Indigenous communities starting at Stage 1 of the archaeological assessment. Early and ongoing engagement - using processes developed in partnership with Indigenous communities - is necessary to build trust and respect cultural sovereignty. As stated by the OAS:

*Currently, Indigenous engagement is only required at Stage 3, which leads to further delays as communities scramble to deal with projects well underway and engenders further mistrust in the consultation process. Having First Nations engaged at Stage 1 will help to improve the relationship between the province and these communities, while potentially also providing valuable background information that will help inform proponents of sensitive areas to be avoided, which in turn will lead to fewer delays during project implementation.*²⁹

²⁵ Indigenous Consultation Themes - [Summary of Feedback](#) and Considerations, p 5.

²⁶ Indigenous Consultation Themes - [Summary of Feedback](#) and Considerations, p 3.

²⁷ CBC News, [9 Ontario First Nations ask for injunction against Bill 5, say law represents 'clear and present danger'](#) (July 15, 2025). As of February 2026, 5 more First Nations have joined the legal challenge ([CBC News](#), February 5 2026).

²⁸ As stated in the ERO posting (ERO No [026-0216](#)).

²⁹ OAS, [Ontario Archaeological Society Statement on Bill 5](#) (May 28, 2025).

This recommendation was submitted by the OAS to the Ministry in May 2025, in response to the proposed changes to the *Ontario Heritage Act* (Schedule 7 of Bill 5). It is concerning that this recommendation was not acted upon in the development of the 2026 Standards. The 2026 Standards still only require consultation at Stage 3:

*When determining whether archaeological sites require Stage 3 assessment, bear in mind that Indigenous communities may have an interest in the identification of all Indigenous archaeological sites that may be affected. Where a consultant archaeologist assesses an Indigenous archaeological site as meeting the criteria for Stage 3 and as clearly having cultural heritage value or interest, with a high potential to go to Stage 4, informing interested Indigenous communities at the end of Stage 2 is a recommended first step toward preparing for their engagement in Stage 3. Early engagement with relevant Indigenous communities is strongly recommended.*³⁰

By failing to require early and ongoing consultation, the Ministry is perpetuating the exclusion of impacted communities from decision-making in violation of *UNDRIP* (which includes the right to maintain, project and develop past, present and future manifestations of their cultures, such as archaeological and historical sites and artifacts).³¹ The decision to make early engagement with Indigenous communities a recommendation, rather than a requirement, raises concerns about the Ministry's commitment to meaningful engagement.

Additionally, we urge the Ministry to prioritize the compliance of First Nation-specific Standards and Guidelines for Archaeology, in respect of their rights and the Treaty relationship. For example:

- Where projects are proposed on the Traditional and Treaty territory of the Mississaugas of the Credit First Nation, archaeologists must be required to comply with their own Standards and Guidelines³²
- Where projects are proposed on the Traditional and Treaty territory of the Anishinabek Nation, archaeologists must be required to comply with their recommendations as set out in their 2020 Review of the Standards and Guidelines for Consultant Archaeologists³³

b) Health and safety standards should not be removed

For no clear reason, the Ministry is proposing to amend the 'Archaeology in the Context of Land Use Planning and Development' section to entirely remove the 'Health and Safety Standards' subsection of the 2011 Standards.³⁴ This is largely concerning and sends the message that the Ministry no longer believes that "Health and safety should always be a paramount consideration when conducting archaeological fieldwork" and does not want to warn licensees "that brownfield properties can pose an

³⁰ [2026 Standards](#), p 30.

³¹ *UNDRIP*, Article 12(1).

³² Mississaugas of the Credit First Nation, [Standards and Guidelines for Archaeology](#) (2020).

³³ Anishinabek Nation, [Review of the Standards and Guidelines for Consultant Archaeologists](#) (2020).

³⁴ [Summary of Updates](#), p 1.

elevated health risk due to contamination from chemicals and metals”.³⁵ We strongly urge the Ministry not to remove this important subsection.

c) Background study must include sacred sites and former residential school sites

As part of the Stage 1 Assessment under the 2011 Standards, a background study is needed to review the project area’s conditions and archaeological potential. The Ministry is proposing changes to the requirements of the background study, including by changing some Guidelines (discretionary) to Standards (mandatory). However, the Ministry has chosen not to change the Guideline regarding Indigenous sacred sites into a Standard. To ensure the protection of Indigenous sacred sites, we strongly urge the Ministry to make the following Guideline into a Standard (and strengthen it by including reference to residential school sites) to ensure its inclusion in the background study: “information on possible traditional Indigenous use areas and sacred and other sites, including former residential school sites, on or around the project area” (new text added).

This is especially necessary because of the changes being proposed to the Stage 2 Assessment that would limit the scope of the assessment from “archaeological resources” to “archaeological sites” (see section 3(c) of the Detailed Recommendations part of this submission). As Indigenous sacred sites or traditional use areas may not have physical evidence, the only way that they can be identified and recommended for a Stage 3 Assessment is through the participation of Indigenous communities. If archaeologists are not required to provide an opportunity for Indigenous communities to identify areas that are of spiritual or cultural value, it is likely that these areas will remain unprotected.

Further, the background study process ought to be developed in partnership with Indigenous communities. We urge the Ministry to incorporate the [feedback](#) it has received from First Nations and Indigenous people and commit to, for example:

- Enhance province-wide mapping and data on archaeological sites to include data from Indigenous communities. The availability of data that would assist the government in identifying archaeological sites, which, in addition to respecting Article 11 of *UNDRIP* (Indigenous peoples’ right to maintain and protect archaeological and historical sites), would help minimize costs and site impacts; and
- Clarify a screening process to identify potential Indigenous sacred sites (including how confidential Indigenous knowledge will be respected), and how the boundaries of former residential schools should be defined. This is aligned with the TRC’s Calls to Action, which require working with Indigenous communities to develop and implement strategies and procedures for the ongoing identification, documentation, maintenance, commemoration and protection of residential school cemeteries or other sites at which residential school children were buried (Call to Action #75) and ensuring that said strategies and procedures are adopted in accordance with the following principles:
 - The Indigenous community most affected shall lead the development of such strategies;

³⁵ [2011 Standards](#), p 8.

- Information shall be sought from residential school survivors and other knowledge keepers in the development of such strategies; and
- Indigenous protocols shall be respected before any potentially invasive inspection or investigation of a potential burial site (Call to Action #76).

d) Proposed forestry activities must be evaluated for their archaeological impacts

As part of the Stage 1 Assessment under the 2011 Standards, forestry activities are assessed for their potential for impacts to archaeological resources and sites. This includes mapping of archaeological potential, evaluating proposed forestry activities for their impacts on potential archaeological sites, reviewing best practices to avoid adverse impacts, and referring the area for further assessment.³⁶

Under the 2026 Standards, this section would be removed entirely, meaning that there would be no formal process for archaeological assessments for forestry projects on Crown land. The Ministry states, in their ‘Summary of Updates to the Standards and Guidelines for Consultant Archaeologists’ (Summary of Updates), that the Bulletin on Forestry Operations on Crown Land continues to apply.³⁷ However, Bulletins provide guidance, not mandatory requirements.

Further, the 2026 Standards list the available bulletins and state that they are available on the Ministry website,³⁸ but the Forestry Bulletin is not on the list and we were unable to find it on the website. This means that, if the 2026 Standards move ahead, there are no mandatory requirements nor guidance for assessing forestry activities. By stating that the Forestry Bulletin continues to apply while filing to include it in the list of available bulletins, we are concerned that the Ministry is spreading inaccurate information about the implications of the 2026 Standards. We therefore urge the Ministry not to remove this section.

e) The term “archaeological resources” should not be removed

In the Ministry’s Summary of Updates in the ‘Glossary and Terms’ section, the Ministry states that “‘archaeological resources’ changed to ‘archaeological sites’”.³⁹ This is concerning because it severely limits the scope of the archaeological assessment.

“Archaeological site” is defined in both the 2011 and 2026 Standards as “any property that contains an artifact or any other physical evidence of past human use or activity that is of cultural heritage value or interest”.⁴⁰

“Archaeological resources” is defined in the 2011 Standards as “objects, materials and physical features identified by licensed archaeologists during a Stage 2 archaeological assessment as possibly possessing cultural heritage value or interest. Analysis using the criteria set out in the Standards and Guidelines determines whether those objects, materials and physical features meet the definition of an

³⁶ [2011 Standards](#), p 22.

³⁷ [Summary of Updates](#), p 2.

³⁸ [2026 Standards](#), p ii-iii.

³⁹ [Summary of Updates](#), p 1.

⁴⁰ [2011 Standards](#), p 163; [2026 Standards](#), p 132.

archaeological site under the Ontario Heritage Act and whether Stage 3 archaeological assessment is required.

In various planning and development contexts, the term may refer to any or all of archaeological potential, artifacts and archaeological sites.”⁴¹ Importantly, the Ministry also seeks to amend the definition of “archaeological potential” from “likelihood that the property contains archaeological resources” to “likelihood that the property contains archaeological sites” (emphasis added), but this amendment is not included in the Summary of Updates nor is it highlighted in the 2026 Standards, further demonstrating the deficiencies of the HFT proposals in supporting informed public consultation.

The current purpose of the Stage 2 Assessment is to “[provide] an overview of archaeological resources on the property and a determination of whether any of the resources might be artifacts and archaeological sites with cultural heritage value or interest”.⁴² The Ministry wants to amend this purpose to “identify any archaeological sites and [make] an evaluation of whether those archaeological sites have further cultural heritage value or interest”.⁴³ In practice, this means that during the Stage 2 Assessment of a property, archaeologists are no longer required to assess and document objects, materials and physical features that *possibly* have cultural heritage value or interest warranting further assessment. Instead, they can only assess and document artifacts and physical evidence that *do* have cultural heritage value or interest warranting further assessment.

This limits the role of archaeologists and creates stricter conditions that must be met before a property can be recommended for a more comprehensive Stage 3 Assessment. We therefore urge the Ministry not to remove “archaeological resources” as a term in the 2026 Standards.

f) Archaeological sites must be protected from excavation

As part of Stage 4 of the 2011 Standards (Mitigation of Development Impacts), archaeologists are required to consider two mitigation options: avoidance and protection, or excavation. Avoidance and protection preserves archaeological sites and is the preferred option, and most viable when the cultural heritage value or interest of the archaeological site is determined early in the planning stages of development.⁴⁴

The 2011 Standards offer alternative strategies for special conditions, including “temporary avoidance prior to full excavation” which involves “delaying the excavation of the archaeological site until just before development (e.g., when the site is in a part of a proposed quarry where aggregate extraction will not begin for several years, or when it is in a plan of a subdivision to be developed in stages). This strategy does not afford the archaeological site long-term protection. However, it can ensure short-term protection while allowing development to proceed on the rest of the property.”⁴⁵ The 2026 Standards

⁴¹ [2011 Standards](#), p 163.

⁴² [2011 Standards](#), p 27.

⁴³ [2026 Standards](#), p 14.

⁴⁴ [2011 Standards](#), p 67; [2026 Standards](#), p 53.

⁴⁵ [2011 Standards](#), p 69.

would remove this section entirely, meaning that archaeological sites within a project area would not be offered even short-term protection. We therefore urge the Ministry not to remove this section.

4. The proposed Compliance Criteria for Licensed Consultant Archaeologists must include cultural competence

In the ERO posting, the Ministry states that they “heard through consultation with Indigenous communities that the archaeological consulting sector would benefit from training or courses related to Indigenous cultural protocols, safety and traditional knowledge”.⁴⁶ It is unclear why this requirement was excluded from the proposed Compliance Criteria for Licensed Consultant Archaeologist (LCA). We urge the Ministry to make cultural competency training required for LCAs, in alignment with the principles of *UNDRIP* and the TRC Calls to Action. While organizations may take it upon themselves to proactively ensure Indigenous rights are respected, such as the Canadian Archaeological Association⁴⁷, this should not be optional and instead be a requirement.

The importance of including cultural competence in the compliance criteria is further highlighted by the possibility that the evaluation of a LCA based on the proposed criteria “would be used to inform other program and policy changes, such as a proposal to remove the requirement to renew a licence for LCAs who demonstrate strong compliance”.

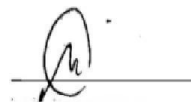
CONCLUSION

Thank you for considering our comments. We implore the Minister to take immediate action to facilitate the full and fair participation of Indigenous people in the development and implementation of the HFT proposals, and ensure that any changes will not jeopardize Indigenous rights and the protection of valuable and irreplaceable archaeological sites and resources. For the reasons explained in this submission and our prior comments, we continue to request the withdrawal of the proposed Archaeological Exemption Criteria regulation and Schedule 7 of Bill 5.

Sincerely,



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⁴⁶ As stated in the ERO posting (ERO No [026-0216](#)).

⁴⁷ Canadian Archaeological Association, [Statement on UNDRIP and TRC Calls to Action](#), which states that they will “provide education and training wherever possible for all archaeological staff in their employ on Indigenous rights, history, and treaties, and the legacy of residential schools”.