



## MEMORANDUM



**TO:** Heritage Markham Committee

**FROM:** Regan Hutcheson, Manager, Heritage Planning

**DATE:** May 14, 2025

**SUBJECT:** Legislation  
Proposed Changes to the Ontario Heritage Act  
Protect Ontario by Unleashing Our Economy Act, 2025 (Bill 5)

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**Issue:** Protect Ontario by Unleashing Our Economy Act, 2025 (Bill 5)

**Background:**

- Protect Ontario by Unleashing Our Economy Act, 2025 (Bill 5) was introduced on April 17, 2025 and the commenting deadline is May 17, 2025
- Proposes changes to 8 statutes and the creation of 2 new statutes, including proposals to further revise the Ontario Heritage Act

**Status/ Staff Comment**

Proposed legislative amendments to the *Ontario Heritage Act* (OHA) primarily involve enforcement and compliance with respect to the protection of artifacts and archaeological sites which largely affect archaeological consultants, how they conduct their practices, and provision of authority for the province to intervene when necessary. Staff have no comment on these changes.

**Exempting archeological requirements poses a risk on unknown buried archaeological resources**

There is a concern regarding a proposed amendment - section 66.1(1) that would allow a site to be exempted from archaeological requirements by the province where it could potentially advance specified provincial priorities such as transit, housing, health and long-term care, and infrastructure. This proposal is not supported due to the potential risk and impact this could have on unknown buried archaeological resources. Sites that have been identified as possessing 'archaeological potential' using the province's Checklist for Determining Archaeological Potential or identified in a document such as the York Region archaeological management plan should not be exempted from assessment as it could lead to serious archaeological matters having to be addressed during actual development. The province appears to have recognized the risk as it has included an immunity provision within the proposed exemption authority.

**Heritage staff has provided the following recommendation as part of the staff report on Bill 5**

That the proposed new authority in Section 66.1(1) enabling the province to provide exemptions from archaeological requirements not be supported due to the potential risk and impact this could have on unknown buried archaeological resources, especially those that are identified as possessing 'archaeological potential'.

#### **Prosecutions for all offences pursuant to the *Ontario Heritage Act***

From a prosecution perspective related to any offences committed pursuant to the OHA, the proposed amendment to section 69.1 of the OHA, if passed, appears to add certainty and is welcomed. Section 69.1 would set a two-year limitation period to commence a legal proceeding from when the offence first comes to the attention of a provincial offences officer. As the current OHA does not contain any explicit limitation period, by default, the limitation period is six months after the date on which the offence was or is alleged to have been committed under the *Provincial Offences Act* which is often difficult to establish.

Also related to prosecutions, new section 69.2 is supported as it would authorize court orders to prevent, eliminate or ameliorate damage connected to the commission of an offence. The court that convicts a person of an offence under this Act, in addition to any other penalty imposed by the court, may order the person to,

- (a) take such action as the court directs within the time specified in the order to prevent, eliminate or ameliorate damage that results from or is in any way connected to the commission of the offence; or
- (b) comply with any order, direction or other requirement issued under this Act to the person in relation to damage that results from or is in any way connected to the commission of the offence.

#### **Heritage staff has provided the following recommendation as part of the staff report**

That Sections 69.1 and 69.2, which provide positive improvements to prosecutions for all offences pursuant to the OHA, be supported.

#### **Suggested Recommendation for Heritage Markham**

That Heritage Markham receive as information the memo on proposed changes to the Ontario Heritage Act as part of the Protect Ontario by Unleashing Our Economy Act, 2025 (Bill 5);

And That Heritage Markham recommends:

- That Council support the recommendation that the proposed new authority in Section 66.1(1) enabling the province to provide exemptions from archaeological requirements not be supported due to the potential risk and impact this could have on unknown buried archaeological resources, especially those that are identified as possessing 'archaeological potential';
- That Council support the recommendation that Sections 69.1 and 69.2, which provide positive improvements to prosecutions for all offences pursuant to the *Ontario Heritage Act*.

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