

## SUMMARY OF LEGISLATION PROTECTING HERITAGE RESOURCES IN THE NORTHWEST TERRITORIES

The **Northwest Territories Archaeological Sites Regulations**, pursuant to the *Northwest Territories Act* apply throughout the Territories and state:

4. No person shall search for archaeological sites or archaeological artifacts, or survey an archaeological site, without a Class 1 or Class 2 permit.
5. No person shall excavate, alter or otherwise disturb an archaeological site, or remove an archaeological artifact from an archaeological site without a Class 2 permit.

Under the *Mackenzie Valley Resource Management Act* "heritage resources" are defined as archaeological or historic sites, burial sites, artifacts and other objects of historical, cultural or religious significance, and historical or cultural records. Furthermore under Part 5 of the Act, an "impact on the environment" means any effect on land, water, air or any other component of the environment, as well as on wildlife harvesting, and includes any effect on the social and cultural environment or on heritage resources.

The **Mackenzie Valley Land Use Regulations** (MVLUR) stem from the *Mackenzie Valley Resource Management Act*, and apply throughout the NWT, except in the Inuvialuit Settlement Region. Two sections of the MVLUR are relevant to archaeological sites:

6 (a). Unless expressly authorized by a permit or in writing by an inspector, no permittee shall conduct a land use operation within 30 m of a known monument or a known or suspected historical, archaeological site or burial ground; and

12. Where, in the course of a land-use operation, a suspected historical or archaeological site or burial ground is discovered,

(a) the permittee shall immediately suspend operations on the site or burial ground and notify the Board or an inspector; and

(b) the Board or inspector shall notify any affected First Nation and the department of the Government of the Northwest Territories responsible therefor of the location of the site or burial ground and consult them regarding the nature of the materials, structures or artifacts and any further actions to be taken.

Within the Inuvialuit Settlement Region the **Territorial Land Use Regulations**, pursuant to the *Territorial Lands Act* apply to federal crown land. Again, two sections are relevant to archaeological sites:

10 (a). No permittee shall, unless expressly authorized in his permit or expressly authorized in writing by an inspector conduct a land use operation within 30

metres of a known monument or a known or suspected archaeological site or burial ground; and

16. Where, in the course of a land use operation, a suspected archaeological site or burial ground is unearthed or otherwise discovered, the permittee shall immediately

(a) suspend the land use operation on the site; and

(b) notify the engineer or an inspector of the location of the site and the nature of any unearthed materials, structures or artifacts.

On Inuvialuit private lands the **Inuvialuit Lands Administration Rules and Procedures** apply. One section is relevant to the protection of archaeological sites:

19(9) Where in the course of an operation, a suspected archaeological site or burial ground is unearthed or otherwise discovered, the Holder shall immediately:

(a) suspend the operation on the site; and

(b) notify the Administrator or an Inspector of the location of the site and the nature of any unearthed materials, structures or artifacts.

Development activities near archaeological sites are also regulated by the **Canada Oil and Gas Geophysical Operations Regulations** of the *Canada Oil and Gas Operations Act*. These apply on Crown and private land, including those in settled claim areas, in the NWT and Nunavut:

27. (1) Where an archaeological site or a burial ground is discovered during an onshore geophysical operation, the operator shall so inform a conservation officer and suspend the operation in the immediate area of the discovery until permitted by the conservation officer to resume the operation in that area.

(2) A conservation officer shall permit the resumption of a geophysical operation that was suspended under subsection (1) if the conservation officer, after consultation with the Minister of Communications, is satisfied that the operation will not disturb the archaeological site or the burial ground and will not affect the archaeological or other special characteristics or the nature of the site or ground.

The ***Historical Resources Act*** (Territorial) pertains to Commissioner's Land. Protection of sites in these areas is afforded by:

9(1). Whenever, in the opinion of the Commissioner, any prehistoric or historic remains, whether or not designated as an historic place under this ordinance or under the Historic Sites and Monuments Act of Canada is threatened with destruction by reason of commercial, industrial, mining, mineral exploration or other activity, the Commissioner may order the persons undertaking the activity to provide for adequate investigation, recording and salvage of prehistoric or historic objects threatened with destruction.

Through the ***Access to Information and Protection of Privacy Act*** (Territorial 1994) the location of archaeological and cultural can be protected by not permitting their locations to be made public. Section 19 of the Act states:

- 19.** The head of a public body may refuse to disclose information to an applicant where the disclosure could reasonably be expected to result in damage to or interfere with the conservation of
- (a) fossil sites or natural sites;
  - (b) sites having an anthropological or heritage value or aboriginal cultural significance; or
  - (c) any rare, endangered, threatened or vulnerable form of life.