

Modernizing Ontario's Mining Act



Ministry of Northern Development, Mines and Forestry

Protecting Sites of Aboriginal Cultural Significance
Fall 2010

Protecting Sites of Aboriginal Cultural Significance

The *Mining Act* amendments provide the ability to:

- withdraw sites of Aboriginal cultural significance from claim staking on Crown lands.
- restrict surface access on existing claims where sites of Aboriginal cultural significance have been identified.

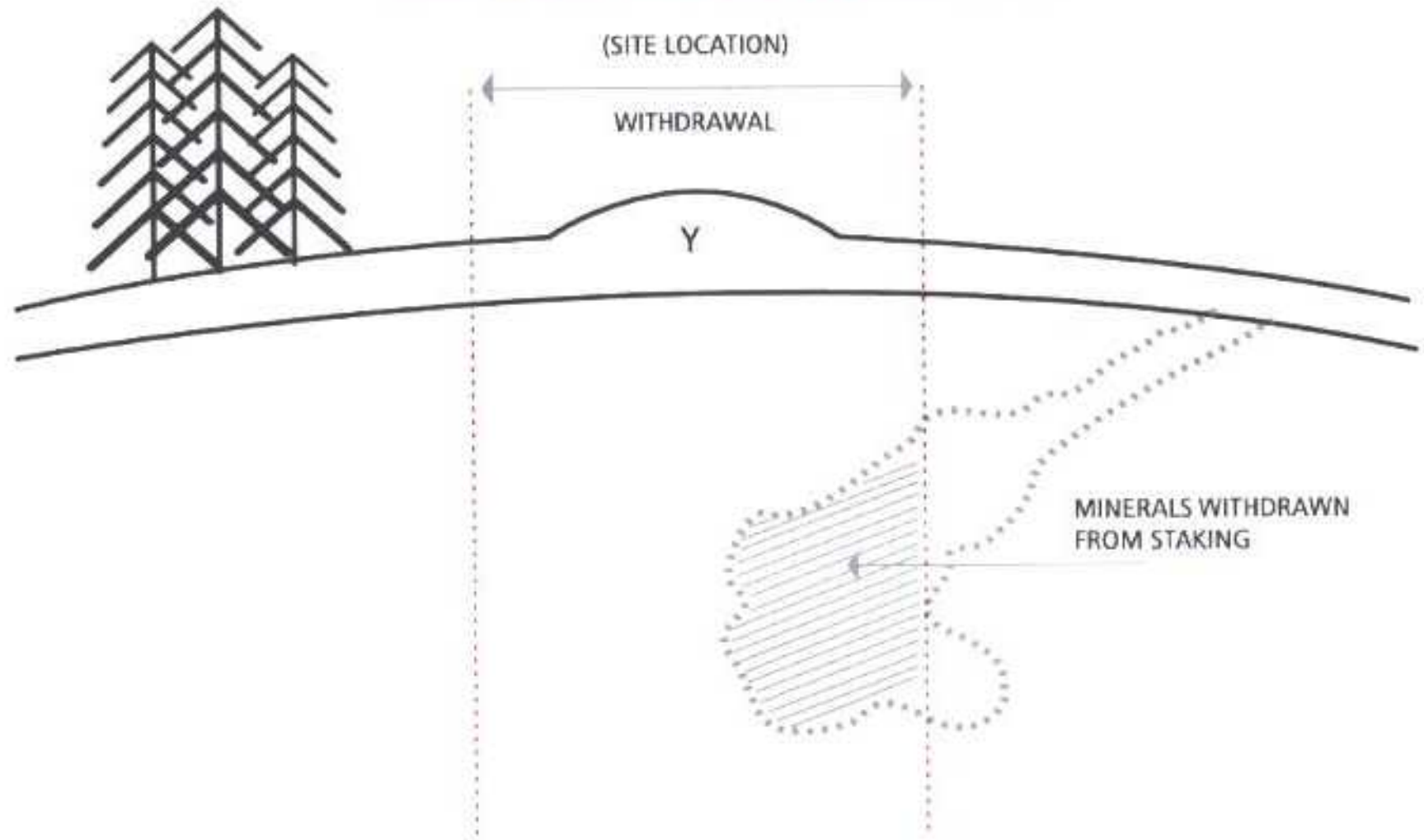
Two sections in the amended *Mining Act* enable this approach: **Sections 35 and 51.**

Section 35 - Withdrawals

Under **Section 35**, the Minister by order may:

- withdraw from prospecting and staking any land, mining rights, or surface rights, that are the property of the Crown.
- consider whether the lands meet the prescribed criteria as a site of Aboriginal cultural significance.

For Discussion Purposes (not to scale)
Site of Aboriginal Cultural Significance (Y)
Scenario A: Full Withdrawal

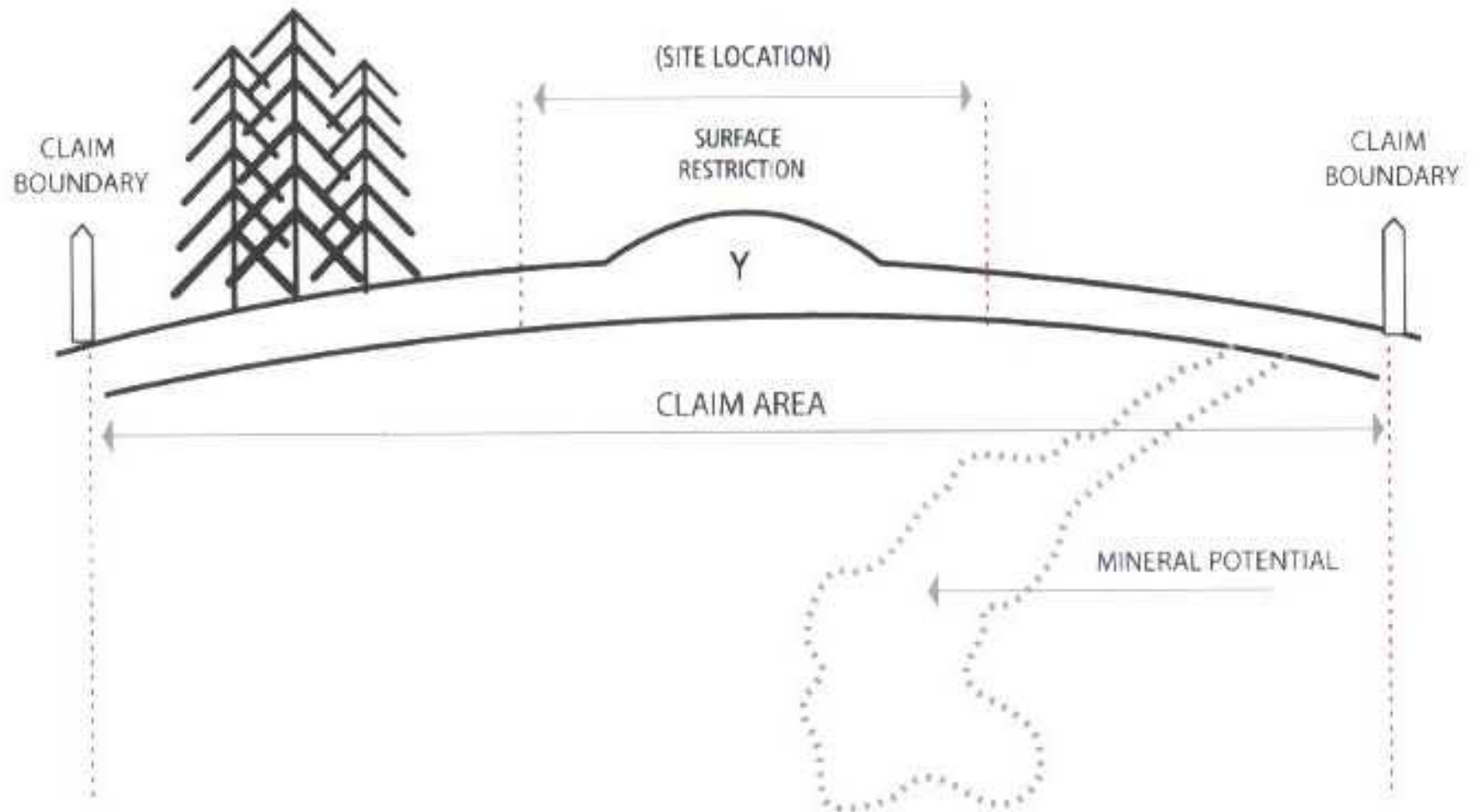


Section 51 - Restrictions

Under **Section 51**, the Minister may by order:

- impose restrictions on a mining claim holder's right to use portions of the surface rights of a mining claim if they are on lands that meet the prescribed criteria as sites of Aboriginal cultural significance.

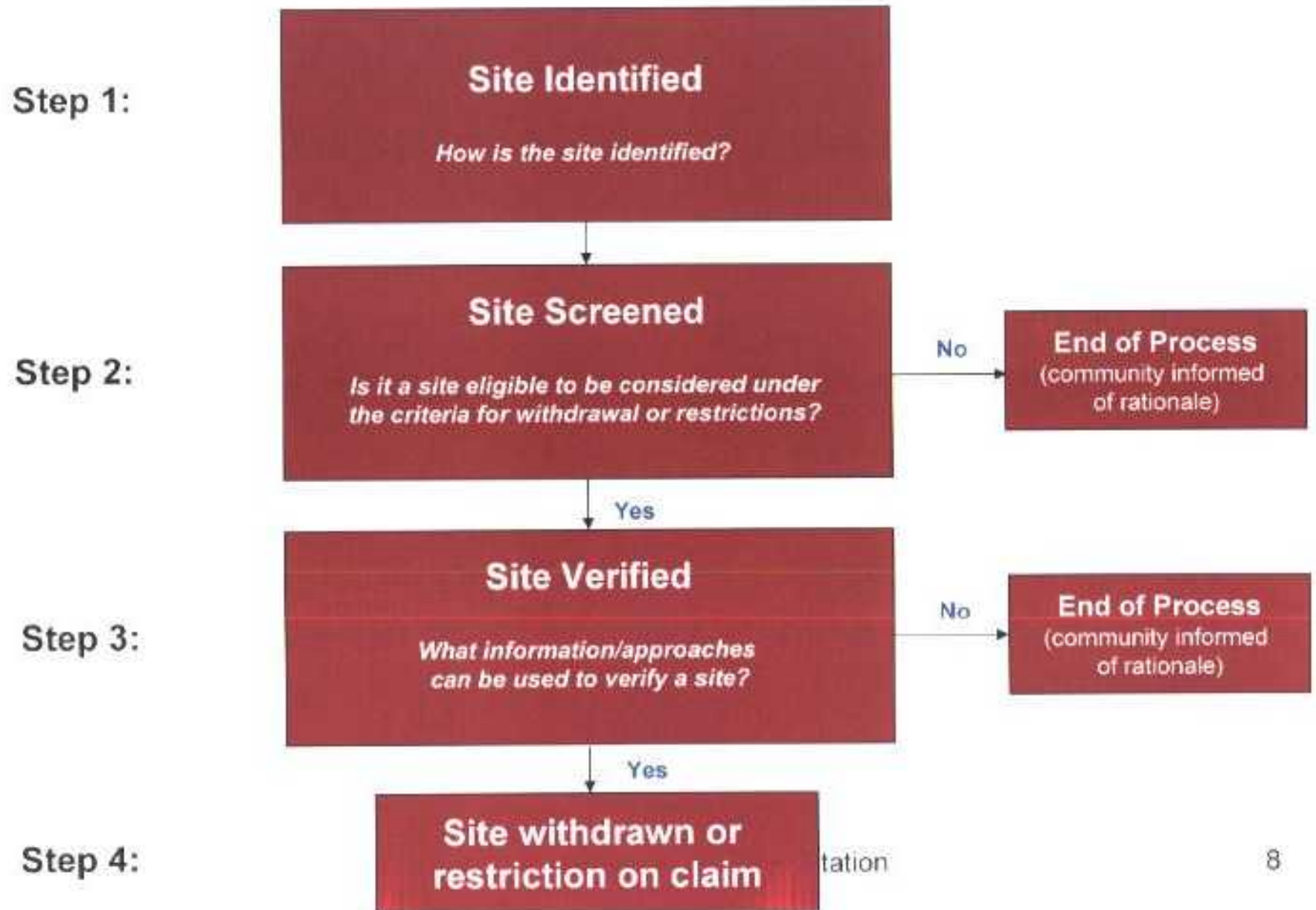
For Discussion Purposes (not to scale)
Site of Aboriginal Cultural Significance (Y)
Scenario B: Surface Restriction



“What We’ve Heard”

- “Every rock matters” – importance of land and water to Aboriginal people
- Capacity to collect and inventory values
- Data sensitivity
- Language and cultural perception differences
- Flexibility is important
- Industry is looking for certainty – sites need to be verified
- Well defined sites with known location/boundaries;
- Ongoing relationships based on trust, respect, and good communication.

Proposed Withdrawal/Restriction Process



Site Screening Criteria

- multiple considerations will inform whether a site should be withdrawn or restricted from mineral staking and exploration, resulting in criteria which reflects:
 - a list of the types of sites to be withdrawn or restricted; or,
 - a series of questions or standards to be met in order for a site to be withdrawn or restricted; or,
 - a combination of both.

Site Screening Criteria (continued)

Types of sites might include:

- burial ground or cemetery;
- place of worship;
- place of spiritual significance (e.g. ceremonial location, visioning area);
- traditional teaching area;
- traditional meeting area;
- ceremonial area.

Site Screening Criteria (continued)

Types of criteria :

The site of Aboriginal cultural significance might:

- a) be of historical or spiritual importance to the community:
- have a strong or special association with the life or work of a person, group, or organization of importance to the community
 - have direct associations with an event, belief, person, activity, or organization that is significant to the community
 - demonstrate an uncommon, rare, or unique aspect of the community's cultural heritage

Site Screening Criteria (continued)

The site of Aboriginal cultural significance might :

- b) need this type of protection to ensure it remains suitable for use by the community and/or to protect its physical attributes from irreparable harm;
- c) be endorsed by most community members as having high significance to them;
- d) its use has an impact on most community members;
- e) be in a permanent location that can be identified with a geographic reference;

Questions to Consider

1. What support or tools will Aboriginal communities need to identify and provide accurate site information to MNDMF? How might the information be accessed and shared? Should sites be portrayed on a map?
2. What kind of sites should be withdrawn? Can you list the key traits that make them very sensitive and/or significant sites?
3. What information/approaches can be used to verify a site?
4. What can MNDMF do so that Aboriginal communities feel that by sharing their very sensitive and significant sites that these sites will be better protected from mineral sector activities than if they were not shared