ROPA 19 - Public and Agency Comments Received

Comment Origin:	Response:
1. Niagara Peninsula Conservation Authority	The NPCA offers no objections. NPCA staff have provided comments to the City of Welland with respect to the NPCA regulated features. Noted.
2. City of Niagara Falls	No comments. Noted.
3. Enbridge Pipelines Inc.	Not affected by proposal. Noted.
4. Enbridge Gas Inc.	Does not object to the proposed application. Noted.
5. Mississaugas Of the Credit First Nation (MCFN)	No further concerns. Noted.
6. Niagara Parks	No comments. Noted.
7. Town of Lincoln	Since this is in Welland the Town of Lincoln will not be providing any comments. Noted.
8. Niagara Escarpment Commission	The subject lands are not in the NEP area and so the NEC has no comments. Noted.
9. CP Proximity Ontario	CP's approach to development in the vicinity of rail operations is encapsulated by the recommended guidelines developed through collaboration between the Railway Association of Canada and the Federation of Canadian Municipalities. The safety and welfare of residents can be adversely affected by rail operations and CP is not in favour of residential uses that are not compatible with rail operations. CP freight trains operate 24/7 and schedules/volumes are subject to change. Should the captioned development proposal receive approval, CP respectfully requests that the recommended guidelines be followed. Noted. Comments have been addressed through appropriate conditions of draft plan of subdivision approval.

Earl, Lindsay

From: Sarah Mastroianni <smastroianni@npca.ca>
Sent: Friday, February 12, 2021 11:07 AM
To: Earl, Lindsay
Subject: RE: Request for Comments & Notice of Public Meeting (ROPA 19) 475-635 Canal Bank Street, Welland

Hi Lindsay,

Thank you for circulating the above noted application to the NPCA.

The NPCA offers no objections to removing the subject employment lands from the Gateway Economic Centre designation on Schedule G2 in order to facilitate the change in land use from employment to residential.

There are several areas of NPCA regulated features on the subject lands and as such, the NPCA does have an interest in the future applications for this area to ensure all regulated lands are appropriately protected and mitigated over the long term. The NPCA requests to be circulated on all future proposals involving these lands. Any site specific concerns or comments the NPCA has for future proposals on these lands will be addressed at that time.

NPCA staff have recently provided comments to the City of Welland on a proposed OPA, ZBA and Draft Plan of Subdivision for "Dain West". If you require a copy of those comments, please let me know and I will provide them to you.

Thank you and enjoy the long weekend!

Sarah Mastroianni
Manager, Planning and Development
Niagara Peninsula Conservation Authority
250 Thorold Road West, 3rd Floor
Welland, Ontario L3C 3W2
Phone: 905 788 3135 (ext. 249)
Fax: 905 788 1121
email: smastroianni@npca.ca

NPCA Watershed Explorer

Due to the COVID-19 pandemic, the NPCA has taken measures to protect staff and public while providing continuity of services. The NPCA main office is open by appointment only with limited staff, please refer to the Staff Directory and reach out to the staff member you wish to speak or meet with directly.

Updates regarding NPCA operations and activities can be found at Get Involved NPCA Portal, or on social media at facebook.com/NPCAOntario & twitter.com/NPCA_Ontario.

For more information on Permits, Planning and Forestry please go to the Permits & Planning webpage at https://npca.ca/administration/permits.

For mapping on features regulated by the NPCA please go to our GIS webpage at https://gis-npca-camaps.opendata.arcgis.com/ and utilize our Watershed Explorer App or GIS viewer.

To send NPCA staff information regarding a potential violation of Ontario Regulation 155/06 please go to the NPCA Enforcement and Compliance webpage at https://npca.ca/administration/enforcement-compliance.

From: Earl, Lindsay <lindsay.earl@niagararegion.ca>
Sent: January 25, 2021 1:52 PM
Subject: Request for Comments & Notice of Public Meeting (ROPA 19) 475-635 Canal Bank Street, Welland

Good Afternoon,

Please see attached Agency request for comments as well as the Notice of Public Meeting for a Regional Official Plan Amendment (ROPA 19) submitted by Armstrong Planning & Project Management on behalf of 555 Canal Bank Development GP Inc. for lands municipally known as 475, 555 and 635 Canal Bank Street within the City of Welland.

Thank you to those agencies who have already submitted their comments.

Feel free to contact me should you have any further questions regarding this matter.

Kind Regards,

Lindsay Earl, MES, MCIP, RPP
Senior Development Planner
Planning and Development Services
Regional Municipality of Niagara
Phone: 905-685-4225 ext. 3387
Toll Free: 1-800-263-7215
Fax: 905-687-8056

permanently delete the original and any copy from your computer system. Thank-you. Niagara Peninsula Conservation Authority.

Earl, Lindsay

From: Brian Dick <bdick@niagarafalls.ca>
Sent: Friday, February 12, 2021 3:55 PM
To: Earl, Lindsay
Cc: Alex Herlovitch; Andrew Bryce; Francesca Berardi
Subject: Request for Comments & Notice of Public Meeting (ROPA 19) 475-635 Canal Bank Street, Welland

Hi Lindsay,

City of Niagara Falls staff have reviewed ROPA 19 which proposes to convert the former John Deere lands from an employment use to a future mixed use subdivision and offer no comments.

Regards,

Brian Dick

Brian Dick, MCIP, RPP | Manager Policy Planning | Planning, Building & Development | City of Niagara Falls
4310 Queen Street | Niagara Falls, ON L2E 6X5 | (905) 356-7521 ext 4247 | Fax 905-356-2354 | bdick@niagarafalls.ca

niagarafalls.ca

Only select services are available to the public at City facilities, as a precautionary measure to stem the spread of COVID-19. We will continue to serve you online at niagarafalls.ca.

We thank you in advance for your understanding, should we take longer than usual to respond to your inquiry.

Earl, Lindsay

From: Eastern Region Crossing <est.reg.crossing@enbridge.com>
Sent: Tuesday, February 09, 2021 12:21 PM
To: Earl, Lindsay
Subject: RE: Request for Comments & Notice of Public Meeting (ROPA 19) 475-635 Canal Bank Street, Welland

Enbridge Pipelines Inc. (crude oil division) is not affected by the proposed construction.

From: Earl, Lindsay
Sent: Monday, January 25, 2021 1:52 PM
Subject: [External] Request for Comments & Notice of Public Meeting (ROPA 19) 475-635 Canal Bank Street, Welland

Good Afternoon,

Please see attached Agency request for comments as well as the Notice of Public Meeting for a Regional Official Plan Amendment (ROPA 19) submitted by Armstrong Planning & Project Management on behalf of 555 Canal Bank Development GP Inc. for lands municipally known as 475, 555 and 635 Canal Bank Street within the City of Welland.

Thank you to those agencies who have already submitted their comments.

Feel free to contact me should you have any further questions regarding this matter.

Kind Regards,

Lindsay Earl, MES, MCIP, RPP
Senior Development Planner
Planning and Development Services
Regional Municipality of Niagara
Phone: 905-685-4225 ext. 3387
Toll Free: 1-800-263-7215
Fax: 905-687-8056

Earl, Lindsay

From: Municipal Planning <MunicipalPlanning@enbridge.com>
Sent: Friday, February 05, 2021 9:26 AM
To: Earl, Lindsay
Subject: FW: Request for Comments & Notice of Public Meeting (ROPA 19) 475-635 Canal Bank Street, Welland
Attachments: Agency Request for comments- ROPA 19.pdf; Public Meeting Notice-ROPA 19.pdf

Thank you for your circulation.

Enbridge Gas Inc. does not object to the proposed application however, we reserve the right to amend our development conditions.

Please continue to forward all municipal circulations and clearance letter requests electronically to MunicipalPlanning@Enbridge.com.

Regards,

Alice Coleman
Municipal Planning Analyst
Long Range Distribution Planning
—
ENBRIDGE
TEL: 416-495-5386 | MunicipalPlanning@Enbridge.com
500 Consumers Road, North York, Ontario M2J 1P8

enbridge.com
Safety. Integrity. Respect.

From: Robert D'Onofrio
Sent: Monday, January 25, 2021 3:12 PM
To: Municipal Planning
Subject: FW: Request for Comments & Notice of Public Meeting (ROPA 19) 475-635 Canal Bank Street, Welland

FYI, thanks
Rob

Rob D'Onofrio, C.Tech
Supervisor Construction Project Management
GTA West / Niagara Operations

ENBRIDGE GAS INC.
Tel: 905 641-4876 I Fax: 905 704-3683
3401 Schmon Parkway, Thorold ON L2V 4Y6

enbridgegas.com
Integrity. Safety. Respect.

From: Rhonda Nicholson <Rhonda.Nicholson@enbridge.com>
Sent: Monday, January 25, 2021 3:10 PM
To: Robert D'Onofrio <robert.donofrio@enbridge.com>
Subject: FW: Request for Comments & Notice of Public Meeting (ROPA 19) 475-635 Canal Bank Street, Welland

HI Rob, I cannot see the distribution list on the email below. Hoping you also got a copy.

Rhonda Nicholson
Manager Regional Execution
GTA West / Niagara Operations
—

ENBRIDGE GAS INC.
TEL: 905-641-4815
3401 Schmon Pkwy
Thorold, Ontario, L2V 4Y6

enbridgegas.com
Safety. Integrity. Respect.

From: Earl, Lindsay <lindsay.earl@niagararegion.ca>
Sent: Monday, January 25, 2021 1:52 PM
Subject: [External] Request for Comments & Notice of Public Meeting (ROPA 19) 475-635 Canal Bank Street, Welland

Good Afternoon,

Please see attached Agency request for comments as well as the Notice of Public Meeting for a Regional Official Plan Amendment (ROPA 19) submitted by Armstrong Planning & Project Management on behalf of 555 Canal Bank Development GP Inc. for lands municipally known as 475, 555 and 635 Canal Bank Street within the City of Welland.

Thank you to those agencies who have already submitted their comments.

Feel free to contact me should you have any further questions regarding this matter.

Kind Regards,

Lindsay Earl, MES, MCIP, RPP
Senior Development Planner
Planning and Development Services
Regional Municipality of Niagara
Phone: 905-685-4225 ext. 3387
Toll Free: 1-800-263-7215
Fax: 905-687-8056

The Regional Municipality of Niagara Confidentiality Notice The information contained in this communication including any attachments may be confidential, is intended only for the use of the recipient(s) named above, and may be legally privileged. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, disclosure, or copying of this communication, or any of its contents, is strictly prohibited. If you have received this communication in error, please re-send this communication to the sender and permanently delete the original and any copy of it from your computer system. Thank you.

Earl, Lindsay

From: Megan DeVries <Megan.DeVries@mncfn.ca>
Sent: Monday, February 01, 2021 9:29 AM
To: Earl, Lindsay
Subject: RE: 2021-0024 MCFN Response to Notice of Complete Application Regional Official Plan Amendment No. 19 475635 Canal Bank Street, Welland

Hi Lindsay,

Thank you for the information about the redevelopment. I have no further concerns.

Kind regards,
Megan.

Megan DeVries, M.A. (she/her)
Archaeological Operations Supervisor

Department of Consultation and Accommodation (DOCA)
Mississaugas of the Credit First Nation (MCFN)
4065 Highway 6 North, Hagersville, ON N0A 1H0
P: 905-768-4260 | M: 289-527-2763
http://www.mncfn.ca

From: Earl, Lindsay
Sent: Friday, January 29, 2021 2:17 PM
To: Megan DeVries
Subject: RE: 2021-0024 MCFN Response to Notice of Complete Application Regional Official Plan Amendment No. 19 475635 Canal Bank Street, Welland

Hi Megan,

With respect to the above noted file, I wanted to let you know that given this project is a redevelopment of an existing industrial property, an archaeological assessment was not requested by the Region in accordance with Ministry criteria.

If you would like to discuss this further or have any questions please feel free to email me, or call 289-969-1400 between 1-3pm on Monday.

Regards,

Lindsay Earl, MES, MCIP, RPP
Senior Development Planner
Planning and Development Services
Regional Municipality of Niagara
Phone: 905-685-4225 ext. 3387
Toll Free: 1-800-263-7215
Fax: 905-687-8056

From: Megan DeVries <Megan.DeVries@mncfn.ca>
Sent: Friday, January 29, 2021 8:43 AM
To: Earl, Lindsay <lindsay.earl@niagararegion.ca>
Subject: RE: 2021-0024 MCFN Response to Notice of Complete Application Regional Official Plan Amendment No. 19 475635 Canal Bank Street, Welland

Hi Lindsay,

Thank you for reaching out. Unfortunately, I was out of the office yesterday and I have back-to-back meetings today. Can we schedule a short call to touch base about this on Monday (anytime) or Tuesday (afternoon)?

Please let me know!
Megan.

Megan DeVries, M.A. (she/her)
Archaeological Operations Supervisor

Department of Consultation and Accommodation (DOCA)
Mississaugas of the Credit First Nation (MCFN)

4065 Highway 6 North, Hagersville, ON N0A 1H0
P: 905-768-4260 | M: 289-527-2763
http://www.mncfn.ca

From: Earl, Lindsay <lindsay.earl@niagararegion.ca>
Sent: Wednesday, January 27, 2021 3:27 PM
To: Megan DeVries <Megan.DeVries@mncfn.ca>
Subject: RE: 2021-0024 MCFN Response to Notice of Complete Application Regional Official Plan Amendment No. 19 475635 Canal Bank Street, Welland

Hi Megan,

I just called your office and left a message. I was hoping to have a chat with you regarding your email sent yesterday. I'm working remotely and I'm available at 289-969-1400 today or tomorrow anytime between 10-3. Please give me a call.

Thanks!

Lindsay Earl, MES, MCIP, RPP
Senior Development Planner
Planning and Development Services
Regional Municipality of Niagara
Phone: 905-685-4225 ext. 3387
Toll Free: 1-800-263-7215
Fax: 905-687-8056

From: Megan DeVries <Megan.DeVries@mncfn.ca>
Sent: Tuesday, January 26, 2021 10:56 AM
To: Fawn Sault <Fawn.Sault@mncfn.ca>; Earl, Lindsay <lindsay.earl@niagararegion.ca>
Cc: Mark LaForme <Mark.LaForme@mncfn.ca>
Subject: RE: 2021-0024 MCFN Response to Notice of Complete Application Regional Official Plan Amendment No. 19 475635 Canal Bank Street, Welland

Good morning,

Please find attached a letter from the Mississaugas of the Credit First Nation ("MCFN") regarding the upcoming assessment for Canal Bank Street, as identified below.

Please note that, in order to continue maintaining DOCA capacity for fulsome project participation, DOCA charges for technical review of project information. In the exercise of its stewardship responsibility, DOCA seeks to work together with project proponents and their archaeological consultants to ensure that archaeological work is done properly and respectfully. DOCA has retained technical advisers with expertise in the field of archaeology. These experts will review the technical aspects and cultural appropriateness of the archaeological assessments and strategies associated with your project. Upon completion of these reviews, MCFN will identify, if necessary, mitigation measures to address any project impacts upon MCFN rights. For cultural materials and human remains, DOCA may advise that this includes ceremonies required by Anishinaabe law, as well as request adjustments to the proposed fieldwork strategy.

The proponent is expected to pay the costs for MCFN to engage in a technical review of the project. DOCA anticipates at this time that all archaeological review will be undertaken by in-house technical experts, but will advise the proponent if an outside peer-review is required. Please find attached the agreement that covers MCFN's inhouse technical review of the archaeological assessments and strategies associated with your project(s). If you could please fill in the additional required information, highlighted in yellow, and return to us a signed copy, that would be greatly appreciated. After we have received it, we can execute the contract on our end and return the completed contract to you. Afterwards, I can arrange scheduling and other related matters directly with the consultant if you prefer.

Sincerely,
Megan.

Megan DeVries, M.A. (she/her)
Archaeological Operations Supervisor

Department of Consultation and Accommodation (DOCA)
Mississaugas of the Credit First Nation (MCFN)
4065 Highway 6 North, Hagersville, ON N0A 1H0
P: 905-768-4260 | M: 289-527-2763
http://www.mncfn.ca

From: Fawn Sault
Sent: Thursday, January 21, 2021 10:56 AM
To: lindsay.earl@niagararegion.ca

Cc: Mark LaForme <Mark.LaForme@mncfn.ca>; Megan DeVries <Megan.DeVries@mncfn.ca>
Subject: 2021-0024 MCFN Response to Notice of Complete Application Regional Official Plan Amendment No. 19 475635 Canal Bank Street, Welland

Dear Lindsay,

Please see the attached letter as our response to your project Notice of Complete Application Regional Official Plan Amendment No. 19 475635 Canal Bank Street, Welland.

Miigwech,

Fawn Sault
Consultation Coordinator
Mississaugas of the Credit First Nation
4065 Hwy. 6, Hagersville, N0A 1H0
Website: http://mncfn.ca/
Ph: 905-768-4260
Cell:289-527-6580

Earl, Lindsay

From: Fawn Sault <Fawn.Sault@mncfn.ca>
Sent: Friday, January 29, 2021 2:55 PM
To: Earl, Lindsay
Subject: RE: 2021-0024 MCFN Response to Notice of Complete Application Regional Official Plan Amendment No. 19 475635 Canal Bank Street, Welland
Attachments: 2021-0024 MCFN Response to Niagara Region Notice of Complete Application Regional Official Plan Amendment Canal Bank Street Welland.pdf

Hi Lindsay,

Let me know if this one works for you.

Miigwech,

Fawn

From: Earl, Lindsay
Sent: Friday, January 29, 2021 2:19 PM
To: Fawn Sault
Subject: RE: 2021-0024 MCFN Response to Notice of Complete Application Regional Official Plan Amendment No. 19 475635 Canal Bank Street, Welland

Hi Fawn,

I've been trying to get our IT department to forward your original attachment to this email, but they've blocked it. It could be due to the file name?
Can you please maybe rename then try to resend?

Thank you!

Lindsay Earl, MES, MCIP, RPP
Senior Development Planner
Planning and Development Services
Regional Municipality of Niagara
Phone: 905-685-4225 ext. 3387
Toll Free: 1-800-263-7215
Fax: 905-687-8056

communication to the sender and permanently delete the original and any copy of it from your computer system. Thank you!

From: Fawn Sault <Fawn.Sault@mncfn.ca>
Sent: Thursday, January 21, 2021 10:56 AM
To: Earl, Lindsay <lindsay.earl@niagararegion.ca>
Cc: Mark LaForme <Mark.LaForme@mncfn.ca>; Megan DeVries <Megan.DeVries@mncfn.ca>
Subject: {Filename?} 2021-0024 MCFN Response to Notice of Complete Application Regional Official Plan Amendment No. 19 475635 Canal Bank Street, Welland

Dear Lindsay,

Please see the attached letter as our response to your project Notice of Complete Application Regional Official Plan Amendment No. 19 475635 Canal Bank Street, Welland.

Miigwech,

Fawn Sault
Consultation Coordinator
Mississaugas of the Credit First Nation
4065 Hwy. 6, Hagersville, N0A 1H0
Website: http://mncfn.ca/
Ph: 905-768-4260
Cell:289-527-6580

DEPARTMENT OF
CONSULTATION AND ACCOMMODATION

January 21,2021

VIA EMAIL

Lindsay Earl, Senior Development Planner
Niagara Region, Planning and Development Service
lindsay.earl@niagararegion.ca

Dear Lindsay,

RE: MCFN Response to Notice of Complete Application Regional Official Plan Amendment No. 19 475635 Canal Bank Street, Welland

Confirmation of Receipt

I am writing on behalf of the Mississaugas of the Credit First Nation ("MCFN") to acknowledge that we have received your above named communication, dated December 21,2021.

Outline of MCFN Rights and Territory

In 1792 , the Crown and MCFN entered into Between the Lakes, No. 3 (1792) regarding the lands in which your project is situated.

The Mississaugas of the Credit First Nation are the descendants of the "River Credit" Mississaugas. The undisputed Territory of the MCFN is defined as a Territory commencing at Long Point on Lake Erie thence eastward along the shore of the Lake to the Niagara River. Then down the River to Lake Ontario, northward along the shore of the Lake to the River Rouge east of Toronto then up that river to the dividing ridges to the head waters of the River Thames then southward to Long Point, the place of the beginning. Our Territory encompasses the lands and waters that were used and occupied by our Ancestors. Territories are usually large tracts of land that reflect the breadth required for seasonal activities and habitation and changes in those movement patterns through time. Through Treaties with the Crown, MCFN agreed to share our Territory with newcomers. However, not all of MCFN's Territory has been dealt with through a Treaty.

With the exception of a small part of the Credit River, our Treaties with the Crown did not deal with the water parts of our Territory. We have not agreed to share any part of our waters with settlers. We formally gave notice to the Crown of this claim in 2016. We note that any lands that have been artificially created on our waters have also not been dealt with by any Treaty.

Like our ancestors before us, we continue to use the lands, waters, and watershed ecosystems within our Territory for a variety of livelihood, harvesting, ceremonial and spiritual purposes. We have always exercised governance functions and stewardship in order to protect our Territory, conserve the fish and wildlife that depend upon it, and ensure its ongoing ability to sustain our people. We assert that our Aboriginal and treaty rights fundamentally entitle us to continue to act as stewards of our Territory, to be involved in decisions that affect it, and to participate in the ongoing, responsible management of the resources it provides.

Duty to Consult and Accommodate

As you will know, the Crown has a constitutional duty to consult and accommodate MCFN in respect of any decisions that might affect its asserted or proven Aboriginal and/or Treaty Rights. We expect that, consistent with the Crown's constitutional duty, no approval should be issued to this project until MCFN has been sufficiently consulted and accommodated. Nothing in this letter shall be construed as to affect our Aboriginal and/or Treaty Rights and hence shall not limit any consultation and accommodation owed to MCFN by the Crown or any proponent, as recognized by section 35 of the Constitution Act, 1982.

MCFN has the right to free and informed consent prior to the approval of any project or any planning decision adversely impacting its Territory and to benefit economically from resource development within its Territory.

MCFN has formed the Department of Consultation and Accommodation ("DOCA") to represent its interests in consultation and accommodation matters. It is DOCA's mandate to ensure that we are directly involved in all planning and development that impacts the integrity of our Territory. In this regard, DOCA will assess and help alleviate impacts on our rights, land claims, and ways of life by building relationships with governments and private sector proponents. We share a mutual interest in ensuring that projects in the Territory are planned, reviewed, and developed in a manner which ensures healthy communities, ecological protection, and sustainable development for present and future generations in the Territory.

MCFN is not opposed to development, but MCFN must to be involved in development decision making. MCFN has a deep connection to its Territory and we have a stewardship responsibility for our land. By engaging with us, a project proponent can learn our perspective on how to care for this land and we can work together to shape the project to mitigate damaging effects to our land and perhaps even work to improve our environment. MCFN is the only party who shall determine whether there are impacts to our Aboriginal and treaty rights.

One of the ways we require proponents to engage with us is in providing transparency during the environmental survey and archaeological assessment process. The best way to accomplish this is by having Field Liaison Representatives ("FLRs") on location while fieldwork is occurring, who can ensure that the Nation's special interests and concerns are respected and considered during fieldwork. The cultural and natural resources in question are part of MCFN's territory and heritage and it is our responsibility to ensure their protection, on behalf of the Nation. MCFN's stewardship of its territory extends through the life of any development project and beyond.

DOCA Project Registration

DOCA has completed an initial intake review of the project communication you have provided. This file has been assigned DOCA Project 2021-0024 ; please use this number in all future communications.

We respectfully ask you to immediately notify us if there are any changes to the project.

Referral to DOCA Units

Following DOCA's initial intake review of the project communication, the file has been referred to the following DOCA Units for additional follow-up.

	Unit Identification	Primary Contact	Email Address
✔	Archaeology	Megan DeVries	megan.devries@mncfn.ca
	Cultural/Historical	Darin Wybenga	darin.wybenga@mncfn.ca
✔	Environment	Fawn Sault (Temp)	fawn.sault@mncfn.ca
✔	FLR Participation	Megan DeVries	megan.devries@mncfn.ca
	Governance	Mark LaForme	mark.laforme@mncfn.ca
	Economic Development	Director	SED.Director@mncfn.ca

If you have not been contacted by the indicated DOCA Units within fourteen days following receipt of this letter, please let me know.

Request for Missing Information

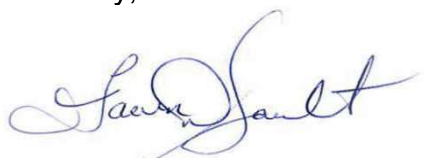
In order to proceed with our follow-up review, we ask you to ensure that all available information relating to the project has been transmitted to us. We have identified the following general information as missing from your initial project communication:

	Outstanding Project Information
✔	Name of person or body undertaking the action or decision.
✔	Contact information for the person or body undertaking the action or decision.
✔	List of documents pertaining to the proposed action/decision that are available for MCFN to review.
✔	Description of what other information is expected to become available before the proposed action/decision is undertaken.
✔	Deadlines or filing dates pertaining to the action/decision.
✔	The Crown or Municipal review/ approval that is required for the project.
✔	How the proposed action or decision may affect and/or benefit MCFN, its rights and territory.

Closing

We ask that you respond with the above requested information within fourteen days following receipt of this letter. We thank you in advance for your attention to our requirements and we look forward to working with you further to shape the planning for development in our Territory.

Sincerely,



Fawn Sault
Consultation Coordinator
fawn.sault@mncfn.ca

Good morning,

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Sincerely,
Megan.

Megan DeVries, M.A. (she/her)
Archaeological Operations Supervisor

Department of Consultation and Accommodation (DOCA)
Mississaugas of the Credit First Nation (MCFN)
4065 Highway 6 North, Hagersville, ON N0A 1H0
P: 905-768-4260 | M: 289-527-2763
http://www.mncfn.ca

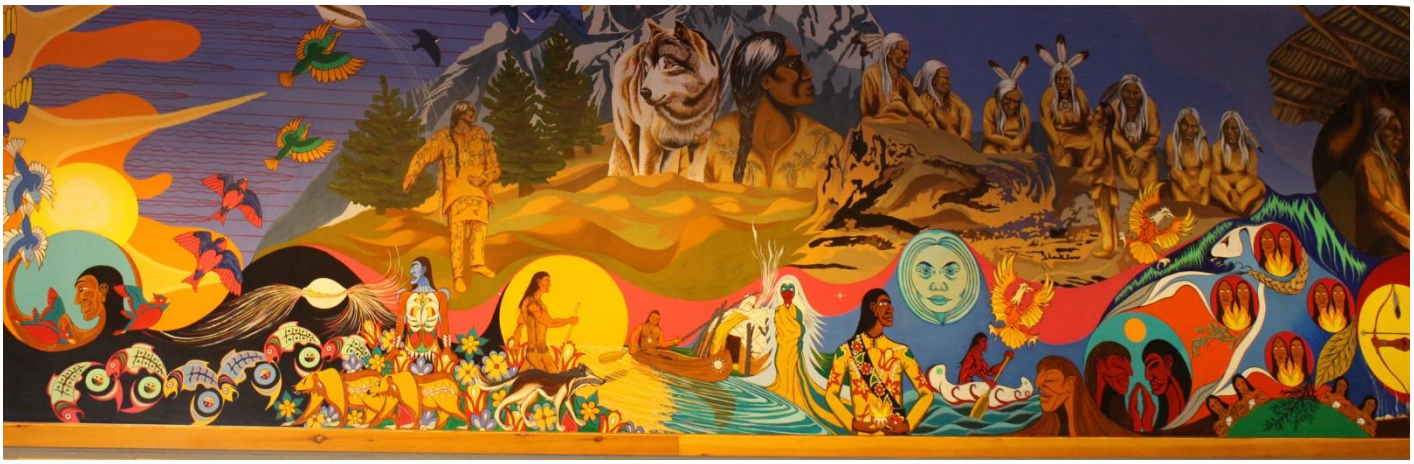
From: Fawn Sault
Sent: Thursday, January 21, 2021 10:56 AM
To: lindsay.earl@niagararegion.ca
Cc: Mark LaForme ; Megan DeVries
Subject: 2021-0024 MCFN Response to Notice of Complete Application Regional Official Plan Amendment No. 19 475635 Canal Bank Street, Welland

Dear Lindsay,

Please see the attached letter as our response to your project Notice of Complete Application Regional Official Plan Amendment No. 19 475635 Canal Bank Street, Welland.

Miigwech,

Fawn Sault
Consultation Coordinator
Mississaugas of the Credit First Nation
4065 Hwy. 6, Hagersville, N0A 1H0
Website: http://mncfn.ca/
Ph: 905-768-4260
Cell:289-527-6580



MISSISSAUGAS OF THE CREDIT™
FIRST NATION

STANDARDS AND GUIDELINES FOR ARCHAEOLOGY

MISSISSAUGAS OF THE CREDIT FIRST NATION

STANDARDS AND GUIDELINES FOR ARCHAEOLOGY

Direction to archaeologists working on the

Treaty Lands and Traditional Territory of the

Mississaugas of the Credit First Nation.

Prepared by the

DEPARTMENT OF CONSULTATION AND ACCOMMODATION

MISSISSAUGAS OF THE CREDIT FIRST NATION

2018

Respect for the Treaty relationship must be expressed through engagement in archaeological assessment and collaboration in the responsible stewardship of archaeological resources and cultural heritage values.

Mississaugas of the Credit First Nation (MCFN) are the traditional stewards of the land, waters and resources within the Treaty Lands and Territory. Confirmed under Treaty, this stewardship role extends to cultural and archaeological resources. This Aboriginal and Treaty right must be respected by planners, developers and archaeologists practicing in the Treaty area. Respect for the traditional stewardship role should embrace two precepts:

MCFN have the right to be consulted on archaeological practice that affects our cultural patrimony, including the interpretation of archaeological resources and recommendations for the disposition of archaeological artifacts and sites within the Treaty area, and;

Archaeological practice must include thoughtful and respectful consideration of how archaeological techniques can be used to reveal not only the data traditionally surfaced by archaeologists, but also culturally important data valued by MCFN.

Acting with respect will initiate change within contemporary archaeological assessment practice. However, the direction of this change is already embodied in existing policy direction. Restructuring the relationship between MCFN and archaeology begins with a renewed emphasis on engagement between MCFN and archaeologists, and compliance with the Standards and Guidelines that direct contemporary archaeological practice.

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1.0 Introduction

This document seeks to reinforce a number of important objectives in the emerging relationship between archaeologists and Indigenous peoples worldwide. These objectives can be achieved within the Mississaugas of the Credit First Nation (MCFN) Treaty Lands and Territory when there is a commitment by archaeologists to communicate with the First Nation, support MCFN participation in fieldwork and analysis, and to be open to opportunities for mutual education. Communication, participation and education are all rooted in the principle of respect. There must be respect for the Treaties and the rights and duties that flow from them. Respect for the Mississauga people to determine the value of their archaeological and cultural heritage, and the appropriate treatment of this heritage in archaeological assessment. Respect also extends to the existing legislation, policy, and professional standards governing archaeological practice. Respect will support the necessary growth of all Treaty partners toward a future archaeological practice that is more inclusive and expressive of the interests of the Mississauga people.

The MCFN Standards and Guidelines require that there is an ongoing and timely flow of information among everyone participating in archaeological assessment. MCFN expect the Ministry of Heritage, Sport, Tourism, and Culture Industries (MHSTCI), consultant archaeologists, development proponents, and approval authorities to be forthcoming with early notification of new projects, and to maintain open communication as work progresses, becomes stalled or where problems that do or may affect the archaeology arise. As capacity allows, MCFN will provide information, raise or address concerns, and express support for specific practices or recommendations that support our interest in the archaeological site or development property. The Department of Consultation and Accommodation (DOCA) will lead on this engagement, through the work of department staff and Field Liaison Representatives (FLRs).

MCFN must be actively engaged in archaeological assessments within the Treaty Lands and Territory area to the extent we determine is necessary. The requirements for engagement are described in the MHSTCI S&Gs, and expanded in this document to better articulate MCFN's stewardship obligations. FLRs, who are deployed to observe fieldwork, provide cultural advice, and assist with compliance in archaeological assessment, are key partners in engagement. As engagement is a requirement of the S&Gs, DOCA will reserve the option of intervening in report review if consultant archaeologists fail to fully engage MCFN during assessment.

There is a widespread belief expressed by consultant archaeologists that First Nation 'monitors' should not question the professional judgment of project archaeologists or field directors; however, this belief is based in a misunderstanding of the FLR's role. The FLR is present to represent MCFN's stewardship interest in the archaeological resources and cultural heritage values present on a property, and this role cannot be devolved to an archaeologist on the basis of academic qualification. In the field, stewardship of the archaeological resource is expressed in interaction. FLRs should be invited to participate in some aspects of fieldwork and provided with specific information on the project status, fieldwork strategies and objectives through ongoing interaction and exchange. FLRs may monitor adherence to the quantitative standards set out in MTCS direction and advice on the

qualitative assessment of resources to provide meaningful cultural context for analysis and interpretation. On-site exchanges provide valuable opportunities for learning on diverse topics such as sampling and cultural awareness. To be clear, continuous learning is envisioned for both archaeologists and FLRs.

1.1 MCFN Standards and Guidelines for Archaeology

This document sets out the MCFN standards and guidelines for archaeology. The standards provide guidance to consultant archaeologists carrying out archaeological assessments within the MCFN Treaty Lands and Territory. They build on existing direction in the MHSTCI *Standards and Guidelines for Consultant Archaeologists* (S&Gs), clarifying and expanding areas where the existing direction does not direct archaeologists to the levels of care required by MCFN as stewards of the resource. While primarily directed at archaeologists, they also include direction for development proponents, and provincial and municipal government agencies as participants in the archaeological assessment process.

Frequent reference is made to the MHSTCI S&Gs. The S&Gs should be read together with the guidance in this document to gain a more complete understanding of an archaeologist's obligations when practicing on the MCFN Treaty Lands and Territory.

These standards provide clarification where the S&Gs are incomplete on issues that archaeologists may encounter in their work, but are of great concern to MCFN. The principal changes include expanded direction on engagement, and a renewed focus on compliance with professional standards. The standards also discuss human remains, intangible values, and sacred and spiritual sites.

The MCFN S&Gs introduce the following clarifications:

- Human remains – the current MHSTCI S&Gs are silent on treatment of human remains, beyond referring consultants to the *Coroners Act*, and the *Funeral, Burial and Cremation Services Act* protocols. MCFN S&Gs introduce clear expectations for the treatment of all remains, including burials and isolated elements. All human remains, regardless of their nature or association with a visible evidence of a burial site, must be treated with the same high level of care. The presence of human remains on a property indicates a high likelihood of burials on the property, even if the traces of the burial have been obscured. Burials must be treated in the same manner as the legislation requires, but the discovery of any human remains should initiate these actions. FLRs will direct the disposition of remains at each site.

- Intangible values – the current S&Gs are silent on intangible values associated with archaeological sites and how they overlap with cultural heritage places. MCFN S&Gs introduce expectations that archaeological landscapes, site context, and intangible values are considered in analysis, reporting, and making recommendations for archaeological resources. This direction applies to all stages of assessment.

- Sacred and Spiritual sites – the current S&Gs require engagement to identify sacred, secret, and spiritual sites, and provide for their use in evaluating archaeological potential. The S&Gs also provide for the

protection of these values; however, they are largely silent on how to proceed where these values are identified. As this document describes, engagement is the basis for identifying these values, defining the necessary protocols and procedures for analyzing archaeological data to identify sacred or spiritual dimensions to an archaeological site, and for developing appropriate mitigation strategies when sites of cultural importance are identified by FLRs or other band members.

One theme of these guidelines is that consultant archaeologists are asked to *do more*. This is an invitation to move beyond basic compliance to producing value-added outcomes to archaeological assessment work. When the S&Gs are simply viewed as a series of targets to hit in assessment, the potential contribution of any one assessment to increasing our understanding of the archaeology and culture history of the Treaty lands and traditional territory is diminished.

This document is organized in three sections which discuss the policy context of archaeological practice, engagement, and compliance with the S&Gs. The section on engagement discusses when and how MCFN, as stewards of the archaeological resource, should be engaged. Currently, the S&Gs identify engagement as largely optional, even at points in the process where archaeologists, proponents or approval authorities are making decisions that may infringe on Aboriginal or Treaty rights. In the guidance provided here, engagement is required at each assessment stage. Engagement is expressed as an active participation by DOCA and FLRs in property evaluations, fieldwork and analysis, and in developing recommendations on the disposition of archaeological resources.

Compliance with the S&Gs is overseen by MHSTCI through the review of archaeological assessment reports. Reports that address all relevant standards are deemed compliant. The standards – requirements that consultant archaeologists *must* follow, are "the basic technical, process and reporting requirements for conducting archaeological fieldwork". They are the minimum acceptable levels of effort required to recover data and stabilize archaeological resources as they are lost to development pressures. MCFN's call for better compliance with the existing standards, and the identification of new standards of practice in fieldwork and engagement, will ensure that archaeological assessment is not simply an exercise in hitting regulatory targets, but actively supports MCFN's stewardship of the archaeological resource.

MCFN is committed to monitoring the implementation experience with these standards, and they will be updated and revised periodically as required.

1.2 Territorial Acknowledgement

Archaeological assessment reports for fieldwork within the Mississaugas of the Credit First Nation Treaty Lands and Territory should include a territorial acknowledgement, such as:

> The archaeological assessment reported here was undertaken on the Treaty Lands and Territory of the Mississaugas of the Credit.[1]

Greater detail may be included in the acknowledgement, although the wording may require approval from MCFN. For example, a statement such as the following extends the acknowledgement to underscore the stewardship role of MNFN on our Treaty Lands and Territory:

> We acknowledge that the archaeological fieldwork reported here was undertaken within the Treaty Lands and Territory of the Mississaugas of the Credit First Nation. The Mississaugas of the Credit First Nation are the stewards of the lands, waters and resources of their territory, including archaeological resources and cultural heritage values.

Recognition of other descendant groups who show a connection to archaeological resources within the Treaty area may also be presented following the MCFN territorial acknowledgment.

1.3 An Archaeological Perspective

Anishinabek culture resides in the land and water. It resides in people, stories, songs, memories and traditions. It resides in objects, books, reports and records. Places on the landscape hold cultural knowledge. Culture and heritage resides in, and is expressed by, the interaction of people with the land through their traditional practice.

The majority of archaeological sites in Ontario are 'pre-contact', meaning that these resources represent traditional Indigenous culture, land use and occupation exclusively. These resources mark places that are, or can be associated with traditional narratives or cultural practices. The narratives or practices may relate to specific locations, more generally to resource use, traditional work, ceremonies and cultural observance, or simply to the basic business of everyday life. Archaeological sites are places where archaeological resources – the material traces of past occupations – are located. But they are also traditional and cultural places. Archaeological resources cannot be separated from the place where they are deposited without severing the intangible connections between culture and the land. Cultural places root contemporary Mississauga culture in the land. As such, they should be viewed as still being 'in use' or 'occupied'. Working to remove the resources from the land is a significant action and must be undertaken with integrity and attention to the actual costs and consequences of this work.

Archaeological resources are finite. While it is true that new archaeological sites – the sites of the future – are being created through ongoing human use and occupation of the land, this use overwrites earlier occupations, distorting or destroying them. Ongoing use of a landscape does not restore or renew archaeological sites. Ongoing use of the landscape erases cultural and traditional places where Indigenous culture is embedded.

Archaeological practice can also distort or destroy archaeological sites. While the inventory, assessment and excavation of the resource preserve valuable archaeological data for future use and study, it can also be said that

[1] Mississaugas of the Credit Treaty Lands and Territory Recognition Statement and Logo Usage Policy, April, 2017. http://mcfn.ca/wp-content/uploads/2017/05/treaty-lands-and-territory-statement-December-2017-a.pdf

archaeological practice creates a new resource that displaces the original cultural and traditional place. Archaeological resources are the raw material from which sites, artifacts and archaeological narratives are manufactured. Archaeological collections, when combined with documentation of engagement, fieldwork and analysis, represent the resource in an archaeological narrative about the site, how it was identified, excavated and interpreted. But the site is gone, and the collections and documentation provide only an incomplete picture of the cultural values that once existed in that place.

Archaeologists must remain aware that the actual resource – archaeological resources *in situ*, is diminishing and growing smaller with each excavation. One more collection means one less site in the ground. Each new site identified must be considered in this context: it is an increasingly rare thing. In the minds of many experienced archaeologists it may seem that new *archaeological* insight will be difficult to achieve from more excavation and collection at sites of a certain type. More broadly, however, new, meaningful and important *cultural* knowledge is available. Cultural knowledge can be obtained by asking new questions of the resource, although it may not be within the archaeologist's existing skill set to ask – or to answer – these questions at present.

Archaeology maintains a tight focus on material remains, and may not venture to address traditional land use or cultural patterns that are not visible in artifacts and features. But cultural and traditional insights are recoverable through alternative techniques and approaches to site investigation. These include community engagement and adopting diverse perspectives on archaeological resources, including seeking understanding of the intangible values of a place, and the consideration of sites in their wider landscape context. These insights cannot be gained by simply tacking Indigenous knowledge and narratives onto archaeological sites after the archaeological work is complete. Indigenous perspectives must be integrated into assessment and research designs from the outset.

Recognizing and holding space for MCFN's stewardship role in archaeological assessment is a critical first step in the work of reconciling the archaeologist's and the Anishinaabe perspectives on archaeology.

1.4 Policy context

The protection and conservation of archaeological resources is enacted through a range of law and policy in Ontario. Principal among these is the Ontario Heritage Act, which regulates archaeological practice and archaeological resource protection. Additional protection is provided under a range of other legislation and policy that governs specific areas of development planning, such as the Planning Act and the Environmental Assessment Act.

Archaeology law is primarily directed to the material aspects of archaeology, such as archaeological sites and artifacts. Guided by applicable statute and policy, the assessment, protection and excavation of archaeological sites impact real property, and generate collections of material objects that are held, in trust, for future generations of scholars and citizens. However, when viewed as property, archaeological site protection can reduce the nature, contents and meaning of archaeological sites to the material remains alone. To many descendant groups

archaeological and cultural heritage sites contain much more than material resources, including traditional, cultural, sacred, and spiritual values that are difficult, if not impossible to capture using standard archaeological techniques. In this way, statute and policy governing interaction with archaeological resources are deficient to the extent that they do not recognize and protect the full array of cultural heritage values that reside in the sites, artifacts, and places that mark past occupation of the land. It is notable that there is no comparable statute or policy – apart from policy direction concerning human remains, that addresses Indigenous interests in archaeological resources and cultural heritage values.

1.4.1 Ontario Heritage Act

Under the Ontario Heritage Act, archaeological resources are all of the material traces of past human occupation or use of a place, while archaeological sites and artifacts are a subset of these resources, specifically those which hold cultural heritage value or interest (CHVI). Criteria for determining CHVI of archaeological resources are presented in the *Standards and Guidelines for Consulting Archaeologists* (S&Gs).

The Ontario Heritage Act (OHA)[2] defines and sets out the measures required conserving the heritage resources of Ontario. Archaeological practice and access to archaeological resources is regulated under the terms of the Act, regulations to the Act, terms and conditions of licensing, and standards and guidelines developed by MHSTCI. Achieving the conservation objectives of the Act is a shared responsibility between the ministry and other regulatory agencies. Archaeological practice is regulated directly by MHSTCI, while regulatory review of development proposals by other agencies to 'trigger' archaeological assessments is directed by policy created under the authority of other statue, such as the Environmental Assessment Act, Planning Act, and Aggregates Resources Act, among others.

The conservation of resources of archaeological value[3] is described in Part VI (Sections 47 to 66) of the Act, and concerns two categories of activity: archaeological practice, and archaeological site alteration. The OHA views these two categories as linked: a licence is required to alter a site, and alteration without a license is a violation of the Act. Thus, the regulatory mechanism for achieving archaeological resource conservation is through the regulation of practice.

Preparing and submitting reports of archaeological fieldwork is a key condition of licensing. Apart from the preservation of artifacts, the primary public benefit arising from archaeology is the creation of archaeological reports and data. Section 65.1(1) of the Act stipulates that reports prepared under license are entered into the Ontario Public Register of Archaeological Reports (the Register). In Section 66, the Act states that the minister may

[2] RSO 1990, c. O18

[3] Resources of archaeological value are described in Regulations to the Act. However, Part VI defines "property" as "real property, but does not include buildings or structures other than ruins, burial mounds, petroglyphs and earthworks" (R.S.O. 1990, c. O.18, s. 47.). In this definition two site types which include intangible cultural value, (petroglyphs [a representational form created using an arrangement of stones on the ground] and burial mounds), are identified as archaeological sites.

direct archaeological collections to a public institution, "held in trust for the people of Ontario". While the Act identifies the province as stewards of the archaeological resource, it is silent on the question of ownership.

Archaeological resources are generally considered objects that can be transported (easily) from one location to another. The resource is not directly defined in the text of the Act; however, in Section 47 a distinction is drawn between types of heritage property, real properties exclusive of "buildings or structures other than ruins, burial mounds, petroglyphs and earthworks". Since structures and buildings are the concern of Part IV and V of the Act, ruins, burial mounds, petroglyphs and earthworks remain behind as archaeological resources. Ontario Regulation 170/04 defines an archaeological site 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". Artifacts are defined as "any object, material or substance that is made, modified, used, deposited or affected by human action and is of cultural heritage value or interest" (O. Reg. 170/04, s. 1). The inclusion of burial mounds and petroglyphs as archaeological sites signals that the boundaries between archaeology and cultural, sacred or spiritual places are less distinct than the Act presents. For this reason, this document refers to both archaeological resources and cultural heritage values, which includes all of the material and intangible values present at archaeological sites and other places of cultural significance.

1.4.2 Other legislation

Human remains are to be expected in a range of archaeological contexts, including habitation sites and as isolated graves. Laws pertaining to human remains include the Coroners Act,[4] the Funeral, Burial and Cremation Services Act,[5] and the Ontario Heritage Act. Buried human remains are within the jurisdiction of the Registrar of Cemeteries, authorized under the Funeral, Burial and Cremation Services Act. By locating concern for human remains outside of the Ontario Heritage Act the law acknowledges that human remains are not archaeological resources and require special treatment and handling upon discovery.

The Funeral, Burial and Cremation Services Act requires any person who uncovers a burial containing human remains to immediately stop work and contact the appropriate authorities, such as the police or Coroner. The Coroner, authorized under the Coroners Act, will determine whether the person whose remains were discovered died under any of the circumstances set out in Section 10 of the Coroners Act. If the remains or burial is determined to be of no forensic interest, control of the process returns to the Registrar of Cemeteries, who then determines the origin of the burial site, and declares the site to be an aboriginal people's burial ground, a burial ground, or an irregular burial site.[6] Upon making the declaration, a site disposition agreement is negotiated among representatives of the landowner and the deceased. MCFN, as stewards of the archaeological resources and cultural heritage values of the Treaty area, would be party to the disposition agreement as a representative of

[4] R.S.O. 1990, c. C.37

[5] S.O. 2002, Chapter 33

[6] S.O. 2002, Chapter 33, c. 34

the deceased. Disinterment of human remains under the terms of a site disposition agreement must be completed by a licensed archaeologist.

Development planning is addressed in a number of provincial laws. The Planning Act [7] directs the development of land by ensuring, among other things, that land use planning is led by provincial policy, and that matters of provincial interest are considered in planning. The Act directs that planning will be conducted with "regard to, among other things… the conservation of features of significant architectural, cultural, historical, archaeological or scientific interest" (Section 2(d)). Cultural, historical and archaeological features extend the range of elements that approval authorities and developers must have regard to, including a range of cultural heritage values of interest to MCFN. The Act also empowers local authorities to make by-laws prohibiting development on properties containing significant archaeological resources (Section 34), allowing for avoidance and long term protection.

The Planning Act seeks to ensure that 'various interests' are considered in planning, and devolves the responsibility for planning decisions to accountable municipal authorities, although the overall authority of the Minister remains intact. Under regulations to the Planning Act, a complete application for subdivision must include information on the archaeological potential of the property, and a determination of whether any restrictions on development related to archaeological resources exist. Where development is permitted, properties with archaeological potential also require a completed archaeological assessment, and a conservation plan for any archaeological resources identified in the assessment (O.Reg. 544/06, Sched. 1). Generally, a draft plan is initially submitted, and archaeological assessment is completed prior to final plan submission. The timing of the archaeological work is not defined in the Act or Regulation, nor is the excavation and removal of the site from the property part of this direction. It is reasonable to assume that the evaluation of archaeological potential, archaeological assessment, and decisions concerning the disposition of archaeological resources on a development property should actively involve MCFN.

The Environmental Assessment Act (R.S.O. 1990 Chapter E.18) provides for the wise management of the environment in Ontario. It is the principle legislative process for major development that does not primarily involve the subdivision of land or extraction of a specific resource. Under the Act, the environment includes the social environment, including "social, economic and cultural conditions", and "any building, structure, machine or other device or thing made by humans" (R.S.O. 1990 Chapter E.18, s. 1(1)). Class environmental assessments may be declared where development of a number of projects are planned or anticipated, and where the planning and anticipated effects are generally similar. Each environmental assessment or project under a class environmental assessment must address terms and conditions to approval, which include requirements to complete an archaeological assessment, and identify conservation measures for any archaeological resources identified within the project area. The Act also requires that the proponent consult "with such persons as may be interested" in the undertaking when preparing the Terms of Reference.

[7] R.S.O. 1990, c. P.13

2.0 Engagement

The MCFN *Consultation and Accommodation Protocol* [8] sets out expectations for engagement in archaeological assessment. The Protocol describes the MCFN stewardship of archaeological resources and cultural heritage values, and unequivocally asserts "that our Aboriginal and Treaty rights fundamentally entitle us to preserve our culture and heritage". The Protocol further clarifies that DOCA is the body that leads all engagement, and that "MCFN expects to be engaged with the Crown and/or Proponents early in the project development and assessment process". The Protocol also states that "MCFN is the only party who shall determine whether there are impacts on out Aboriginal or Treaty rights". The last point is especially important in relation to evaluating archaeological potential, determining cultural heritage value or interest, and formulating Stage 4 mitigation strategies. Neither licensing nor the technical work of archaeological assessment grants to a consultant archaeologist the privilege of speaking on behalf of the First Nation regarding actual or potential development impacts to archaeological or cultural resources.

Engagement is the key to successful archaeological assessment. For archaeological assessment projects on the Treaty Lands and Territory, early and ongoing engagement is expected. Engagement is necessary at all stages of archaeological assessment, and extends to the period before and after an assessment is formally constituted. The requirement to engage is not limited to the consultant archaeologist, but includes approval authorities, proponents and others who may make decisions that hold the potential to infringe on the Aboriginal or Treaty rights of MCFN. Engagement in archaeological assessment may be viewed as an aspect of consultation, but does not relieve the Crown of its duty to consult and accommodate MCFN on the development project.

In conformance with the MHSTCI Bulletin, Engaging Aboriginal Communities in Archaeology, MCFN will determine the form for engagement.

Positive, collaborative engagement is more than a data exchange or transfer of information from MCFN to the archaeologist. Rather, it is a means of developing relations of trust among all parties to the development project that continue throughout the span of an assessment, and may carry over into subsequent projects. In this document, engagement requirements exceed the standards described in the MHSTCI S&Gs. Some consultant archaeologists may wish to engage only at Stage 3, as required by the S&Gs; however, as set out in the following section, engagement is a cumulative process and allowing engagement responsibilities to accumulate until Stage 3 may lead to unanticipated delays in project timelines. Late engagement may oblige DOCA to schedule extra time to review earlier fieldwork results and recommendations to ensure that MCFN stewardship concerns have been addressed before moving to engagement on Stage 3 questions.

The S&Gs require that the engagement process and outcomes must be summarized in an Aboriginal engagement report, a required part of each assessment report. These reports may be audited by DOCA to ensure that they

[8] Department of Consultation and Accommodation. n.d. Consultation and Accommodation Protocol. Mississaugas of the Credit First Nation, Hagersville.

conform to DOCA's records of engagement. Serious shortcomings in engagement or inaccuracies in the Aboriginal engagement report may be referred to MHSTCI with a request that the report be flagged for detailed review or revision.

2.1 Engagement in Archaeological Assessment

Archaeological assessment proceeds from the review of the original development proposal, through to the final decisions on the mitigation of development impacts and the long term curation of collections. Engagement will ensure that important cultural considerations are incorporated into fieldwork and analysis, and the recommendations that are offered for development properties and archaeological sites.

The format of this section follows the general sequence of actions undertaken for a typical development project, including the four formal stages of archaeological assessment. The timing and nature of engagement through this sequence is highlighted and discussed. Note that MCFN expect engagement throughout this planning and assessment process.

2.1.1 Project concept and planning stage

This task primarily involves the proponent and the approval authority.

Most land-use planning and development processes in Ontario identify the conservation of archaeological resources as a provincial interest. A completed archaeological assessment, including a compliance review by MHSTCI, is a common condition of project approval and is rarely a 'late addition' to the list of required studies. Since archaeological assessment can be anticipated as a requirement of approval, DOCA notification should be an essential and automatic early phase activity for approval authorities and proponents.

Proponents should engage with DOCA to introduce the project, and identify the proposed schedule for background studies, archaeological assessment, site preparation and their anticipated start of construction. DOCA review of the project concept will allow approval authorities and development proponent's time to evaluate the anticipated impacts of the project relative to Aboriginal and Treaty rights. Project redesign, where necessary, will also be simpler at this early stage. Notification to DOCA should, at a minimum, include basic information on the proposed development, including the type of development and the associated regulatory process, project location, proponent identity and contact information, and any key milestones in the project plan. Early and ongoing contact with DOCA will aid in building positive working relationships that will benefit the proponent going forward.

Approval authorities can facilitate positive engagement by including DOCA notification as standard practice, and advising proponents to communicate with DOCA early in the process.

Of equal importance, the MHSTCI S&Gs reference the MHSTCI "Criteria for Evaluating Archaeological Potential" checklist, which was developed for non-specialists such as approval authority staff. A completed checklist is meant to provide planners with a basic tool for evaluating archaeological potential of a development property. The checklist includes a number of considerations that cannot be addressed using only cartographic information,

registered archaeological site data or knowledge of local history. Approval authority staff responsible for completing the checklist must engage DOCA for input concerning points 5, 6, 7, 9 and 11 of the checklist, at a minimum, to ensure that the checklist is completed comprehensively.

2.1.2 Project award / Filing a PIF

This task primarily involves the consultant archaeologist and MHSTCI.

Project Information Forms (PIF) is required by MHSTCI to track archaeological fieldwork. A PIF must be submitted at least 5 days, but no more than 15 business days before the start of fieldwork, as stated on the form. All PIFs are processed, and a file number assigned, within 5 business days of receipt.

Filing a PIF with the ministry is a term and condition of licensing. The PIF file number is used by the ministry to track archaeological fieldwork, and sets the dates for report submission. A completed PIF includes the project location, and identifies the approval authority and proponent. The S&Gs note that the PIF must be received by the ministry, and a PIF number assigned before fieldwork begins (S&Gs 7.1, s.1).

At the time that a PIF is submitted, notice should also be made to DOCA, providing the information contained in the PIF application, including the proposed start date for fieldwork, location of the subject property, and the name and contact information of the proponent and approval authority staff. This information will allow DOCA to open a file on the project, and assist in managing engagement, workflow and FLR deployment.

DOCA will work toward an agreement with MHSTCI to ensure that accurate PIF information for archaeological assessment projects proposed for the Treaty area is transmitted to DOCA in a timely manner. DOCA may advise MHSTCI of PIFs that have or appear to have been incorrectly filed in advance of the 15 day window, or where engagement has not been initiated by a licensee.

DOCA staff will determine whether the potential impact of the proposed development will be high or low. For low impact projects, information sharing may be sufficient. For high impact projects, high impact undertakings, DOCA work directly with the proponent to determine the requirement for FLRs during the fieldwork portion of the archaeological assessment, and identify accommodation requirements to protect Aboriginal and Treaty rights relating to archaeological resources and cultural heritage values.

2.1.3 Stage 1 Background study and evaluation of potential

This task primarily involves the consultant archaeologist and the proponent.

Engagement at Stage 1 is required. The guidelines (Section 1.1, guideline 1, bullet 3, and Section 1.4.1, guideline 1), should be treated as standards for the purposes of Stage 1 assessment within MCFN Treaty Lands and Territory. The basis for this is the requirement for engagement at Stage 3, as described in Section 3.4, s. 2 of the S&Gs, which states:

> Aboriginal communities must be engaged when assessing the cultural heritage value or interest of an Aboriginal archaeological site that is known or appears to have sacred or spiritual importance, or is associated with traditional land uses or geographic features of cultural heritage interest, or is the subject of Aboriginal oral histories. This will have been determined through background research in Stage 1, detailed documentary research on the land use and occupation history early in Stage 3, and/or analysis of artifacts and other information recovered through archaeological field work.

In this standard, information on a range of traditional and cultural concerns is identified as the basis for decision-making, and this information is noted as having "...been determined through background research in Stage 1". MCFN is the only party who can determine if a property holds cultural heritage value or interest based on the criteria expressed in the standard. The Stage 3 standard refers to actions taken and information gathered during Stage 1. From this, it is clear that the process of evaluating the CHVI of an archaeological site is an ongoing process that begins in Stage 1. This process must actively engage MCFN participation.

For properties with archaeological potential, Stage 2 property assessment is required (Section 1.3, s. 1). In some cases, the consultant may recommend reducing the Stage 2 fieldwork requirements based on the evaluation of low potential on parts of the development property (Section 1.4.1, guideline 1). A guideline to this section recommends engagement "to ensure that there are no unaddressed Aboriginal cultural heritage interests", which would necessarily require engagement. The results of engagement may also lead to the expansion of the area of Stage 2 fieldwork. The MHSTCI Aboriginal Engagement Bulletin suggests that one method of addressing community interest in a development property is to "extend a Stage 2 survey to include lands that have been identified as of interest to the Aboriginal community, even though those lands may have low potential".[9] For this to happen, engagement must be undertaken, and a clear understanding of the nature of the interest, and appropriate techniques to address them must be achieved prior to fieldwork.

A copy of the Stage 1 assessment report, including the Aboriginal engagement report, must be provided to DOCA at the time it is submitted to MHSTCI for review. DOCA may review the report for accuracy, and transmit the result of this review to MHSTCI.

2.1.4 Stage 2 Property Assessment

This task primarily involves the consultant archaeologist and proponent.

Stage 2 is directed towards identifying all of the archaeological resources present on the development property. Engagement at Stage 2 includes the participation of FLRs in fieldwork. DOCA, and FLRs funded by the proponent, will work with the consultant archaeologist to represent MCFN's stewardship interest, to support compliance with the S&Gs Section 2.1, and to provide advice and information on cultural heritage values.

[9] MHSTCI. 2011. Engaging Aboriginal Communities in Archaeology: A draft technical Bulletin for consultant archaeologists in Ontario. Ministry of Tourism and Culture, Toronto.

Engagement must include providing a daily briefing to FLRs ('tailgate talk') outlining the work schedule for the day in the context of the overall assessment, and a summary review at the end of each work day. Allowance for FLRs to record finds, unusual or diagnostic artifacts, and related information should be made throughout the workday. Information sharing builds relations of trust, and demonstrates respect for the FLR's role in the assessment.

For sites with human remains (Section 2.2, s. 2(e)), engagement will be a required part of the on-site interaction with the FLRs. FLRs will provide direction regarding the handling and disposition of the remains.

In Section 2.2, the S&Gs recommend that consultant archaeologists engage on two questions: if the Aboriginal interest in archaeological resources found during Stage 2 is correctly determined and if there are no other Aboriginal archaeological interests in the subject property. The engagement described in Section 2.2, guideline 1 of the S&Gs must be treated as a standard. DOCA must be engaged regarding the analysis of the Stage 2 fieldwork results.

It is also important to remember that the fieldwork and analysis at Stage 2 leads to the separation of 'artifacts' and 'archaeological sites' from among the archaeological resources identified on the subject property. Stage 3 assessment is only required for sites holding CHVI, and all other resources may be considered sufficiently assessed and documented.

It is important that at MCFN interests are addressed before making final decisions concerning the CHVI of archaeological resources. DOCA must be engaged when determining Stage 3 requirements for archaeological resources identified in Stage 2 fieldwork. Section 2.2, guideline 1 must be treated as a *standard* within the Treaty Area. The guideline states, in part, that "the consultant archaeologist may engage … Aboriginal communities to determine their interest (general or site specific) in the … archaeological resources found during Stage 2 and to ensure there are no unaddressed … archaeological interests connected with the land surveyed or sites identified". Engagement when determining CHVI and the requirement for further assessment at Stage 3 will ensure that the results of the assessment and the observations of the FLRs correctly reflect MCFN's role in archaeological resource stewardship.

Generally, the quantitative targets found in Section 2.2, s. 1 do not override MCFN interests regarding resources.

The outcome of Stage 2 property assessment includes the identification of all archaeological resources on the subject lands and a preliminary determination of CHVI for some archaeological sites. Reports, which should detail the basis for the conclusions and recommendations, must be provided to DOCA for review and comment. DOCA may choose to review the report, and it may be necessary to revise reports based on the review. The results of the DOCA review may also be transmitted to MHSTCI.

2.1.5 Stage 3 Site-specific assessment

Stage 3 involves the consultant archaeologist and proponent.

Stage 3 site-specific assessment establishes the size and complexity, and CHVI of archaeological sites identified at Stage 2. The Stage 3 report includes detailed recommendations for Stage 4 mitigation of development impacts.

The S&Gs require engagement at Stage 3. Specifically, the historical documentation research required in Section 3.1, s. 1(a), 1(b) and 1(e), cannot be completed without engagement. MCFN is the only party who can determine whether an archaeological site is sacred to the Nation, and must be engaged. The limitation to engagement included in the text of the standard (research sources "when available"), should be viewed as direction to engage DOCA to confirm the availability of the information necessary to comply with Section 3.1, s. 1(b) and 1(e). Note that engagement is in addition to diligent archival, historical and online research by the consultant archaeologist.

For compliance with Section 3.4, including the application of the criteria and indicators listed in Table 3.2, engagement is required. Note that Section 3.4, s. 1(a), concerning human remains, engagement in the field at the time of discovery is required through the FLRs on-site. Section 3.4, s. 2 requires engagement in the analysis of archaeological sites, and indicates that this engagement must be the culmination of an ongoing practice between the consultant archaeologist and DOCA. Engagement throughout Stage 3 is required, and consultant archaeologists entering into a Stage 3 assessment must engage DOCA for the subject lands overall. Preferably, this engagement starts at Stage 1.

Engagement at Stage 3 also includes the participation of FLRs in fieldwork. DOCA, and FLRs funded by the proponent will work with the consultant archaeologist to represent MCFN's stewardship interest, to support compliance with the S&Gs Sections 3.2 and 3.3, and to provide advice and information on cultural heritage values. Engagement must include providing a daily briefing to FLRs ('tailgate talk') outlining the day's work objectives, progress of the assignment, and a review at the end of each work day. Allowance for recording finds, features, unusual or diagnostic artifacts, and related information should be made throughout the work day. Information sharing builds relations of trust, and demonstrates respect for the FLR's role in the assessment.

Determining Stage 3 strategies based on direction found in Section 3.3 requires engagement with FLRs who will observe and report on compliance with the technical standards and the agreed strategy. In support of this, it is expected that the consultant archaeologists will review the Stage 2 data, and the rationale for the site being assigned to a particular Table 3.1 category with the FLRs. It is not appropriate to assume that DOCA or individual FLRs have reviewed earlier reports, or additional unreported facts that may be available to the consultant.

MCFN asserts an interest in the disposition of all archaeological sites on the Treaty Lands and Territory. Determining whether an archaeological site requires Stage 4 mitigation, and the form this mitigation will take has significant consequences for archaeological resources and cultural heritage values. For this reason, DOCA must be actively engaged in the deliberations leading to Stage 3 recommendations.

Section 3.5, s. 1 sets out the requirements for engagement when formulating Stage 4 mitigation strategies. Section 3.5, s. 1(f) requires engagement for all "sites previously identified as being of interest to an Aboriginal community". MCFN have asserted the Aboriginal and Treaty right of stewardship of all archaeological resources and cultural

heritage values on the Treaty Lands and Territory of MCFN, whether or not these sites are known prior to assessment. This requirement is not limited by Section 3.5, guideline 1 which suggests that engagement in planning Stage 4 mitigation strategies is discretionary. Engagement is required in developing all Stage 3 recommendations, including recommendations that a site is considered completely documented at the end of Stage 3.

The preamble to Section 3.5 notes that:

> The avoidance and protection of sites is always the preferred approach to the Stage 4 mitigation of impacts to archaeological sites. Where Stage 4 is recommended, the consultant archaeologist will need to review the viability of Stage 4 protection options with the client.

While this text is not a standard under the S&Gs, it is important to note that these discussions hold the potential to infringe on the asserted Aboriginal and Treaty right of MCFN to act as stewards of the archaeological resources of the traditional and Treaty area. Therefore, DOCA must be provided the opportunity to participate in these discussions to ensure that the evaluation of the opportunities for site avoidance and protection were evaluated correctly, and to clarify the Stage 4 requirements alternatives. Where it is deemed necessary, the approval authority or relevant Crown agency should also be included in these discussions.

The outcomes of Stage 3 site-specific assessment include a determination of CHVI for all archaeological sites on the subject lands, and detailed recommendations for Stage 4 mitigation of development impacts, or that the site is fully documented and no further work is required (Section 7.9.4). Note that MCFN is the only party who can determine whether an archaeological site holds cultural heritage value beyond the archaeological value determined through Stage 3 assessment, and this recommendation must be subject to engagement. Reports, including the analysis and supporting data leading to the conclusions and recommendations, must be provided to DOCA for review. DOCA may choose to review the report, and it may be necessary to revise reports based on the review.

2.1.6 Stage 4 Mitigation of development impacts

Stage 4 involves the consultant archaeologist, proponent and the approval authority.

Stage 4 mitigation of development impacts may include either avoidance and protection (Section 4.1), or excavation and documentation (Section 4.2) of the archaeological site. In some cases a combination of avoidance and excavation (partial long term protection) is possible (Section 4.1.6).

During fieldwork, FLRs should be briefed daily on the work schedule for the day and overall progress of the assessment relative to expectations. A daily summary review at the end of each work day should be provided as well. Field directors should also advise FLRs when significant changes in fieldwork strategies are impending (such as decisions to begin mechanical topsoil stripping of a site) with as much lead time as possible. FLR work recording finds, features, and related information should be supported.

In avoidance and protection, FLRs will attend fieldwork for setting buffers and monitoring activity near the sites as required ensuring compliance with the S&Gs and site specific agreements. In Stage 4 excavation, engagement includes the work of FLRs who will observe and report on compliance with the technical standards found in Section 4.2 during fieldwork, and any additional requirements set out in the Stage 4 recommendations. This includes specific recommendations regarding undisturbed archaeological sites (Section 4.2.9), and rare archaeological sites (Section 4.2.10). If it was not completed at Stage 3, FLRs will advise on the necessary requirements for determining the extent of excavation. FLRs will also advise on specific practices, such as handling human remains and managing artifacts in back dirt when mechanical site stripping is employed.

The S&Gs state that the outcome of Stage 4 avoidance and protection, or excavation and documentation is a final report including a detailed account of the fieldwork, artifacts and features recovered and analyzed and a statement that the archaeological site "has no further cultural heritage value or interest" (Section 7.11.4, s. 1). It is necessary to stress that MCFN is the only party who can determine whether an archaeological site holds cultural heritage value beyond the archaeological value addressed through Stage 4 excavation.

Stage 4 excavation reports must be provided to DOCA at the time it is submitted to MHSTCI for review. Based on FLR reports or other factors, DOCA may choose to review the report for accuracy or to determine if remaining cultural heritage value is correctly identified in the recommendations to the report. Where necessary, DOCA may request that the report is revised, or communicate directly with MHSTCI and the approval authority regarding a continued interest in the property or site.

2.1.7 Long Term Protection

MCFN stewardship of archaeological resources and cultural heritage values does not end with at the conclusion of the archaeological assessment. DOCA must be engaged at Stage 4 for planning and fieldwork relating to avoidance and protection. Providing the option of participating in planning long term protection strategies, will ensure that these strategies meet MCFN's stewardship obligations and cultural expectations for the treatment of the site. This concern must be included in the long-term protection agreement / mechanism formulated under Section 4.1.4. The agreement mechanism should address access to the site for cultural purposes, and require DOCA engagement in the future whenever changes to the agreement or removal of archaeological restrictions are considered in the future.

2.1.8 Report submission and review

This task involves the consultant archaeologist, MHSTCI and approval authorities.

Reports are required for each stage of archaeological fieldwork, although Stages 1 to 3 may be combined in a single report. Archaeological assessment reports are due 12 months from the date that the PIF number was assigned. For Stage 4 reports, the report are due 18 months from the date of the PIF number was assigned. Each report submitted is screened for completeness before being accepted for review. This screening required up to 10 business days to complete, and is included within the 12 or 18 month submission period. Incomplete reports are

returned to allow the missing information to be included. MHSTCI customer service standards allow up to 60 business days for report review. Reports that have been revised and resubmitted are reviewed within 15 days. In some circumstances, a consultant archaeologist may request expedited review of specific reports on the basis of external time pressures. Where a report is submitted and an expedited review granted, the timeline for screening is 5 business days, and review is within 20 business days of clearing screening.

The ministry does not commit to reviewing all reports received. Once report packages are screened for completeness, reports are considered 'filed' with the ministry. These reports are then either entered into the Register directly, or sent for technical review by an Archaeology Review Officer (ARO). Report review triage is based on the perceived risks that may arise to the archaeological resource by deferring review. Where higher risks of adverse impact exist, the ministry undertakes a full technical review. Filed reports may also be subject to technical review at a later date, if required.[10] Regardless of review status, "mandatory standards for Aboriginal engagement remain unchanged, and [remains]… subject to ministry review. *This review includes a look at whether community feedback was considered when engagement informs the development of a mitigation strategy*" [emphasis added].[11]

Based on the foregoing, archaeological assessment reports may be submitted and MHSTCI reviews completed more than a year after the completion of fieldwork. In cases where consultant archaeologists do not engage FLRs during fieldwork, and fail to provide information on fieldwork and copies of their reports to DOCA, this delay creates an infringement on MCFN's stewardship of the archaeological resources within the Treaty Lands and Territory by limiting our ability to participate in the disposition of archaeological resources. While engagement is not a requirement of report submission and review, it is important that MHSTCI and consultant archaeologists recognize their obligation to provide this information to MCFN, through DOCA in a timely manner. It is also important that approval authorities recognize that final decisions regarding land dispositions may fall short of the Crown's duty to consult and accommodate when the submission and review process is used to conceal information about the assessment from the First Nation.

Further, DOCA reserves the right to intercede in ministry review where DOCA believes it holds information of value to the review. This information will be communicated to MHSTCI at DOCA's discretion. This is most likely to occur where DOCA believe that critical aspects of fieldwork were non-compliant with the S&Gs, where the report does not adequately reflect MCFNs stewardship objectives, or that engagement with DOCA was inadequate or misrepresented in the report. In particular, the Aboriginal Engagement Report, required in Section 7.6.2, may be reviewed to ensure that is accurately represents the engagement completed and any agreed outcomes.

[10] Additional detail is available on the MTCS website:
http://www.mtc.gov.on.ca/en/archaeology/archaeology_report_requir.shtml#developmentproponents

[11] http://www.mtc.gov.on.ca/en/archaeology/archaeology_report_requir.shtml#addresses

Table 1, below, summarizes when, who and how engagement should occur in a typical archaeological assessment.

Timing	Engagement by	Form of engagement
Draft plan review	Approval authority Proponent	Information sharing Engage DOCA when applying the Criteria for Evaluating Archaeological Potential Advise DOCA of development application and project details Agreement on FLR participation in assessment
PIF	Consultant archaeologist MHSTCI	Information sharing Engage DOCA to advise on award of contact, identification of regulatory trigger, project location, proponent information, scheduled dates for fieldwork
Stage 1	Consultant archaeologist Proponent	Information sharing Engage DOCA on background study (Section 1.1, g. 1, bullet 3; Sec. 1.3.1, bullets 5 – 8; Sec. 1.4.1, g. 1) FLRs may attend Stage 1 property inspection
Stage 2	Consultant archaeologist Proponent	Facilitate FLR engagement and field review of S&G compliance, cultural inputs. Engage DOCA in review of analysis leading to proposed recommendations (Sec. 2.2, s. 1(b)(e); Section 2.2, g. 1)
Stage 3	Consultant archaeologist Proponent Approval Authority	Engage DOCA on historical documentation (Sec. 3.1, s. 1(a), 1(b) and 1(e)) Facilitate FLR engagement and field review of compliance with standards in Sections 3.2 and 3.3 Engage DOCA on Section 3.3 decisions, and analysis (Sec. 3.4, s. 1(a), s. 2, and Sec. 3.4.1, g. 1) Engage DOCA on application of criteria and indicators in Section 3.4.3, Table 3.2 Work with DOCA when formulating Stage 4 strategies (Sec. 3.5, s. 1(f), g. 1) Include DOCA in the Section 3.5 “viability review” of Stage 4 avoidance and protection options with proponent
Stage 4	Consultant archaeologist Approval Authority Proponent	Facilitate FLR engagement and field review of compliance with standards Engage DOCA on long term protection strategies, protection and cultural access considerations
Report review	MHSTCI	DOCA may advise MHSTCI of any concerns with fieldwork, engagement, reporting or recommendations DOCA may advise MHSTCI of concerns with Aboriginal engagement report.

3.0 Compliance

Stewardship of archaeological resources and cultural heritage values within the Treaty Lands and Territory includes support for the technical guidance provided in the S&Gs. In this section, existing direction in the S&Gs is presented in relation to MCFN's archaeological resource stewardship objectives. In most cases, the direction is for compliance with existing standards. In others, additional detail or new direction is offered where increased effort in archaeological assessment will benefit the archaeological resource and address MCFN concerns.

It is important to note that MCFN's stewardship of resources extends to *all* archaeological resources and cultural heritage values within the Treaty Lands and Territory, regardless of CHVI or whether or not these sites are known to archaeologists or the ministry prior to assessment. Compliance with the S&Gs requires that MCFN is engaged and afforded the opportunity to consider the cultural heritage value or interest of all archaeological resources encountered during assessment, prior to defining a subset of these resources as 'artifacts' and 'archaeological sites'.

It is also important to note that the rules set out by the Funeral, Burial and Cremation Services Act regarding human remains should not be seen as overriding MCFN's assertion that all human remains are important and sacred, and must be subject to special consideration and treatment. All remains, including those not immediately identifiable as being associated with a burial or grave location should be considered to mark interments until archaeological evidence demonstrates otherwise.

3.1 MHSTCI Standards and Guidelines Stage 1

The S&Gs state that the purpose of the Stage 1 background study and property inspection is to gather and analyze information about the geography, history and current condition of a property, and to obtain information on prior archaeological fieldwork on or adjacent to the property. This data, including field observations of current conditions, is used to evaluate archaeological potential. This evaluation provides support for recommendations requiring Stage 2 assessment of all or parts of the property, including appropriate fieldwork strategies.

A thorough understanding of the full range of potential archaeological resources and cultural heritage values that may be present on a property is impossible without engagement.

3.1.1 Section 1.1[12]

Within the Treaty area, MCFN must be engaged as part of the Stage 1 background study for all archaeological assessment projects carried out within the Treaty Area. This requires that S&Gs Section 1.1, guideline 1, bullet 3 is

[12] The subsection headings are in reference to the section of the MTCS S&Gs that are being discussed.

treated as a *standard* within the Treaty Area. The guideline states, in part, that the background study "may also include research information from … Aboriginal communities for information on possible traditional use areas and sacred and other sites on or around the property…" For the purpose of Stage 1 engagement, it is important to note that DOCA is not simply a source of research information, but should be viewed as a partner to the development of a comprehensive background study for the archaeological assessment.

In order to develop this partnership, consultants conducting background research on a property should conduct thorough documentary research at Stage 1. This may result in research products that not only address the requirements of the S&Gs, but also make a positive contribution to archaeological and cultural heritage research within the Treaty Area. This contribution may be in various forms, including new insight into archaeological research, historical occupations, or Anishinaabe place names on or near the subject lands.

For the purpose of developing a reasonable perspective on cultural practices and traditional use overlying the subject property it may be necessary to take a broader view of the surrounding landscape for context. For example, areas where numerous small archaeological sites have been recorded may need to be evaluated in aggregate within the wider landscape to determine if they are arrayed along a travel route. Similarly, areas of low site density within wider landscapes of generally high densities should be evaluated to determine whether the distribution is based on the quality of effort in past archaeological assessments that may have skewed available site data, or earlier cultural phenomena. Review of archaeological reports from areas beyond the recommended 50m radius is encouraged (Section 1.1, s. 1, bullet 2).

Notwithstanding the limiting nature of the language used in Section 1.1, guideline 1, bullet 3, MCFN assert that Stage 1 engagement should address all archaeological resources and cultural heritage values that may be present on the property. This approach better reflects the understanding that archaeological sites do coexist with places of sacred or spiritual importance, traditional use, or that are referenced in oral histories. Data relevant to Section 1.1, guideline 1, bullets 8 – 12 require engagement, and the results incorporated into the assessment report.

The timing and integrity of the approach to DOCA for background information will be recorded in the project file.

3.1.2 Section 1.2

The direction in this section applies as written.

3.1.3 Section 1.3 Analysis and Recommendations: Evaluating archaeological potential

S&Gs Section 1.3.1 provides general direction on evaluating archaeological potential. Features of archaeological potential are presented as a bullet point list, with no ranking of features. Bullets 1 – 4 are physical landscape characteristics that can be evaluated using maps or field observation. Bullet 9 concerns municipal or provincial designation and this can also be determined using available documentation.

Bullets 5 – 8 and 10 include information that will be available only through engagement. Specifically, "special or spiritual places" (bullet 5), or "resource areas" of value to the Nation (bullet 6) cannot be determined solely on the

basis of physical indicators. Further, historical settlement features described in bullets 7, 8 and 10 should not be construed as automatically describing European settler landscape elements, given the continuous and ongoing occupation of the Treaty area by Anishinaabe people.

In some areas, archaeological potential models or archaeological master plans are the basis for determining the requirement for assessment. As these models / plans are renewed, DOCA will seek engagement to ensure that the datasets considered in the development of the model / plan, and the output produced is a reasonable representation of archaeological site distributions and MCFN traditional use within the Treaty Lands and Territory.

3.1.4 Section 1.4.1

Section 1.4.1 describes the process for reducing the area that will be subject to Stage 2 test pit survey.

For areas that will be test pitted, reporting on Section 1.4.1, s. 1(c) (iii) and (iv), and Section 1.4.1, s. 1(e) (iii) and (iv), must clearly articulate how MCFN input was gathered and considered in the evaluation of potential.

DOCA must be engaged in the evaluation that leads to a reduction in areas to be subject to test pit survey. This requires treating S&Gs Section 1.4.1, guideline 1 as a *standard*. The guideline states, in part, that "the consultant archaeologist may wish to engage with Aboriginal communities to ensure there are no unaddressed cultural heritage interests".

In other cases, the area to be examined at Stage 2 may be increased to incorporate MCFN input, as described in the MHSTCI Bulletin on Engaging Aboriginal Communities, Section 3.3.

3.1.5 Stage 1 reporting

For Stage 1 assessment reports, the direction found in Sections 7.5.1 to 7.5.12, and 7.7.1 to 7.7.6 applies as written, with the following exceptions, additions or clarifications.

The results of the research conducted for the background study must be reported in the Stage 1 assessment report. Section 7.7.1, s. 1 states that the research must be clearly described and information sources documented. The report content must also clearly demonstrate that the standards for background research were met.

In addition to the Aboriginal engagement documentation required by Section 7.6.2, it will be necessary to provide a clear and accurate report of the information obtained through engagement, and how it was applied to the assessment functions required by Sections 1.1, 1.3 and 1.4.1.

3.2 MHSTCI Standards and Guidelines Stage 2

The S&Gs state that the purpose of the Stage 2 property assessment is to inventory the archaeological resources on a property, and to determine "whether any of the resources might be artifacts and archaeological sites with cultural heritage value or interest". The distinction between archaeological resources, on the one hand, and artifacts and archaeological sites on the other derives from the definitions found in O.Reg. 170/04.

Section 2 of the S&G set out the *minimum* standards for fieldwork at Stage 2. The standards form the basis for professional practice in archaeological assessment. As such, MCFN expect strict compliance with the standards for assessments undertaken within the Treaty Area. As most of the standards are quantitative targets, FLRs will assist consultant archaeologists in meeting compliance expectations, and can collect data on the conditions that led to the exercise of professional judgment to deviate from the standards. Planned deviation from the standards, based on professional judgment and permitted by the S&Gs should be discussed as part of the ongoing engagement with DOCA, and described clearly in resulting reports.

3.2.1 Section 2.1

Section 2.1 sets out the technical requirements for Stage 2 property survey, including pedestrian survey (Section 2.1.1), test pit survey (Section 2.1.2), intensification when archaeological resources are identified (Section 2.1.3), and fieldwork under special conditions (Sections 2.1.4 to 2.1.9).

The direction in Section 2.1 sets out the general and specific *minimum* requirements for Stage 2 fieldwork and analysis. The direction in this section applies as written. DOCA will work with proponents to ensure that FLRs participate in fieldwork to assist in meeting compliance with the standards.

3.2.2 Section 2.2

Section 2.2 sets out the process for determining whether archaeological resources hold cultural heritage value or interest and require further assessment at Stage 3. Notwithstanding the limiting nature of the language used in the Section 2.2 preamble (box text), Stage 2 analysis must address all archaeological resources present on the property. Engagement must address MCFN's stewardship interest in the archaeological resources and cultural heritage values on the property before final recommendations are formulated.

The fieldwork requirements of Stage 2, including intensification when resources are identified must be completed prior to analyzing the results of fieldwork and determining the CHVI of the resources. This determination should not be made 'on the fly' in the field, especially as MCFN have asserted an interest in all archaeological resources within the Treaty area. DOCA may choose to review FLR reports compiled during Stage 2 fieldwork to ensure that the data used in addressing Section 2.2, s. 1, and guidelines 1 to 4 was compliant with the S&Gs and supports the conclusions drawn.

It is important that the direction in Section 2.2, s. 1 is carried out in the context of the local or regional archaeological record. The report of the analysis must include a review of typical or expected artifact densities for sites of different time period or ascribed function regionally.

To clarify Section 2.2, s. 1(b), Stage 3 assessment is required when human remains are identified on a property. For the purposes of compliance with this direction, all human remains, regardless of element or quantity (including fragments, teeth, phalanges, etc.) must be recommended for Stage 3. This direction should not be construed as conflicting with, or limiting the requirement to comply with the Funeral, Burial and Cremation Services Act (SO 2002, c. 33). FLRs will advise on the treatment of the remains.

In Section 2.2 there are a number of considerations that must be taken into account when evaluating the cultural heritage value or interest of an archaeological site, such as the representativeness of the sample obtained through Stage 2 fieldwork. For example, a single artifact recovered from an average test pit may represent an artifact count equal to or higher than the 'cut-off' proposed for excavation in Stage 3 and 4 directions. Similarly, CSPs conducted under sub-optimal conditions will present a reduced certainty that the sample collected is representative. Reports maintained by FLRs during fieldwork can assist in ensuring that places where additional data, or corrected conclusions may be required.

In the discussion of Stage 1 guidance, it was noted that MCFN hold the view that archaeological potential needs to consider factors beyond the simple presence or absence of artifacts to include landscape considerations and the understanding of how ancestral populations used the land and the resources available. Similarly, in determining cultural heritage value or interest of archaeological resources, it is important to move beyond artifact counts. Highly mobile populations would not necessarily leave extensive and artifact rich sites behind. Analysis of archaeological resources should include the consideration of all archaeological resources as potentially informing the reconstruction of Anishinaabe history, with individual small sites analyzed in aggregate to reflect use of the broader landscape. To clarify, this direction directs the exercise of professional judgment as described in Section 2.2, guidelines 2 and 3 to recommend Stage 3 for low artifact count sites.

3.2.3 Stage 2 reporting

For Stage 2 assessment reports, the direction found in Sections 7.5.1 to 7.5.12 and 7.8.1 to 7.8.7 applies as written, with the following exceptions, additions or clarifications.

Section 7.8.1, s. 1 sets out the documentation requirements for areas *not* surveyed at Stage 2. For areas determined to be of no or low potential at Stage 1, a summary of the engagement on this evaluation must be included. For areas determined during Stage 2 fieldwork to hold low potential, a statement must be provided confirming that the decisions were taken in consultation with DOCA. Specifically, the statement should address the information and reasoning used in the field to satisfy the direction in Section 2.1, s. 2 (a), (b) or (c), confirm that FLRs were advised, and that their input was considered, as part of the decision making.

Section 7.8.1, s. 2 sets out the documentation requirements for Stage 2 property assessment generally. It is recommended that any available DOCA file reference for the project is included in the documentation. Any difference in opinion on fieldwork practices between the consultant archaeologist and FLRs that relate to standards set out in Sections 2.1, 2.1.1 and 2.1.2 should be summarized, including decisions to reduce the area surveyed (Section 7.8.1, s. 2 (c) and (d)).

Section 7.8.3 requires a summary of Stage 2 findings, including a clear statement concerning the assessment of the entire property and each archaeological site. The summary required in Section 7.8.3, s. 1 must include a discussion of all archaeological resources, including those which were determined to hold low CHVI and were not recommended for further assessment. In addition, the analysis and conclusions required in Section 7.8.3, s. 2 must

include a summary of DOCA engagement or FLR input as applicable. This should summarize the nature and timing of the engagement, the data provided in support of the discussions, and the input received from DOCA.

Section 7.8.2 requires that non-archaeological cultural heritage features, including cultural landscapes should not be documented. As noted in comments made in reference to Section 1.3 and Section 2.2, archaeological sites must be considered in their broader landscape context. The direction in Section 7.8.2 must not be seen as limiting the inclusion of landscape or cultural heritage considerations used in building a complete and accurate understanding of the development property or archaeological resources requiring additional assessment. For example, the discussion of archaeological sites identified at Stage 2, Section 7.8.2, s. 1(b) requires a description of the "area within which artifacts and features were identified", which may extend to wider landscapes as necessary.

Notwithstanding the direction of Section 7.8.4, s. 2, recommendations for Stage 3 assessment must include a requirement to consider the landscape context of archaeological sites, as appropriate.

Recommendations made in the Stage 2 report set out how all archaeological resources identified on the subject property will be addressed. Stage 3 strategies for sites with CHVI (Section 7.8.4, s. 1(c)), must include recommendations for engagement and FLR participation in fieldwork among the "appropriate Stage 3 assessment strategies".

Section 7.8.5, s. 1 recommendations for partial clearance must include requirements for engagement and including FLRs in excavation and monitoring.

3.3 MHSTCI Standards and Guidelines Stage 3

The purpose of Stage 3 site-specific assessment is to assess the cultural heritage value or interest of archaeological sites identified at Stage 2 in order to determine the need for mitigation of development impacts. The two key components to Stage 3 site specific assessment are historical research and archaeological site assessment. The outcome of Stage 3 is a clear understanding of whether each site has been sufficiently documented, or if further work is required to protect or fully document the site.

The direction in Section 3 of the S&Gs set out the *minimum* standards for additional background research and for fieldwork at Stage 3. While efforts in excess of the S&Gs are supported, strict compliance with the standards will be expected. DOCA will work with proponents to ensure that FLRs participate in fieldwork to assist in meeting compliance.

Stage 3 also includes a significant engagement component, and DOCA will serve as the primary contact for archaeologists and proponents. Engagement is specifically required as a standard in compiling additional historical documentation (Section 3.1, s. 1(a) and 1(b)), in the evaluation of CHVI (Section 3.4, s. 2), and in formulating Stage 4 strategies (Section 3.5, s. 1). As noted previously, MFCN assert that all archaeological sites should be considered as being of interest to the Nation (Section 3.5, s. 1(f)).

3.3.1 Section 3.1 Historical documentation

Section 3.1 sets out the requirements for additional research to supplement and expand the research carried out in Stage 1. The additional documentary information must be considered in Stage 3 and Stage 4 fieldwork and analysis. Documentary research should be sufficient to ensure that the consulting archaeologist has a good understanding of the recent occupation history, as well as clear knowledge of the landscape and traditional occupation of the local landscape surrounding the site.

Section 3.1, s. 1(a) requires that, "when available", research regarding "features or information identifying an archaeological site as sacred to Aboriginal communities" is completed. Further, Section 3.1, s. 1(b) requires research relating to "individuals or communities with oral or written information about the archaeological site". To meet the requirements of this direction, MCFN expect that research will be commenced as part of the Stage 1 background study, will require engagement, and in reporting should reflect a serious effort to identify information relating to the local area, property, or site especially as it pertains to past occupation by Mississauga or other Indigenous peoples. As part of the background research, Section 3.2, s. 1 requires that the consultant archaeologist review "all relevant reports of previous fieldwork" prior to commencing fieldwork. If a new licensee assumes responsibility for the archaeological assessment at Stage 3, this review must include contacting DOCA for a summary of engagement and FLR reports on Stage 1 and 2.

3.3.2 Section 3.2

Section 3.2 sets out the standards for Stage 3 site-specific assessment fieldwork, including controlled surface pickup (Section 3.2.1) and test unit excavation (Section 3.2.2). Section 3.2. 3 and Table 3.1 describe the how the number and distribution of test units is determined.

The direction in this section applies as written, with the exceptions, additions or clarifications noted below. In all instances, DOCA will work with proponent to ensure that FLRs are available to support compliance during fieldwork.

The identification and treatment of features encountered at Stage 3 is discussed in Section 3.2.2, s. 6. Feature identification should be conservative, as it is preferable to overestimate the number of features at Stage 3, rather than lose data or create complications for fieldwork at Stage 4. On sites where a high proportion of the features appear equivocal as to cultural origin (forest fire or hearth?), these features must be preserved, and a sample excavated and reported at Stage 4 to create a record for the benefit of future archaeological fieldwork. Alternately, this sampling can be completed under the direction in Section 3.2.2, g. 3.

Selecting screen aperture during Stage 3 fieldwork (Section 3.2.2, guideline 1), should also take a conservative approach. The consultant archaeologist should exercise professional judgment and move to screening with 3mm mesh whenever small artifacts (seed beads, retouch flakes) are anticipated or noted.

Section 3.2.3 and Table 3.1 set out the technical requirements for placement and number of test units. Critical to the success of Stage 3 fieldwork is establishing site boundaries. Site boundaries must be set beyond the edge of

the artifact concentration, plus a reasonable buffer within which solitary artifacts separated from the main site by post-depositional disturbance may be anticipated. While the guideline (Section 3.2.3, guideline 1) allows for discretion in determining site boundaries, determining boundaries on the basis of low artifact frequency (guideline 1(b)), or typical site characteristics (guidelines 1(c) and 1(d)), must be supported by both data and a clear rationale. For example, determining that a site boundary can be set based on "repetitive low yields" requires additional testing beyond this boundary to ensure that additional concentrations not identified at Stage 2 are recorded. Low yields at the periphery of a site may indicate a weakly defined boundary, but may also represent a much larger, diffuse site marking a low intensity, repeated occupation of a place.

Sterile units mark the boundary of archaeological sites, clearly demonstrating that no further archaeological resources occur within a reasonable distance from the site boundary. It is recommended that sterile units to *at least* ten meters from the site area (i.e. two consecutive sterile test units on the five meter grid), are recorded. This will ensure that isolated sterile units marking a low-count region within a site are misattributed as marking the site boundary. In reporting, the decisions made regarding site boundaries, including the rationale and supporting data should be clearly documented. This summary should note the input received from FLRs.

3.3.3 Section 3.3

Section 3.3.1 describes alternative strategies for determining the extent and complexity of large (Section 3.3.1 and 3.3.2) or deeply buried archaeological sites (Section 3.3.3).

The direction in this section applies as written, with the following exceptions, additions or clarifications. DOCA will work with proponent to ensure that FLRs are available to assist with compliance during fieldwork.

Section 3.3.2 outlines an optional strategy of using topsoil stripping to determine site boundaries, and is not the preferred approach to excavation by MCFN. It is necessary to note that mechanical topsoil removal is not intended to be applied within the site area. Mechanical excavation must begin outside the archaeological site boundary working in toward the centre (Section 3.3.2, s. 3), and must be suspended once cultural features or the previously mapped extent of surface artifacts is encountered (Section 3.3.2, s. 4).

Prior to scheduling mechanical stripping, the consultant archaeologist must establish an on-site protocol for the proposed mechanical stripping with FLRs. The protocol must confirm the extent of the site as determined by artifact distributions and test unit results to establish where trenching will commence and be suspended. The protocol must also cover terminating or suspending trenching when artifacts or features are identified, and for treating cultural features in subsoil, and artifacts from disturbed soil or back dirt, including how back dirt will be processed to recover artifacts from excavated soil.

3.3.4 Section 3.4

Section 3.4 provides direction on how the information gathered in the archaeological assessment up to the end of Stage 3 fieldwork is used to assess the CHVI of each archaeological site. In turn, CHVI will determine whether the site is sufficiently documented, or if Stage 4 mitigation of development impacts is required.

To comply with the requirements of Section 3.4, consultant archaeologists must work with DOCA to determine CHVI and Stage 4 mitigation strategies for each site. This requires that concise documentation demonstrating that the site has been assessed to the level of care set out in the S&Gs is provided in a timely manner, and that any concerns previously expressed by DOCA or individual FLRs were addressed. The documentation should include the historical background research conducted in Stage 1 and Stage 3, a record of engagement with DOCA, and a summary of the artifact and site analysis. DOCA may also review FLR reports on fieldwork, or determine if band members hold specific or general knowledge of the site or development property. In the absence of earlier engagement, it may be necessary to provide additional resources to support the DOCA review.

The S&Gs state that Stage 4 mitigation is required for specific classes of site, including "…sites identified as sacred or as containing burials" (Section 3.4, s. 1(a)). Sites of sacred or spiritual importance may include places on the landscape that do not contain archaeological resources in sufficient quantity to allow a clear determination of the site's CHVI. Alternately, ceremonial space may be clearly expressed through the features and objects recovered archaeologically. Burial sites, graves and human remains (including isolated elements) must also be considered sacred. As reflected in Section 3.5, s. 1(b), all human remains require special treatment. They are culturally important as they may represent interments or signal a sacred or spiritual value at the site. Ultimately, MCFN is the only party who can determine whether an archaeological site is sacred to the Nation, and as such, DOCA must be engaged.

The description of 'sacred' sites in the S&Gs is limiting. Sacred sites may include sites of cultural or historical importance, places associated with traditional land use or activities, or places features in traditional narratives (Section 3.4, s. 2). In most cases, 'sacred' sites will be those identified by the Nation, and FLRs will be the source of much of this information. Where specific knowledge of an individual archaeological site does not exist in the Nation's current knowledge base, the CHVI of the site may be co-determined by the Nation and consultant archaeologist.

Note that the underlying cultural interest in a site or development property, or the basis of the identification of sacred or spiritual places will not be disclosed in all cases. The Nation will not assume the position of research subject.

Small or diffuse lithic scatters must not be automatically determined to hold low CHVI (Section 3.4.1). Anishinabeg traveled extensively throughout the Treaty area and beyond, and one aspect of this lifestyle was traveling light, with individuals and groups carrying only a small amount of material goods. As a result, loss rates were low and the archaeological sites associated with this cultural pattern will be smaller, low artifact count sites. Therefore, small sites with low artifact frequencies may hold a higher cultural significance than would be determined on the basis of artifact count. The analysis of small sites requires consideration of the wider landscape setting of the site and relationship to other local sites. For many of these smaller sites it is recommended that the consultant archaeologist exercise professional judgment, and follow the direction in Section 3.4.1, guideline 1(c).

Section 3.4.3 provides additional criteria for determining CHVI of individual archaeological sites. For archaeological sites in the Treaty area, the criteria in Table 3.2 must be reviewed by the consultant archaeologist to determining CHVI and formulating Stage 4 strategies. The consulting archaeologist must clarify in reporting how each of the criteria is or is not met for the archaeological site.

In terms of the 'information value' of a site, consideration of the related indicators must look beyond the concept of archaeological information, to include consideration of how the information contained in the site can contribute to building a more complete history of cultural and traditional land use patterns within the Treaty area.

3.3.5 Section 3.5

Developing Stage 4 mitigation strategies requires engagement at Stage 3 (Section 3.5, s. 1). This engagement should be the culmination of an ongoing engagement that began at Stage 1 (or earlier). Engagement will include contributing to the "careful consideration" leading to a decision to excavate, as required in Section 3.5, s. 2, and to document any "unusual circumstances" indicated in Section 3.5, s.3.

Contrary to the presentation in the S&Gs, the recommended Stage 4 strategies *must* reflect MCFN input. For compliance with Section 3.5, s. 2, documentation must include records of all communications, meetings, presentation materials, and resolutions arrived at between the consultant archaeologist and DOCA, and between the consultant and the proponent where mitigation was discussed. Where the recommended strategy is at variance with MCFN's position, the basis for the decision must be clearly articulated in the final report of Stage 3 fieldwork.

Some sites, where Indigenous occupation is not indicated by Stage 1 to 3 assessments, may be excluded from engagement by mutual agreement.

The formulation of Stage 4 strategies must anticipate operational decisions that may be made during Stage 4. Section 4.2.1, g. 1, allows for sampling strategies to reduce the "degree or intensity of the archaeological fieldwork". Incomplete excavation of an archaeological site promotes archaeological interests over the stewardship interest of MCFN. Sampling must only be considered after a detailed review of the sampling strategy and potential consequences for information recovery from the site is completed. Details of the proposed sampling strategies must be described in detail in the recommendations to the Stage 3 report, and the justification and research supporting the recommendations should be clearly articulated in the analysis and conclusion sections. Stage 4 recommendations should also provide a specific commitment to engage DOCA when sampling decisions are made in the field, including a time allowance to consider the decision, and a process for incorporating DOCA input into the decision making.

3.3.6 Stage 3 reporting

For Stage 3 assessment reports, the direction found in Sections 7.5.1 to 7.5.12 and 7.9.1 to 7.9.7 applies as written, with the following exceptions, additions or clarifications.

The description of the field methods required in Section 7.9.1, may be supplemented by reference to the FLR reporting on the fieldwork, as applicable.

Section 7.9.3, s. 3 requires that the analysis and conclusions of the report are compared to current archaeological knowledge. This must include current research, and not simply rely on other consulting reports and standards references. In addition, this research must consider the direction set out in this document, and the results of engagement. Section 7.9.4, s. 1(a) requires that reporting on Section 3.5 include a discussion and summary of engagement. A clear and detailed discussion of engagement is required in Section 7.9.4, s. 2, and this discussion must include the rationale for proposing any actions that is contrary to the stated position of DOCA. For example, decisions made to excavate or terminate an assessment (Sec. 7.9.4, s. 3 or s. 5), where that differs from the DOCA position, then a clear statement of this difference, including the dissenting position, must be provided in the report.

3.4 MHSTCI Standards and Guidelines Stage 4

Archaeological sites holding cultural heritage value or interest require Stage 4 mitigation of development impacts. Impacts may be mitigated by either avoidance and protection, or excavation and documentation. Avoidance and long term protection is the preferred approach to mitigation. Avoidance allows the archaeological site to be preserved intact for future use as an archaeological resource and cultural heritage value in addition to preserving a range of material and intangible values not directly recoverable through the application of archaeological techniques.

The S&Gs articulate that avoidance and protection are "most viable when the cultural heritage value or interest of the archaeological site is determined early in the planning stages of the development". This supports the position taken in this document that early engagement with DOCA is beneficial for all parties to the assessment, and to the archaeological resource.

3.4.1 Section 4.1 Avoidance and Protection

The direction in Section 4 sets out the general and specific *minimum* requirements for Stage 4 fieldwork and analysis. The direction in this section applies as written, with the following exceptions, additions and clarifications. DOCA will work with proponents to ensure that FLRs participate in fieldwork to assist in meeting compliance.

Section 4.1, s. 1 requires that protection must follow completion of Stages 2 and 3. Where DOCA has not been engaged previously on the assessment, the process permitted under Section 4.1 is considered premature and must not proceed. This also applies in cases where the Stage 3 engagement is ongoing, or if a response to a concern raised by DOCA to MHSTCI or some other party to the development process has not been received.

The buffers signified in Section 4.1, s. 2 are minimums. Larger buffers based on local topographic or development conditions must be identified where they will enhance long-term protection. Elements of the surrounding landscape beyond the minimum buffers should be adapted into the protection area to ensure that the site

remains in a naturalistic setting. This requires working with the proponent and the approval authority early in the process to build agreement in principle with the idea, and to facilitate moving to a satisfactory outcome. In a similar manner, where a number of sites are present in close proximity, protection strategies that include protection of a larger area enclosing all of the sites should be considered.

Section 4.1.3 concerns temporary avoidance. The standard requires that the commitment from the proponent that "the archaeological site will not be impacted in the short term, and a plan to carry out full excavation in the future" is included in the report package. The avoidance and protection strategy requires approval authority agreement. DOCA must be provided with notice of the temporary avoidance and protection strategy and excavation timeline, and provided an opportunity to comment.

Section 4.1.4 concerns the mechanisms required to ensure effective long term protection of the archaeological site. The avoidance and protection strategy must include DOCA engagement, and an opportunity to participate in the long term protection. MCFN has the capacity to provide stewardship and oversight to the long term protection of archaeological sites beyond that provided by other corporate bodies and municipalities; therefore DOCA must be included in the drafting of long term protection mechanisms.

Section 4.1.4, s. 1 directs that the protection mechanism "sets out how protection of the archaeological site is to be addressed as a prerequisite to any proposed removal of the archaeological restrictions on the land in the future". The mechanism must recognize the Treaty rights and the stewardship role of MCFN, and require engagement regarding any future review of the protected status of the archaeological site for development or excavation. This recognition must form part of the long-term protection mechanism, and should not be part of a sub-agreement or other agreement that may not continue in force over time.

The identified restrictions on uses of the archaeological site (Section 4.1.4, s. 2) must not prohibit or infringe the right of MCFN to carry out any cultural or ceremonial activities that may be required. MCFN stewardship and DOCA participation in any future work at the site must be referenced in the "document confirming… awareness of" obligations for the archaeological site required in Section 4.1.4, s. 3.

3.4.2 Section 4.2 Excavation

Section 4.2 sets out the requirements for excavation and documentation. As the introduction to Section 4.2 states, "protection in an intact state is always the preferred option" for archaeological sites with CHVI. The S&Gs confirm that conversion of archaeological sites into archaeological data results in the "loss of contextual information". As noted previously, archaeological techniques are insufficient to capture the range of cultural heritage values the archaeological site may contain, including intangible values such as the sacred or spiritual elements that are referenced throughout the S&Gs. Nevertheless, conflict between contemporary development pressures and archaeological sites inevitably leads to a large proportion of archaeological sites being scheduled for destruction.

The direction in Section 4.2 sets out the general and specific requirements for Stage 4 fieldwork and analysis. The direction in this section applies as written, with the following exceptions, additions and clarifications. Within the

Treaty Lands and Territory, FLRs must participate in fieldwork, and will assist in meeting compliance. Stewardship of the archaeological resources and cultural heritage values require that archaeological sites will be completely excavated by hand (i.e. no mechanical topsoil stripping) and artifact recovery will be maximized, when excavation and documentation is considered the only mitigation alternative.

Before commencing fieldwork, the consultant archaeologist is required to review "all relevant reports of previous fieldwork" (Section 4.2.1, s. 2). If a new licensee assumes responsibility for the archaeological assessment at Stage 4, this review must include a review of engagement from the preceding stages. This review should also include reports of fieldwork on adjacent properties or the local area for context.

Section 4.2.1, g. 1 allows for sampling of archaeological sites "as a means of reduc[ing] the degree or intensity of archaeological fieldwork while still accomplishing the objectives for Stage 4 excavation". Sampling must be pursued with caution, in limited instances and following a detailed review of the strategy and potential consequences to archaeological and cultural data recovery. Sampling is generally only acceptable where it has been recommended in the Stage 3 report, and had been a focus of engagement.

Section 4.2.2 concerns excavation by hand. The preamble to Section 4.2 states, "All archaeological sites for which Stage 4 excavation is carried out…must be excavated partly or completely by hand. Hand excavation is the preferred method for removing topsoil because topsoil stripping destroys any evidence of later site formation processes and leaves behind displaced artifacts". This clarifies that hand excavation is preferred, and signals a concern that stripping may lead to archaeological data and features being overlooked or artifacts left behind at the site. The section continues, stating that on completing Stage 4 excavations "the site no longer exists in the ground [and] archaeological concerns under land use planning and development processes can be considered addressed". This creates the uncomfortable outcome that archaeological data, artifacts and other cultural heritage objects may remain at the location after the site has been declared to no longer exist. This loss of site context and artifacts compound the cumulative impact to cultural heritage values of importance to MCFN and other indigenous communities.

Mechanical topsoil stripping is discussed in Section 4.2.3. As the S&Gs note, "the rationale for topsoil stripping is that the careful documentation of intact archaeological resources…offsets the loss of fragmentary information in the topsoil layer". Mechanical stripping presents considerable risk to archaeological resources and must be considered an exceptional practice in the absence of a compelling rationale. Any proposal to mechanically strip a site must be a key topic of discussion during engagement at Stage 3. FLRs will be available to advice in the field on compliance with the S&Gs and any agreements reached in engagement.

As set out in the S&Gs, mechanical topsoil stripping is only acceptable under specific circumstances (Section 4.2.3). The archaeological site must have been subject to ploughing for many years, be a single component site, be "large", be a Woodland period site or later, and there must be a representative artifact collection from Stage 2 and Stage 3 surface collection and test unit excavation. Analysis of earlier fieldwork must be completed to the point where the site can be demonstrated to be a single component.

The judgment on the size of the site and adequacy of the artifact collection, and whether the site represents a single component, must be discussed in the Stage 3 report and raised during engagement. During fieldwork, stripping must not extend below the topsoil/subsoil interface (Section 4.2.3, s. 3), and only the area that can be cleared and examined at the time of stripping should be exposed (Section 4.2.3, s. 4). It is critical that the Stage 4 recommendations and on-site protocols support the role of FLRs in identifying compliance shortfalls during mechanical topsoil stripping. Work at variance with the S&Gs must be stopped as soon after being identified to the project archaeologist or field director as possible.

Section 4.2.4 provides direction on the excavation of Woodland period archaeological sites. This direction notes that Woodland sites are 'usually' excavated using a combination of hand and mechanical excavation. As mechanical topsoil stripping increases the risks to archaeological sites, use of the technique must be limited and justified on a site by site basis. It is strongly recommended that the area mechanically excavated is minimized, with hand excavation expanded beyond the limits set out in the S&Gs (Section 4.2.4, s.1, and 4.2.4, s. 5, augmented by guidelines 1 to 3). In all instances of mechanical topsoil stripping, provision for recovering any artifacts displaced to back dirt piles must be made. It is preferred that back dirt is screened to facilitate full artifact recovery.

For large lithic scatters and lithic quarry sites, compliance with Sections 4.2.5 and 4.2.6 will require that Stage 3 analysis is complete prior to engagement, and that the results of analysis are provided during engagement with DOCA. When finalizing the Stage 4 recommendations and strategies for Stage 4, (specifically Sec. 4.2.5, s. 1(b) and Sec. 4.2.6, s. 2), this analysis must be available, meaning that the Stage 3 results must have been analyzed from this perspective.

Requirements for the treatment of undisturbed archaeological sites are described in Section 4.2.9. The preamble of the section states that "every effort must be made to ensure" that undisturbed sites are avoided and protected. Further, "any recommendation to excavate must have been made in consideration of feedback from engagement…and a careful review of the viability of preservation options". MCFN support avoidance and long term protection of archaeological sites, and are emphatic that consultant archaeologists advocate strenuously that undisturbed sites are protected from adverse impact, including excavation. All undisturbed sites must be brought to the attention of DOCA as early in the assessment process as possible, and engagement on the Stage 4 recommendations for the site is required. FLR reports concerning earlier stages of fieldwork, and specifically indications of past disturbance, may be reviewed to ensure that undisturbed sites are appropriately represented in Stage 3 deliberations.

Undisturbed sites that cannot be avoided and protected must be completely excavated by hand. FLRs will be available to support compliance with the direction on excavating undisturbed sites. This will include ensuring that the additional units indicated in Section 4.2.9, s. 4 are sterile, and that features are investigated as directed in Section 4.2.9, s. 5. While not specified in the S&Gs, recording and collecting non-diagnostic artifacts and informal tools, collection must be to 0.25m^2 quadrant and level at a minimum. As with the direction on undisturbed sites, developing a mitigation plan for rare archaeological sites (Section 4.2.10) will require engagement and FLR participation in fieldwork.

3.4.3 Section 4.3

The goal of excavation and documentation is complete recovery of the archaeological information contained within the site. Sampling suggests that the contents of sites are generally consistent between sites, and that the information potential of any given site is predictable. However, this gives the impression that the site being assessed is of a lesser value than those that have been excavated previously. Cumulative effects to the overall archaeological record will accrue under this process, and shortcomings of historical research amplified. This perspective may also lead to acceleration in the rate of site loss over time, and excavated collections are increasingly viewed as additional and redundant data. For these reasons, sampling or reducing the extent of excavation at Stage 4 should only be pursued under exceptional circumstances, and then only after detailed research to support the decision to sample has been completed and presented in engagement. In all cases, excavation must include units within a 10m buffer (at Stage 3 or Stage 4) surrounding the site to ensure that site boundaries are accurately located and unit-yield counts do not increase in adjacent areas.

Table 4.1 in Section 4.3 of the S&Gs provides direction on determining the extent of Stage 4 excavations. In hand excavation, the unit-yield serves as an indicator of when the limits of a site have been reached. Units with fewer than 10 artifacts per unit mark the boundary of the site. Excavation must continue where at least two formal or diagnostic artifacts, fire cracked rock, bone or burnt artifacts are present. In the interest of complete recovery and correct boundary placement, it is recommended that excavation continue for at least two contiguous units at low counts (<5) before the site boundary or limits to excavation are declared.

Table 4.1 also provides direction for undisturbed site excavation limits, indicating that counts of ten or fewer artifacts mark the limit of excavations. However, undisturbed sites provide an opportunity to gather information on site formation processes as well as a "complete" inventory of materials and features. For this reason, 100% excavation and artifact recovery is required for these sites. Two consecutive units with zero artifacts must be excavated at the periphery of the site to ensure that excavation has captured the entire site.

For large, dense lithic scatters where individual unit counts are high, Table 4.1 allows that excavation can be terminated where unit counts drop to 10% of the highest yield at the core of the site. This guidance must be applied with caution, and excavations must continue where the nature of the artifact recoveries at the proposed boundary differ from those in the core of the site. For example, where a high count area comprised of smaller pressure flakes is used to define the centre of the site, and a lower count area comprised of larger early stage block reduction is positioned on the 'periphery', this may indicate the overlap of two different functional areas, and not the site boundary. This reinforces the direction in Table 4.1 that areas of lower concentration adjacent to the areas of higher density must be examined to ensure that they do not mark discrete components, habitation or activity areas. Lithic quarry sites require complete excavation of all discrete areas. There are no unit-yield measures for determining limits to excavation.

Table 4.1 also provides direction that for sites subject to mechanical topsoil stripping, excavation is considered complete when all cultural features have been exposed and excavated. The stripping must extend at least 10m

beyond all cultural features. Unit yields are not applicable as the artifacts from the plough zone are in the back dirt. As noted previously, measures must be taken to recover artifacts from the stripped topsoil to approach complete artifact recovery.

3.4.4 Stage 4 reporting

For Stage 4 excavation reports, the direction found in Sections 7.5.1 to 7.5.12 and 7.11.1 to 7.11.6 applies as written, with the following exceptions, additions or clarifications. Stage 4 avoidance reports follow the direction found in Sections 7.10.1 to 7.10.3.

Section 7.11.1, s. 1(c) requires that decisions made in the field regarding unit placement is documented. For compliance with this standard, the engagement, including in-field discussions with FLRs and any divergent opinions on how to proceed must be reported. Section 7.11.4, s. 1 requires that a recommendation of "no further cultural heritage value or interest" remains for the site. This recommendation should not be made if disputes regarding the completeness of the excavation have been raised by DOCA and are unresolved. Recommendations should also note that the outcome of the archaeological assessment may not remove a cultural heritage place, defined on the basis of cultural or intangible values at the site by MCFN, regardless of the archaeological assessment status.

3.5 Aboriginal Engagement Reporting (Section 7.6.2)

The Aboriginal engagement report supplements the information provided in the body of the report. As the guidance in this document sets out, MCFN expect to be engaged at all stages of archaeological assessment. Therefore, Aboriginal engagement reports should be prepared for all stages of assessment. Engagement includes timely notification of all assessment-related fieldwork to be undertaken on MCFN Treaty Lands and Territory, the participation of FLRs, clear communication regarding fieldwork decisions and recommendations, and acknowledgement of MCFN's role as stewards of archaeological resources within the Treaty Lands and Territory.

Section 7.6.2 provides direction on the required contents of the Aboriginal engagement report. Each report must include the identification of who was engaged, and how the engagement was carried out. For assessments on MCFN Treaty Lands and Territory, engagement will be with DOCA and the FLRs participating in the fieldwork (Section 7.6.2, s. 1(a)). This document will represent the protocol for engagement (Section 7.6.2, s. 1(b)). To compile a complete record of engagement, the report must also include information on the timing of engagement and, for Stage 2 to 4 assessments, whether engagement had been carried out in earlier stages. DOCA, as part of their administration and coordination of the engagement response, will provide a reference number for each engagement. The report should note this reference and the dates of engagement (Section 7.6.2, s. 1(c)). This will assist DOCA in tracking the assessment, and provide MHSTCI reviewers with assurance that the documentation reflects the approach, process and outcome clearly and accurately.

Documentation for the engagement process must also outline and give reasons for the strategies used to incorporate input from DOCA and FLRs into fieldwork decisions, and how the results of the assessment were

reported back to the Nation. The outline required by Section 7..2, s. 1(d) must include a description of how DOCA was approached for input to the assessment, including background information at Stage 1 and Stage 3, field direction from FLRs at Stages 2 through 4, and DOCA participation in preparing or reviewing recommendations made at Stage 1 through 4. Acknowledging that points of difference may occur, it is important that the report clearly articulate where DOCA direction varied from S&Gs direction, where the consultant archaeologist chose not to implement direction from DOCA or FLRs, or where recommendations made were at variance with the position taken by DOCA or FLRs. Finally, a statement on when and how the final report of each stage of assessment was transmitted to DOCA must be included (Section 7.6.2, s. 1(e)). Reporting back must include providing a copy of the final report of the assessment to DOCA in a timely manner, including the completed Aboriginal engagement report.

The direction provided in Section 7.6.2, s. 2, applies as written; however, it is important to note places or values holding cultural sensitivity may be identified on any property. In these cases, DOCA will work with the consultant archaeologist to identify boundaries, restrictions, or fieldwork practices that will address the cultural concern, even if detailed information on the underlying value is not provided. This will be the practice when, in the view of DOCA, providing MHSTCI or the consultant archaeologist details of the exact nature of the underlying cultural value is not required to achieve protection.

In reference to Section 7.6.2, g. 1, it is important to note that MCFN hold that all archaeological resources present within the Treaty Lands and Territory are of interest to the Nation as part of their cultural patrimony. Resources, regardless of size, frequency or condition should not be interpreted in such a way as to remove the requirement for engagement.

3.5.1 Supplementary Documentation

Section 7.3.4 notes that supplementary documentation is required to improve the clarity of archaeological assessment reports… "For the purposes of review, the ministry may require supplementary documentation to verify that fieldwork was conducted according to [the MHSTCI] standards and guidelines."

Section 7.6.2 provides standards and guidelines for Aboriginal engagement and is applicable to all stages of archaeological assessment reporting. The section clarifies that "critical information arising from Aboriginal engagement that affected fieldwork decisions, documentation, recommendations or the licensee's ability to comply with the conditions of the license" should be documented and included in the body of the report. Additional details and data resulting from engagement should be provided in supplementary documentation to the report. This includes "copies of any documentation arising from the process of engagement".

DOCA administrative processes and FLR reports do not constitute additional documentation to be included in the supplementary documentation to an archaeological report. The documentation will not be provided, as the licensee's own records should provide sufficient detail regarding engagement. These records may be made available to and approval authorities if required to address an unresolved disagreement between MCFN, the consultant, proponent, or approval authority. MCFN expect that a complete record of engagement will be

maintained for any work within the Treaty Lands and Territory, and that MHSTCI and approval authorities will consider the substance and outcome of engagement when reviewing assessment reports or development proposals.

4.0 Additional Direction

4.1 Collections management

The disposition of archaeological collections remains of interest to MCFN. All disposition agreements entered into at the end of an archaeological assessment must recognize MCFN's role as stewards of the resource, and provide explicit direction that MCFN may assume control over collections under the following circumstances:

- When the curatorial facility is derelict in its responsibility to care for the collections, including providing for appropriate cultural protocols, or,
- When MCFN develop a curatorial facility for the purpose of long term curation of archaeological collections.

When the license holder fails to make arrangements for the long term care of archaeological collections within a reasonable period of time after the conclusion of an archaeological assessment, MCFN may intervene with MHSTCI to require that the collection is transferred to an appropriate facility with the costs of the transfer being assumed by the ministry or archaeologist.

Note: We recognize that MHSTCI will be developing collections management direction in the near future. MCFN will be actively engaged in the deliberations leading to this policy as it progresses.

4.1.1 Costs

Archaeological fieldwork is directed to the identification and recovery of archaeological resources, primarily material objects indicating past cultural activity. Through excavation and documentation the cultural legacy contained in archaeological sites is imperfectly translated from the material remains into collections and documents that represent the site as data.

At the early stages of archaeological assessment, artifact collections may be relatively modest; however, excavation of archaeological sites can lead to sizeable collections, including artifacts and documentary records. Excavated collections must be cared for. The Ontario Heritage Act is clear that the initial cost to curate collections falls to the licensed archaeologist responsible for the fieldwork. These costs include cleaning, cataloguing, analysis, packing and storage. The OHA also provides for collections to be transferred to a public institution or repository, which may also involve a cost. The cost for maintaining collections remains with the licensee until alternate arrangements are made. If provisions for the long term curation are not addressed during the assessment, the license holder may be liable for the cost of long term curation as well, unless the collection is abandoned or a public or private institution is willing to assume responsibility.

It is important that costs relating to short and long term curation are identified to the proponent early in the assessment process. This will reinforce that archaeological site excavation is a serious undertaking. If excavation is carried out, proposals for the work must include costs for packing and transferring the collections to a repository, and a timeline for this transfer to be effected. A commitment to complete the transfer must be included in the final report.

Another significant concern arising from the creation of archaeological collections is the cultural cost of reducing the rich cultural legacy that can reside in an archaeological site to collections and data formulated in a way that privileges standard archaeological practice and view of the past. The OHA and S&Gs provide little direction and do not compel any licensee to address First Nations' concerns with investigation, collection or excavation at archaeological sites.

Additional costs may be encountered when curating an archaeological collection to culturally specific standards, including additional cultural requirements for artifact handling, storage and treatment. Storage conditions may require that collections are made available from time to time for traditional observance or cultural ceremony, or the collections and facility itself may require ongoing cultural maintenance. This will increase costs above the basic cost of 'dead storage' space, and must be anticipated in funding.

A hidden cost in curation is the cumulative impact of archaeological practice on the remaining archaeological sites. Collections currently managed for long term use as research and educational material far exceed the capacity for new research to address. However, the value of archaeological collections to communities has not been thoroughly explored. Given that MCFN stewardship over the archaeological resource does not end with excavation and reporting, the potential for long term community management of archaeological collections should be identified. A provision that MCFN retain the right to transfer collections or specific artifacts from archaeological sites Treaty Lands and territory to MCFN designated or operated facilities at some time in the future should be included in the final report of the assessment.

For this, and a variety of other reasons, it is vitally important to MCFN that the archaeological collections that are removed from the ground are treated in a manner that conforms to the OHA, and allows MCFN to exercise our inherent right to act as stewards of our cultural patrimony.

4.2 Human remains and burials

Human remains are not archaeological resources. They are the remains of ancestors who were interred, or died without burial, at or near the location where they are discovered. All human remains identified during archaeological fieldwork are of interest to MCFN, and appropriate treatment of human remains is of considerable importance to the Nation.

The Funeral, Burial and Cremation Services Act and the Coroners Act direct the treatment of human remains upon discovery. While there is variation in the language used in the legislation and the S&Gs (burials, graves, human remains), it is preferred that a uniform approach is followed. When human remains are identified in the field first contact should be to the Coroner or police. Protocol should also dictate that DOCA or the FLR on site, and the Registrar of Cemeteries area also advised of the discovery. Once the police determine that the remains have no forensic interest, the Registrar, the proponent or landowner, MCFN and others representing the deceased will negotiate a site disposition agreement. MCFN prefer that the remains are re-interred as close as possible to the location where they were found. Depending on the quantity of human remains, the nature of the development, and the local availability of undisturbed lands that will not be impacted by development, re-interment may occur on the development property. If this is not possible, then interment at another location suitable to the purpose and acceptable to MCFN (and others) should be pursued.

The nature of this document is to put into practice pre-emptive engagement with DOCA and the ongoing presence of FLRs on location during archaeological assessments. For this reason, there should be no circumstances in which decision-making around the current and future treatment of human remains should bypass MCFN. However, if the protocols within this document have not been respected and a discovery of human remains is made without FLR presence on site, it is the responsibility of the consultant archaeologist or other party responsible for this discovery to immediately notify DOCA.

Human remains that were interred at an archaeological site signify that cultural practice was carried out at that location. The practice imbues the location with intangible values that must be protected. Isolated elements, such as teeth or smaller bones or fragments of bone, may not be immediately associated with an archaeological feature, such as a grave shaft; however, this does not diminish the cultural importance of the remains, or signal that the burial and associated cultural practice were absent. A variety of post-depositional effects may lead to the erasure of the grave site, and loss of skeletal material and it is important that archaeological fieldwork includes investigating the original position of the remains. Where human remains are identified, but no grave location is evident, it is incumbent on the archaeologist to make a reasoned argument about why this may be the case. If post-depositional disturbance from, for example, ploughing and soil erosion caused the remains to be displaced, then this would be a consideration for the analysis of the entire site. If, on the other hand, there is a belief that the body originally lay on or near the ground surface, then this also has an influence on the analysis of the sites, and should be the focus of additional engagement and documentary research.

It is important to note that scientific research on human remains, apart from the collection of the data necessary to satisfy the information requirements of the Coroner, must not be undertaken without the express consent of the representatives of the deceased. It is also important to note that the discovery of human remains on an archaeological site or development property signal the presence of intangible cultural heritage values which cannot be captured by standard archaeological techniques. Additional engagement on the analysis of the site, the conclusions reached and the final recommendations regarding the disposition of the site at the end of the archaeological assessment will require additional engagement with MCFN.

In addition to the directives provided herein, all applicable parties including the consultant archaeologist, the Registrar, and/or the proponent/landowner will be expected to follow MCFN's protocol for the discovery of human remains, which is available as a stand-alone document.

5.0 Glossary[13]

approval authority

In the land use and development context, this includes any public body (e.g., municipality, conservation authority, provincial agency, ministry) that has the authority to regulate and approve development projects that fall under its mandate and jurisdiction (e.g., *Planning Act, Environmental Assessment Act, Aggregate Resources Act*).

archaeological assessment

For the defined project area or property, a survey undertaken by a licensed archaeologist within those areas determined to have *archaeological potential* in order to identify archaeological sites, followed by evaluation of their *cultural heritage value or interest*, and determination of their characteristics. Based on this information, recommendations are made regarding the need for mitigation of impacts and the appropriate means for mitigating those impacts.

archaeological potential

The likelihood that a property contains archaeological resources.

archaeological resources

In the context of the Standards and Guidelines, objects, materials and physical features identified by licensed archaeologists during a Stage 2 archaeological assessment as possibly possessing *cultural heritage value or interest*.

archaeological site

Defined in Ontario regulation 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".

artifact

Defined in Ontario regulation as "any object, material or substance that is made, modified, used, deposited or affected by human action and is of *cultural heritage value or interest*".

cultural feature

The physical remains of human alteration at a given location that cannot be removed intact and are not portable in the way that artifacts can be removed and are portable. Typically, a cultural feature must be documented in the field, although samples can be taken. Examples include post molds, pits, living floors, middens, earthworks, and various historic structural remains and ruins.

cultural heritage value or interest

For the purposes of the *Ontario Heritage Act* and its regulations, archaeological resources that possess cultural heritage value or interest are protected as archaeological sites under Section 48 of the act. Where

[13] Definitions as found in: MHSTCI 2011. Standards and Guidelines for Consultant Archaeologists. Ministry of Heritage, Sport, Tourism and Culture Industries.

analysis of documented artifacts and physical features at a given location meets the criteria stated in the Standards and Guidelines, that location is protected as an archaeological site and further archaeological assessment may be required.

community

For the purpose of these Standards and Guidelines, the use of "Aboriginal community" is used only in the context of citing such use by the Ontario Ministry of Heritage, Sport, Tourism and Culture Industries in their Standards and Guidelines

diagnostic artifact

An artifact that indicates by its markings, design or material the time period it was made, the cultural group that made it, or other data that can identify its original context.

formal tool

Most often a stone artifact with a form or design that indicates the reason it was made, like a stone spearpoint or hide scraper. Contrasted with an informal tool, like a chert flake used for cutting.

lithic scatter

A loose or tight concentration of stone flakes and tools resulting from the manufacture and sometimes the use of one or more stone tools.

nation

Refers to the Mississaugas of the Credit First Nation.

project area

The lands to be impacted by the project, e.g.: the area of a development application under the *Planning Act*; the area to be licensed under the *Aggregate Resources Act*; the area subject to physical alteration as a result of the activities associated with the project. This may comprise one or several properties, and these properties may or may not be adjoining. However, all properties must be part of one project that is being undertaken by one proponent.

Project Information Form (PIF)

The form archaeological license-holders must submit to the Ministry of Heritage, Sport, Tourism and Culture Industries upon decided to carry out fieldwork.

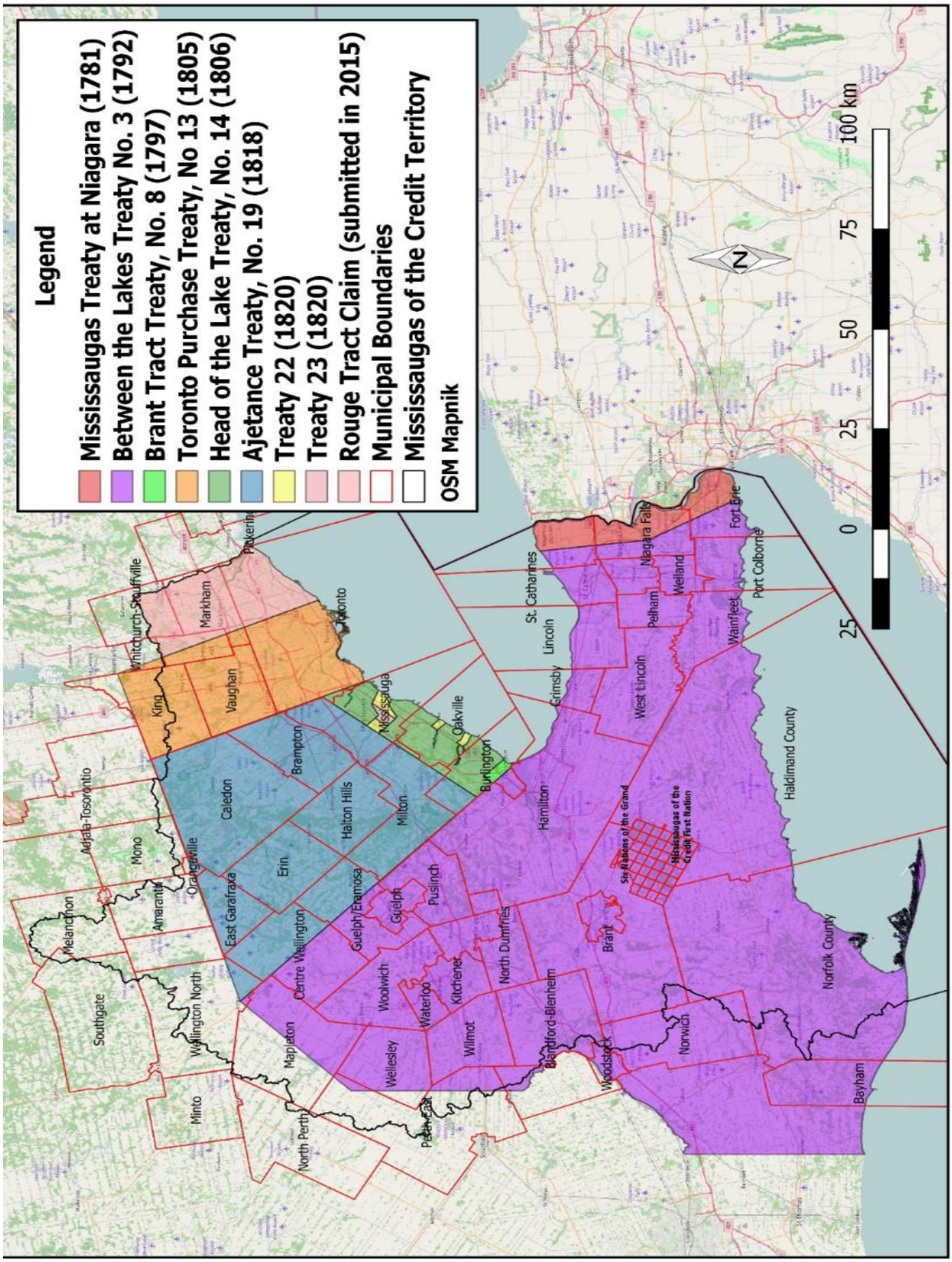
protection

Measures put in place to ensure that alterations to an archaeological site will be prevented over the long-term period following the completion of a development project.

traditional

The word "traditional" refers mainly to use of land, e.g. "traditional lifeways" while all references to MCFN's land are to be construed as the MCFN Treaty Lands".

6.0 Map of the Treaty Lands and Territory



Front page artwork is from the MCFN Lloyd S. King Elementary School Art Mural.

Artists include:

Philip Cote – Principal Coordinating Artist

Rebecca Baird – Artist

Tracey Anthony – Artist

Rachele King – Student

Eric Laforme – Student

Jocelyn Hill – Student

Carolyn Cote – Artist

Mississaugas of the Credit First Nation

Department of Consultation & Accommodation

4065 Hwy 6

Hagersville, ON N0A 1H0

Tel: 905-768-4260

http://mncfn.ca/doca-2/

MCFN Looks To Our Anishinaabe Roots To Guide Our Vision For The Future As A Strong, Caring, Connected Community Who Respects The Earth's Gifts And Protects The Environment For Future Generations. MCFN Identity And Heritage Includes Our History, Language, Culture, Beliefs And Traditions.

Archaeological Review Agreement between:
The Mississaugas of the Credit First Nation ("MCFN")
and
[name of the proponent]

A - Background

1. The purpose of this agreement is to provide the Mississaugas of the Credit First Nation (hereinafter, "MCFN") with capacity assistance to review reports and other materials in connection with all archaeological assessments required for the [name of project] (hereinafter, "the Project") located at [address], in [town/city], Ontario, owned by [name of the proponent], (hereinafter, "the Proponent").

2. The Proponent understands that MCFN wishes its designated representatives at the Department of Consultation and Accommodation (hereinafter, "DOCA") to provide timely and meaningful comment on the Project via its established review process.

3. The Proponent, or their consultant(s), will therefore provide all reports in draft form to MCFN (via DOCA) for review and comment prior to their submission to other approval or regulatory authorities. The Proponent and their consultant(s) agree to provide reasonable and adequate time for MCFN to complete its review and provide comments on draft reports. MCFN is unable to review of any material in less than one week.

4. For archaeological assessments, the Proponent agrees that their consultant(s) will provide, if applicable, both the Supplementary Documentation and the Indigenous Engagement report alongside the draft archaeological report. The Indigenous Engagement report must contain the consultant's full account of MCFN's participation in and comments on the archaeological assessment.

5. For archaeological assessments, the Proponent agrees that no new fieldwork will commence until MCFN has completed its review and has provided comments on the previous Stage of assessment.

6. MCFN agrees that MCFN representatives will have appropriate qualifications for the work required – for example, education in environmental and/or archaeological assessments – and experience in bridging Indigenous perspectives with Western approaches, as reasonably determined by MCFN.

B – Fees and Cost Structure

7. The Proponent will provide capacity funding for the designated DOCA staff representative in the amount of $150.00 per hour for all activities relating to review of Project materials.

8. If MCFN is of the view, that designated DOCA staff are unable to complete a comprehensive technical review of Project materials, the Proponent agrees to pay costs incurred by MCFN to retain an external expert in the appropriate field to be chosen at MCFN's sole discretion. The Parties agree that a review by an external expert will commence following mutual acceptance by both Parties of an estimate of work provided by the expert.

C – Additional Conditions

9. All archaeological work in connection with any Project in the Territory will be carried out in accordance with the *Ontario Heritage Act* and its Regulations. The Archaeological work will meet or exceed the Ontario Ministry of Heritage, Sport, Tourism, and Culture Industries (hereinafter, "MHSTCI") standards and guidelines for consultant archaeologists as amended, including the *Terms and Conditions for Archaeological Licences, Standards and Guidelines for Consultant Archaeologists (2011)* and the Draft *Engaging Aboriginal Communities in Archaeology Technical Bulletin (2011),* (hereinafter collectively, "MHSTCI Standards 2011").

10. The Proponent agrees that all archaeological work conducted for the Project will comply with the MCFN *Standards and Guidelines for Archaeology* (published April 2, 2018), (hereinafter, "MCFN Standards") as long as the MCFN Standards do not fall below MHSTCI Standards 2011. The MHSTCI Standards 2011 will be paramount in the event of a direct conflict between MCFN Standards and the MHSTCI Standards 2011.

11. The Proponent shall make best efforts to avoid and protect archaeological sites, artifacts, and/or features. The Parties agree that the preferred option for human remains that may be of Aboriginal ancestry is that they remain where they are found with appropriate protections.

12. If archaeological resources are encountered at any time during construction or other Project-related activity, all excavation or other activity that could disturb the site shall immediately cease, and the Proponent shall immediately notify MCFN's duly appointed Archaeological Operations Supervisor or designate. The Parties shall work

collaboratively to minimize impacts and ensure respectful treatment of any archaeological resources in accordance with the practices and values of MCFN as identified by MCFN.

13. If human remains are encountered at any time during construction or other Project-related activity, the following steps shall be taken:
    a. All excavation or other activity that could disturb the site shall immediately cease, and the area shall be secured in a manner which protects the site location and prevents public access and trespass; and
    b. In addition to any notifications required under the *Funeral, Burial and Cremation Services Act, 2002,* SO 2002, C 33, the Proponent shall immediately contact MCFN's duly appointed Archaeological Operations Supervisor or designate; and
    c. MCFN shall be permitted to conduct any ceremonies on site in relation to the human remains that may be of Aboriginal ancestry; and
    d. MCFN shall be consulted about all steps in the investigation and any decisions or agreements to be made regarding human remains that may be of Aboriginal ancestry.

14. Nothing in this Agreement shall be interpreted or implemented so as to derogate or abrogate from any MCFN Aboriginal or Treaty right or claim, or to indicate consent to the Project.

D - Method of Payment

15. The Parties agree that the Proponent will pay the capacity funding as agreed to above by cheque or bank transfer and upon receipt of an invoice from MCFN. All invoices will be addressed directly to the Proponent, the Project will be noted in the text of each invoice, and all invoices will be prepared as per MCFN-DOCA's standard invoicing format. Invoices should be submitted electronically to the following address:

    Email address: [insert email address here]
    Attention: [insert name here]
    [name of the proponent]
    [phone number of proponent]
    [full address of proponent]

16. All payment should be made to the MCFN Department of Consultation and Accommodation to the following address. For additional information, please call the office at 905-768-4260.

    Email address: nicole.laforme-hess@mncfn.ca
    Attention: MCFN-DOCA

4065 Highway 6
Hagersville, Ontario
N0A 1H0

17. After thirty [30] days, a 5% monthly compounded interest rate will be charged on outstanding invoices. After six [6] months of non-payment, a 20% monthly compounded interest rate will be charged on outstanding invoices.

F – Disclaimer

18. The Parties agree that the capacity funding payments for the FLRs will be used only for the purposes described in this Agreement and will not be paid for the improper personal gain of any individual or for any other purpose that might violate any Canadian anti-corruption law.

19. This agreement may be executed in counterparts.

20. This agreement is legally binding on MCFN and the Proponent.

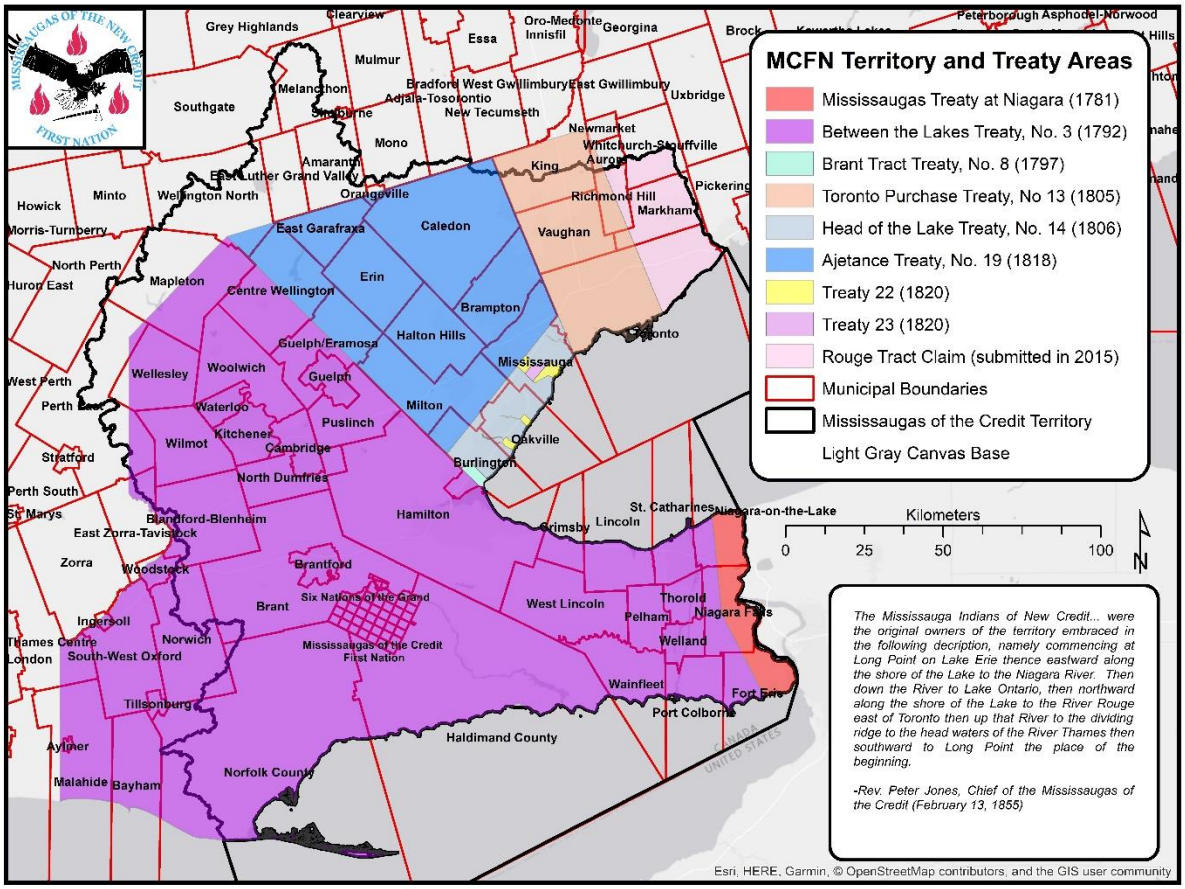
21. The term of this agreement is from April 1, 2020 to March 31, 2021. In the event that Project-related activities requiring FLR participation continue past this termination date, a new agreement will be executed between Parties.

[The remainder of this page is intentionally left blank.]

Signed this _____ day of _____, 2021,

_____	_____
Authorized Signatory on behalf of The Proponent	Authorized Signatory on behalf of Mississaugas of the Credit First Nation
[printed name of signatory] [job title] [department] [name of the proponent]	Mark LaForme Director Dept. of Consultation and Accommodation Mississaugas of the Credit First Nation
_____	_____
Witness	Witness
[printed name of witness] [job title] [department] [name of the proponent]	Megan DeVries Archaeological Operations Supervisor Dept. of Consultation and Accommodation Mississaugas of the Credit First Nation

Schedule A



Municipalities within Mississaugas of the Credit Treaty Lands and Territory

Field Liaison Representative Participation Agreement
between:
The Mississaugas of the Credit First Nation
and
[name of the proponent]

A - Background

1. The purpose of this agreement is to provide the Mississaugas of the Credit First Nation (hereinafter, "MCFN") with capacity assistance to its Field Liaison Representatives (hereinafter, "FLRs") in connection with all environmental and/or archaeological assessments required for the [name of project] (hereinafter, "the Project") located at [address], in [town/city], Ontario, owned by [name of the proponent], (hereinafter, "the Proponent").

2. The Proponent understands that MCFN wishes to send its FLRs to participate in and monitor the assessments associated with the Project, and that the FLRs' mandate will be to ensure that MCFN's perspectives and priorities are considered and to enable MCFN to provide timely and meaningful comment on the Project.

3. All archaeological work in connection with any Project in the Territory will be carried out in accordance with the *Ontario Heritage Act* and its Regulations. The archaeological work will meet or exceed the Ontario Ministry of Heritage, Sport, Tourism, and Culture Industries (hereinafter, "MHSTCI") standards and guidelines for consultant archaeologists as amended, including the *Terms and Conditions for Archaeological Licences, Standards and Guidelines for Consultant Archaeologists (2011)* and the Draft *Engaging Aboriginal Communities in Archaeology Technical Bulletin (2011),* (hereinafter collectively, "MHSTCI Standards 2011").

4. The Proponent agrees that all archaeological work conducted for the Project will comply with the MCFN *Standards and Guidelines for Archaeology* (published April 2, 2018), (hereinafter, "MCFN Standards") as long as the MCFN Standards do not fall below MHSTCI Standards 2011. The MHSTCI Standards 2011 will be paramount in the event of a direct conflict between MCFN Standards and the MHSTCI Standards 2011.

5. Nothing in this Agreement shall be interpreted or implemented so as to derogate or abrogate from any MCFN Aboriginal or Treaty right or claim, or to indicate consent to the Project.

B – Fees and Cost Structure

6. The Proponent will provide capacity funding for each FLR in the amount of $85.00 per hour for all activities relating to the Project. Activities relating to the Project include, but are not limited to:
    a. Time spent on site monitoring assessment or predetermined construction-related activities;
    b. Time spent completing data or artifact processing, identification, analysis, and interpretation activities alongside their consultant(s);
    c. Actual travel time at the beginning of, during, and/or end of each day;
    d. Time completing daily notes relating to the Project;
    e. Time spent on standby at the request of the Proponent or their consultant(s); and
    f. Time completing mandatory training at the request of the Proponent or their consultant(s).

7. The Proponent will pay a supervisory fee of 3.5%, based on the number of hours charged to the Proponent, to provide MCFN with the capacity to facilitate in-field technical support for the FLRs via the Field Archaeologist.

8. The Proponent will reimburse the FLRs for reasonable mileage and meals in accordance with current Federal Canada Treasury Board guidelines, over and above the hourly rate [see Schedule B]. Mileage rates are determined using the MCFN Department of Consultation and Accommodation as the place of departure.

9. The Proponent will provide capacity funding for each FLR in the amount of $125.00 per hour for any work exceeding eight hours per day and/or forty hours per week. The above noted mileage and meal allowance remains in effect.

10. The Proponent will provide capacity funding for each FLR in the amount of $125.00 per hour for any work occurring on the following holidays: New Year's Day, Family Day, Good Friday, Victoria Day, Indigenous Solidarity Day (June 21), Canada Day, Civic Holiday, Labour Day, Thanksgiving Day, Remembrance Day, Christmas Day, and Boxing Day. The above noted mileage and meal allowance rates remain in effect.

11. The Proponent agrees that the FLRs will be paid for a minimum of three hours, plus actual travel time, mileage, and meal allowance rates as noted above, on any day when work is cancelled by the Proponent or their consultant(s) while FLRs are en route to the work site or after the FLRs have already arrived.

12. If its use is deemed necessary by both Parties, the Proponent agrees to reimburse the FLRs for their use of the 407ETR upon receipt of a copy of the bill. This agreement will be provided in writing to MCFN's Field Coordinator.

13. If deemed reasonable by both Parties, the Proponent agrees to cover the cost of overnight accommodation for FLRs participating in environmental and/or archaeological fieldwork at locations which would otherwise require more than 90 minutes of travel time at both the beginning and end of the work day, as determined using the MCFN Department of Consultation and Accommodation as the place of departure. An additional Incidental Allowance fee is required for any work which requires overnight accommodations, as set out in Schedule B. This agreement will be provided in writing to MCFN's Field Coordinator.

C – Additional Conditions

14. The parties acknowledge that the Project, in whole or in part, takes place within MCFN Territory and agree that the Proponent shall provide capacity funding for FLR participation on the Project for the duration of the Project.

15. The Proponent agrees that two FLRs shall be on location whenever Project-related activities are taking place within its Territory, as set out in Schedule A.

16. Furthermore, additional FLRs are required if the number of field personnel utilized by the consultant exceeds fourteen (14) individuals and the Proponent agrees to provide capacity funding for additional FLRs as required. MCFN requires one additional FLR per five additional field crew, as outlined in the chart below:

Number of Field Personnel	Number of FLRs Required
1 to 14	2
15 to 19	3
20 to 24	4
25 to 29	5
30 to 34	6
35 to 39	7
40+	8+

17. The Parties acknowledge that the FLRs time and travel will be recorded and verified using the ClockShark Time Tracking Software System and that invoicing will be prepared using these records, not those of a third party.

18. If archaeological resources are encountered at any time during construction or other Project-related activity, all excavation or other activity that could disturb the site shall immediately cease, and the Proponent shall immediately notify MCFN's Archaeological Operations Supervisor or designate. The Parties shall work collaboratively to minimize impacts and ensure respectful treatment of any archaeological resources in accordance with the practices and values of MCFN as identified by MCFN.

19. If human remains are encountered at any time during construction or other Project-related activity, the following steps shall be taken:
    a. All excavation or other activity that could disturb the site shall immediately cease, and the area shall be secured in a manner which protects the site location and prevents public access and trespass; and
    b. In addition to any notifications required under the *Funeral, Burial and Cremation Services Act, 2002,* SO 2002, C 33, the Proponent shall immediately contact MCFN's duly appointed Archaeological Operations Supervisor or designate; and
    c. MCFN shall be permitted to conduct any ceremonies on site in relation to the human remains that may be of Aboriginal ancestry ("Ancestral Remains"); and
    d. MCFN shall be consulted about all steps in the investigation and any decisions or agreements to be made regarding Ancestral Remains.

D - Coordination of the FLRs

20. The Parties agree that the FLRs will follow the reasonable instructions of the Proponent and their consultant firm(s) conducting the environmental and/or archaeological work concerning safety practices, and that the FLRs will attend "tailgate" safety meetings if requested.

21. The contact person for activities relating to the environmental assessment portion of the Project is [name of contact person #1] from [name of consultant]. Contact information for this person is as follows:
    [insert contact information here]

22. The contact person for activities relating to the archaeological assessment portion of the Project is [name of contact person #2] from [name of consultant]. Contact information for this person is as follows:
    [insert contact information here]

23. The Parties agree that the contact person for the consultant firm(s) will coordinate site meeting locations and times through MCFN's duly appointed Field Coordinator. Contact information for the Field Coordinator is as follows:

    Joelle Williams
    Telephone: 905-768-4260
    Cell: 905-870-2918
    Email: joelle.williams@mncfn.ca

E - Status of the FLRs

24. The FLRs selected by MCFN have appropriate qualifications for the work required – for example, training in environmental and/or archaeological monitoring – and experience in bridging Indigenous perspectives with Western approaches, as reasonably determined by MCFN.

25. The Parties agree that the FLRs are not employees, contractors, or sub-contractors of the Proponent or their consultant(s) and that the FLRs will be responsible for their own personal protective equipment, such as hard hats, safety boots, and safety vests, unless specific or otherwise unique personal protective equipment is required, which will therefore be provided or reimbursed by the Proponent.

26. FLRs take direction from MCFN. MCFN pays Workplace Safety and Insurance Board ("WSIB") contributions in respect of the FLRs and will, at its own expense, maintain for the term of this agreement a comprehensive general liability ("CGL") policy or policies with a limit of at least $1 million and shall provide the Proponent with evidence of such insurance, upon request. MCFN agrees that FLRs will perform their activities safely, in a good and competent manner, in compliance with all applicable laws, regulations, and guidelines.

27. MCFN expects that the Proponent will comply with the *Occupational Health and Safety Act*, R.S.O. 1990, C. 0.1, the Ontario *Human Rights Code*, R. S. O. 1990, c. H.19, and maintain a safe, harassment-free work environment.

28. The Proponent is responsible for negligence or other failure to maintain a safe and harassment-free work environment. To the extent that the Proponent is responsible for negligence or other failure to maintain a safe and harassment-free work environment, the Proponent is liable and shall indemnify MCFN claims or demands related to injury, accident, discrimination, or harassment by the Proponent's employees, agents, consultants, or other parties under the control or direction of the Proponent.

F - Method of Payment

29. The Parties agree that the Proponent will pay the capacity funding as agreed to above by cheque or bank transfer and upon receipt of an invoice from MCFN. All invoices will be addressed directly to the Proponent, the Project will be noted in the text of each invoice, and all invoices will be prepared as per MCFN-DOCA's standard invoicing format. Invoices should be submitted electronically to the following address:

    Email address: [insert email address here]
    Attention: [insert name here]
    [name of the proponent]
    [phone number of proponent]
    [full address of proponent]

30. All payment should be made to the MCFN Department of Consultation and Accommodation to the following address. For additional information, please call the office at 905-768-4260.

    Email address: nicole.laforme-hess@mncfn.ca
    Attention: MCFN-DOCA
    4065 Highway 6
    Hagersville, Ontario
    N0A 1H0

31. After thirty [30] days, a 5% monthly compounded interest rate will be charged on outstanding invoices. After six [6] months of non-payment, a 20% monthly compounded interest rate will be charged on outstanding invoices.

G – Disclaimer

32. The Parties agree that the capacity funding payments for the FLRs will be used only for the purposes described in this Agreement and will not be paid for the improper personal gain of any individual or for any other purpose that might violate any Canadian anti-corruption law.

33. This agreement may be executed in counterparts.

34. This agreement is legally binding on MCFN and the Proponent.

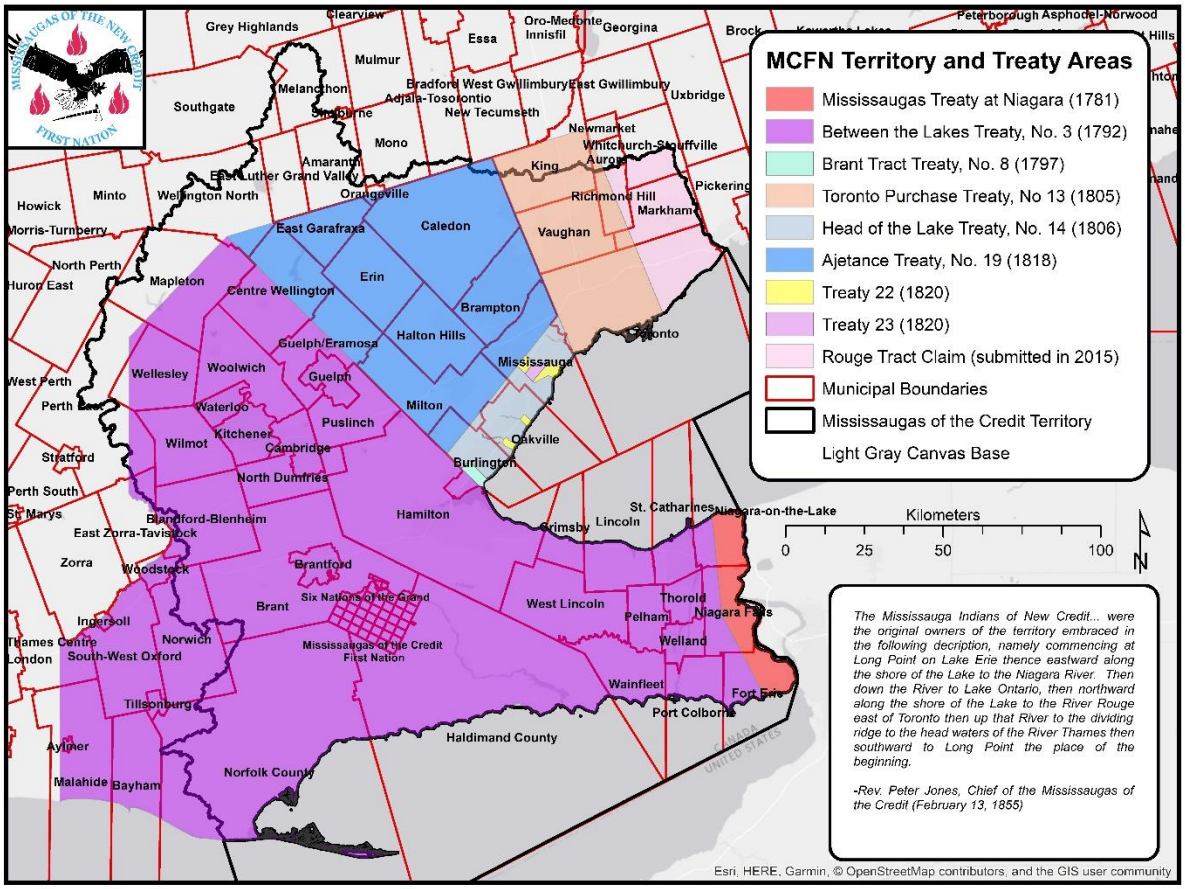
35. The term of this agreement is from April 1, 2020 to March 31, 2021. In the event that Project-related activities requiring FLR participation continue past this termination date, a new agreement will be executed between Parties.

[The remainder of this page is intentionally left blank.]

Signed this _____ day of _____, 2021,

_____	_____
Authorized Signatory on behalf of The Proponent	Authorized Signatory on behalf of Mississaugas of the Credit First Nation
[printed name of signatory] [job title] [department] [name of the proponent]	Mark LaForme Director Dept. of Consultation and Accommodation Mississaugas of the Credit First Nation
_____	_____
Witness	Witness
[printed name of witness] [job title] [department] [name of the proponent]	Megan DeVries Archaeological Operations Supervisor Dept. of Consultation and Accommodation Mississaugas of the Credit First Nation

Schedule A



Municipalities within Mississaugas of the Credit Treaty Lands and Territory

Schedule B

MISSISSAUGAS OF THE CREDIT FIRST NATION MILEAGE & ALLOWANCE CHART

EFFECTIVE APRIL 1, 2020 to MARCH 31, 2021

MILEAGE		$ 0.56 per KM	
	https://www.njc-cnm.gc.ca/directive/d10/v238/s658/en#s658-tc-tm		
MEAL ALLOWANCE			**not eligible if:**
BREAKFAST	$	20.65	leave after 8am; get home before 7:30am
LUNCH	$	20.90	leave after 1:15pm; get home before 12:15pm
DINNER	$	51.25	leave after 7pm; get home before 6:30pm
INCIDENTALS	$	17.30	not staying overnight
https://www.njc-cnm.gc.ca/directive/d10/v238/s659/en#s659-tc-tm			
NIGHTTIME*	$	51.25	*Applies only to nighttime surveys that would not otherwise trigger dinner or breakfast.

DEPARTMENT OF
CONSULTATION AND ACCOMMODATION

January 26,2021

VIA EMAIL

Lindsay Earl, Senior Development Planner
Niagara Region, Planning and Development Service
lindsay.earl@niagararegion.ca

Dear Lindsay Earl,

RE: MCFN Archaeological Review for Notice of Complete Application Regional Official Plan Amendment No. 19 475635 Canal Bank Street, Welland

Confirmation of Receipt

I am writing in follow up to the letter of response dated January 21,2021 by Fawn Sault , Consultation Coordinator , from the Department of Consultation and Accommodation ("DOCA") on behalf of the Mississaugas of the Credit First Nation ("MCFN") to acknowledge that we have received your above named communication , dated December 21,202.

Outline of MCFN Rights and Territory

In 1792 , the Crown and MCFN entered into Between the Lakes, No. 3 (1792) regarding the lands in which your project is situated.

MCFN has formed the Department of Consultation and Accommodation ("DOCA") to represent its interests in consultation and accommodation matters. In this regard, it is DOCA's mandate to ensure that we are directly involved in all planning and development that impacts the integrity of our Territory. DOCA will assess and help alleviate impacts on our rights, land claims, and ways of life by building relationships with governments and private sector proponents. We share a mutual interest in ensuring that projects in the Territory are planned, reviewed, and developed in a manner which ensures healthy communities, ecological protection, and sustainable development for present and future generations in the Territory.

MCFN has a stewardship responsibility over its Territory and asserts that our Aboriginal and treaty rights fundamentally entitle us to preserve our culture and heritage, including

archaeological materials and human burials. Our Territory is the source of our identity as a First Nation and the basis for many cultural activities and spiritual ceremonies. It is home to sacred sites, burial grounds, traditional teachings and meeting places, and sites of profound archaeological and historical significance. We assert that our Aboriginal and treaty rights fundamentally entitle us to preserve our cultural and heritage.

Too much of our cultural objects and the remains of our ancestors have been lost already through development of the most intensely urbanized lands in Canada and we have a strong interest in ensuring that no more of it becomes bulldozed and desecrated.

MCFN *Standards and Guidelines for Archaeology*
In April 2018, MCFN Chief and Council adopted the MCFN *Standards and Guidelines for Archaeology*, a document aimed to provide guidance to consultant archaeologists, proponents, governments, etc. who are conducting archaeological assessment activities within MCFN's Territory. It sets out, in MCFN's own words, what engagement with our Nation should entail for archaeology as well as technical expectations for fieldwork, in relation to the provincial regulations which were created without our input and feedback. It is important to note that MCFN holds all archaeological resources present within its Territory as of interest to the Nation as part of their cultural patrimony. Resources, regardless of size, frequency, condition, etc., should not be interpreted by non-MCFN representatives in such a way as to remove the requirement for engagement with our Nation.

We are attaching a copy for your reference. We expect compliance with these *Standards and Guidelines* as any fieldwork you will be conducting will have the potential of disturbing MCFN's cultural artifacts or its ancestors' remains.

MCFN Expectations Regarding Ancestors' Remains
MCFN has obligations under Anishinaabe law to protect burials within its Territory and MCFN maintains its right to do so. Our ancestors buried their loved ones in our Territory with the understanding that they would not be disturbed.

We would also like to draw your attention to our expectation that at any time that ancestral remains are encountered during fieldwork, we expect all activities on site to stop and that MCFN be contacted immediately to determine a proper course of action.

Technical Review
In the exercise of its stewardship responsibility, DOCA seeks to work together with project proponents and their archaeological consultants to ensure that archaeological work is done properly and respectfully. DOCA has retained technical advisers with expertise in the field of archaeology. These experts will review the technical aspects and cultural appropriateness of the archaeological assessments and strategies associated with your project. Upon completion of these reviews, MCFN will identify, if

necessary, mitigation measures to address any project impacts upon MCFN rights. For cultural materials and human remains, DOCA may advise that this includes ceremonies required by Anishinaabe law, as well as request adjustments to the proposed fieldwork strategy.

The proponent is expected to pay the costs for MCFN to engage in a technical review of the project. DOCA anticipates at this time that all archaeological review will be undertaken by in-house technical experts, but will advise the proponent if an outside peer-review is required. Please find attached the agreement that covers MCFN's in-house technical review of the archaeological assessments and strategies associated with your project. Please fill in the additional required information, highlighted in yellow, and return to us a signed copy.

Please note that capacity at DOCA is limited. We maintain the right to review all material that comes to our office as part of our consultation process. If you have specific filing deadlines, please advise us as soon as possible. However, it is MCFN's assertion that part of the process of meaningful engagement is allowing our Nation a reasonable amount of time to review, reflect upon, and respond to reports and recommendations. On average, this process can be accomplished in 4-6 weeks. It is our position that no archaeological assessment – but especially Stage 4 mitigation – should begin until DOCA has completed our review and is in agreement that with the proposed strategy for fieldwork.

<u>Request for Missing Information</u>
In order to complete our project record, we ask that you provide the following information:

1. Is an archaeological assessment required for this project? If no, why not?
2. Have any archaeological assessments already been completed for this project and/or its study area? If yes, please provide all documentation including reports, supplementary documentation, etc.
3. Has the MHSTCI issued a letter of entry into register for some or all of the study area? If yes, please provide all documentation, including letter, communications to and from MHSTCI, etc.
4. Is there any archaeological activity (e.g. assessment, excavation, monitoring) that has not yet been completed for the project?
5. If the answer to #4 is yes, please provide the following:
    a. A description of the outstanding archaeological activity/activities.
    b. Anticipated date of the activity/activities.
    c. The appropriate contact person overseeing the archaeological activity/activities.

Closing

The review of project-related archaeological assessments is only one part of the consultation process that may be required for your development. Please contact DOCA's Consultation Coordinator, Fawn Sault, if you have any questions about the process.

We ask that you respond with the above requested information and executed agreement within fourteen days following receipt of this letter. We thank you in advance for your attention to our requirements and we look forward to working with you further to shape the planning for development in our Territory.

Sincerely,

Megan DeVries
Archaeological Operations Supervisor
megan.devries@mncfn.ca

Attachment(s) MCFN *Standards and Guidelines for Archaeology* [2018]
DOCA Archaeological Review Agreement [2020]

DEPARTMENT OF
CONSULTATION AND ACCOMMODATION

January 26,2021

VIA EMAIL

Lindsay Earl, Senior Development Planner
Niagara Region, Planning and Development Service
lindsay.earl@niagararegion.ca

Dear Lindsay Earl,

RE: MCFN FLR Participation for

Notice of Complete Application Regional Official Plan Amendment No. 19 475635
Canal Bank Street, Welland

Confirmation of Receipt

I am writing in follow up to the letter of response dated January 21,2021 sent by Fawn Sault, Consultation Coordinator, from the Department of Consultation and Accommodation ("DOCA") on behalf of the Mississaugas of the Credit First Nation ("MCFN") to acknowledge that we have received your above named communication, dated December 21,202.

Outline of MCFN Rights and Territory

In 1792 , the Crown and MCFN entered into Between the Lakes, No. 3 (1792) regarding the lands in which your project is situated.

MCFN has formed the Department of Consultation and Accommodation ("DOCA") to represent its interests in consultation and accommodation matters. In this regard, it is DOCA's mandate to ensure that we are directly involved in all planning and development that impacts the integrity of our Territory. DOCA will assess and help alleviate impacts on our rights, land claims, and ways of life by building relationships with governments and private sector proponents. We share a mutual interest in ensuring that projects in the Territory are planned, reviewed, and developed in a manner which ensures healthy communities, ecological protection, and sustainable development for present and future generations in the Territory.

One of the ways we require proponents to engage with us is in providing transparency during the environmental survey and archaeological assessment process. The best way

to accomplish this is by having Field Liaison Representatives ("FLRs") on location while fieldwork is occurring, who can ensure that the Nation's special interests and concerns are respected and considered during fieldwork. The cultural and natural resources in question are part of MCFN's territory and heritage and it is our responsibility to ensure their protection, on behalf of the Nation. MCFN's stewardship of its territory extends through the life of any development project and beyond.

It is our expectation that no project-related fieldwork will take place without the participation of our FLRs. MCFN considers it disrespectful of our rights as Indigenous peoples if our natural and cultural heritage is interfered with without our involvement.

FLR Participation

DOCA deploys FLRs to be boots on the ground so that fieldwork by a proponent and their consultants/contractors is carried out with appropriate care, thoroughness, and respect. In the context of MCFN's Territory, where so much natural and cultural heritage has already been lost or destroyed, MCFN's monitoring of fieldwork is of utmost importance to ensure that the trail of desecration stops. FLRs are deployed to observe fieldwork, provide cultural advice, act as a direct link back to DOCA and MCFN, and assist with compliance.

FLRs are MCFN band members who have received training in environmental and archaeological assessments, traditional medicine identification and use, Anishinaabe burial practices, and more throughout their employment with DOCA.

DOCA requires, at minimum, FLR participation during the following project-related studies and/or activities:

- ecological and natural heritage technical studies
- archaeological assessments (Stages 2 through 4) and site visits
- monitoring of activities within 50m of areas of special concern (e.g. waterways and wetlands, archaeological sites, species at risk)
- post-construction remediation activities and follow-up impact monitoring

Agreement for FLR Participation

The cost for the participation of our FLRs is covered by the proponent, not the consultant, whom we view as having the ultimate responsibility to consult with, and accommodate, the Nation. Therefore, please find attached the agreement that covers MCFN's participation in the upcoming fieldwork. The costs associated with this involvement reflect a number of expenses not visible at first glance: payment for the FLRs themselves, operational costs for DOCA, and efforts to engage the community to garner feedback on development projects. If you could please fill in the additional required information, highlighted in yellow, and return to us a signed copy so that we may arrange for FLR participation on your project, that would be greatly appreciated.

Once a signed agreement is in place, DOCA generally arranges scheduling and other related matters directly with the consultant conducting the fieldwork, unless you prefer otherwise.

Please note that MCFN requires two of its FLRs to be on location whenever fieldwork is taking place within its territory. The reason for this is so that FLRs can provide support and security for each other in the field. This has become a requirement in light of uncommon, but unfortunate, occurrences when FLRs have felt pressured or intimidated from external persons while at work locations. We ask that you would respect this request.

Request for Missing Information

In order to complete our project record, we ask that you provide the following information:

1. Please provide a list of all completed technical studies for the project, their date of completion, and the contact information of the consultant who completed each study.
2. Please provide a list of all incomplete and/or upcoming technical studies for the project, the anticipated date of fieldwork for each, and the contact information for the consultant who will complete them.
3. Are there any short-term and/or long-term avoidance and protection strategies currently in place for the natural and/or cultural resources in the study area for this project? If yes, what are they?

Closing

The participation of FLRs in project fieldwork is only one part of the consultation process that may be required for your development. Please contact DOCA's Consultation Coordinator, Fawn Sault, if you have any questions about the process.

We ask that you respond with the above requested information and executed agreement within fourteen days following receipt of this letter. We thank you in advance for your attention to our requirements and we look forward to working with you further to shape the planning for development in our Territory.

Sincerely,

Megan DeVries
Archaeological Operations Supervisor
megan.devries@mncfn.ca

Attachment(s) MCFN *Standards and Guidelines for Archaeology* [2018]
FLR Participation Agreement [2020]

DEPARTMENT OF CONSULTATION AND ACCOMMODATION
Mississaugas of the Credit First Nation
4065 Hwy #6, Hagersville, Ontario N0A 1H0
Phone: (905) 768-4260

Earl, Lindsay

From: Ellen Savoia <esavoia@niagaraparks.com>
Sent: Tuesday, January 26, 2021 9:23 AM
To: Earl, Lindsay
Cc: Rachel Adamsky
Subject: RE: Request for Comments & Notice of Public Meeting (ROPA 19) 475-635 Canal Bank Street, Welland

Hello Lindsay
I hope you are well. Niagara Parks advises that the proposed ROPA lands are outside of our jurisdictional area. We have no comments with regard to the proposal.

NIAGA PARKS

Ellen Savoia, MCIP, RPP
Senior Manager, Environmental Planning

P 905-295-4396 x3258 **M** 289-241-8375 **F** 905-356-7262

7805 Niagara River Parkway, P.O. Box 150
Niagara Falls, Ontario, Canada L2E 6T2

esavoia@niagaraparks.com

niagaraparks.com

From: Earl, Lindsay
Sent: Monday, January 25, 2021 1:52 PM
Subject: Request for Comments & Notice of Public Meeting (ROPA 19) 475-635 Canal Bank Street, Welland

Good Afternoon,

Please see attached Agency request for comments as well as the Notice of Public Meeting for a Regional Official Plan Amendment (ROPA 19) submitted by Armstrong Planning & Project Management on behalf of 555 Canal Bank Development GP Inc. for lands municipally known as 475, 555 and 635 Canal Bank Street within the City of Welland.

Thank you to those agencies who have already submitted their comments.

Feel free to contact me should you have any further questions regarding this matter.

Kind Regards,

Lindsay Earl, MES, MCIP, RPP
Senior Development Planner
Planning and Development Services
Regional Municipality of Niagara
Phone: 905-685-4225 ext. 3387
Toll Free: 1-800-263-7215
Fax: 905-687-8056

Earl, Lindsay

From: Kathleen Dale <kdale@lincoln.ca>
Sent: Monday, January 25, 2021 2:04 PM
To: Earl, Lindsay
Subject: RE: Request for Comments & Notice of Public Meeting (ROPA 19) 475-635 Canal Bank Street, Welland

Hi Lindsay
Since this is in Welland the Town of Lincoln will not be providing any comments

Kathleen Dale
Director of Planning & Development
Town of Lincoln
Direct: 905-563-2799 ext. 242
Tel: 905-563-8205
kdale@lincoln.ca

lincoln.ca
@TownofLincolnON

From: Earl, Lindsay
Sent: January 25, 2021 1:52 PM
Subject: Request for Comments & Notice of Public Meeting (ROPA 19) 475-635 Canal Bank Street, Welland

Good Afternoon,

Please see attached Agency request for comments as well as the Notice of Public Meeting for a Regional Official Plan Amendment (ROPA 19) submitted by Armstrong Planning & Project Management on behalf of 555 Canal Bank Development GP Inc. for lands municipally known as 475, 555 and 635 Canal Bank Street within the City of Welland.

Thank you to those agencies who have already submitted their comments.

Feel free to contact me should you have any further questions regarding this matter.

Kind Regards,

Lindsay Earl, MES, MCIP, RPP
Senior Development Planner
Planning and Development Services
Regional Municipality of Niagara
Phone: 905-685-4225 ext. 3387
Toll Free: 1-800-263-7215
Fax: 905-687-8056

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Earl, Lindsay

From: Mott, Nancy (MNRF) <Nancy.Mott@ontario.ca>
Sent: Monday, January 25, 2021 2:00 PM
To: Earl, Lindsay
Subject: RE: Request for Comments & Notice of Public Meeting (ROPA 19) 475-635 Canal Bank Street, Welland

The subject lands are not in the NEP Area and so the NEC has no comments.

Thank you,

Nancy

Nancy Mott, MCIP, RPP
Senior Strategic Advisor
Niagara Escarpment Commission
Cell: 289-839-0106
www.escarpment.org

Please let me know if you have any accommodation needs or require communication supports or alternate formats.

From: Earl, Lindsay
Sent: January 25, 2021 1:52 PM
Subject: Request for Comments & Notice of Public Meeting (ROPA 19) 475-635 Canal Bank Street, Welland

Good Afternoon,

Please see attached Agency request for comments as well as the Notice of Public Meeting for a Regional Official Plan Amendment (ROPA 19) submitted by Armstrong Planning & Project Management on behalf of 555 Canal Bank Development GP Inc. for lands municipally known as 475, 555 and 635 Canal Bank Street within the City of Welland.

Thank you to those agencies who have already submitted their comments.

Feel free to contact me should you have any further questions regarding this matter.

Kind Regards,

Lindsay Earl, MES, MCIP, RPP
Senior Development Planner
Planning and Development Services

Regional Municipality of Niagara
Phone: 905-685-4225 ext. 3387
Toll Free: 1-800-263-7215
Fax: 905-687-8056

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Earl, Lindsay

From: Fawn Sault <Fawn.Sault@mncfn.ca>
Sent: Thursday, January 21, 2021 10:56 AM
To: Earl, Lindsay
Cc: Mark LaForme; Megan DeVries
Subject: {Filename?} 2021-0024 MCFN Response to Notice of Complete Application Regional Official Plan Amendment No. 19 475635 Canal Bank Street, Welland
Attachments: NiagaraRegion-Attachment-Warning.txt

Follow Up Flag: Follow up
Flag Status: Completed

Warning: This message has had one or more attachments removed (2021-0024 MCFN.pdf). Please read the "NiagaraRegion-Attachment-Warning.txt" attachment(s) for more information.

Dear Lindsay,

Please see the attached letter as our response to your project Notice of Complete Application Regional Official Plan Amendment No. 19 475635 Canal Bank Street, Welland.

Miigwech,

Fawn Sault
Consultation Coordinator
Mississaugas of the Credit First Nation
4065 Hwy. 6, Hagersville, N0A 1H0
Website: http://mncfn.ca/
Ph: 905-768-4260
Cell:289-527-6580

Earl, Lindsay

From: Mott, Nancy (MNRF) <Nancy.Mott@ontario.ca>
Sent: Monday, December 21, 2020 10:03 AM
To: Earl, Lindsay
Subject: RE: Notice of Complete Application (ROPA 19) 475-635 Canal Bank Street, Welland

Follow Up Flag: Follow up
Flag Status: Completed

Thank you for the notice. The subject lands are outside the NEP Area and therefore we have no comment and do not need to receive further notices.

Nancy

Nancy Mott, MCIP, RPP
Senior Strategic Advisor
Niagara Escarpment Commission
Cell: 289-839-0106
www.escarpment.org

Please let me know if you have any accommodation needs or require communication supports or alternate formats.

From: Earl, Lindsay
Sent: December 21, 2020 8:39 AM
Subject: Notice of Complete Application (ROPA 19) 475-635 Canal Bank Street, Welland

Good Morning,

Please see attached Notice of Complete Application for a Regional Official Plan Amendment (ROPA 19) submitted by Armstrong Planning & Project Management on behalf of 555 Canal Bank Development GP Inc. for lands municipally known as 475, 555 and 635 Canal Bank Street within the City of Welland.

A separate notice will be provided confirming the date of the Public Meeting in the New Year.

Feel free to contact me should you require anything further.

Kind Regards,

Lindsay Earl, MES, MCIP, RPP
Senior Development Planner
Planning and Development Services
Regional Municipality of Niagara
Phone: 905-685-4225 ext. 3387
Toll Free: 1-800-263-7215
Fax: 905-687-8056

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Earl, Lindsay

From: CP Proximity-Ontario <CP_Proximity-Ontario@cpr.ca>
Sent: Monday, December 21, 2020 1:38 PM
To: Earl, Lindsay
Subject: RE: Notice of Complete Application (ROPA 19) 475-635 Canal Bank Street, Welland

Good Afternoon,

RE: Notice of Complete Application (ROPA 19) 475-635 Canal Bank Street, Welland

Thank you for the recent notice respecting the captioned development proposal in the vicinity of Canadian Pacific Railway Company.

CP's approach to development in the vicinity of rail operations is encapsulated by the recommended guidelines developed through collaboration between the Railway Association of Canada and the Federation of Canadian Municipalities. Those guidelines are found at the following website address:

http://www.proximityissues.ca/

The safety and welfare of residents can be adversely affected by rail operations and CP is not in favour of residential uses that are not compatible with rail operations. CP freight trains operate 24/7 and schedules/volumes are subject to change.

Should the captioned development proposal receive approval, CP respectfully requests that the recommended guidelines be followed.

Thank you,

CP Proximity Ontario

CP Proximity Ontario
CP_Proximity-Ontario@cpr.ca
7550 Ogden Dale Road SE, Building 1
Calgary AB T2C 4X9

From: Earl, Lindsay
Sent: Monday, December 21, 2020 6:39 AM
Subject: Notice of Complete Application (ROPA 19) 475-635 Canal Bank Street, Welland

Good Morning,

Please see attached Notice of Complete Application for a Regional Official Plan Amendment (ROPA 19) submitted by Armstrong Planning & Project Management on behalf of 555 Canal Bank Development GP Inc. for lands municipally known as 475, 555 and 635 Canal Bank Street within the City of Welland.

A separate notice will be provided confirming the date of the Public Meeting in the New Year.

Feel free to contact me should you require anything further.

Kind Regards,

Lindsay Earl, MES, MCIP, RPP
Senior Development Planner
Planning and Development Services
Regional Municipality of Niagara
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Toll Free: 1-800-263-7215
Fax: 905-687-8056