
Subject: Recommendation Report- Regional Official Plan Amendment 19, 475-635 Canal Bank Street, Welland

Report to: Planning and Economic Development Committee

Report date: Wednesday, June 16, 2021

Recommendations

1. That Regional Official Plan Amendment No. 19 – 475-635 Canal Bank Street, Welland **BE APPROVED** (attached as Appendix 2 to Report PDS 27-2021);
2. That Local Official Plan Amendment No. 30 to the City of Welland Official Plan **BE APPROVED** (attached as Appendix 3 to Report PDS 27-2021);
3. That all parties **BE NOTIFIED** of Regional Council's decision in accordance with *Planning Act, 1990* requirements;
4. That staff **ISSUE** a declaration of final approval for Regional Official Plan Amendment No. 19 and Local Official Plan Amendment No. 30, 20 days after notice of Council's decision has been given, provided that no appeals have been filed against the decision, in accordance with *Planning Act, 1990* requirements; and
5. That Report PDS 27-2021 **BE CIRCULATED** to the City of Welland

Key Facts

- The purpose of this report is to provide Staff's recommendation for approval of Regional Official Plan Amendment No. 19 and Local Official Plan Amendment No. 30.
- On behalf of 555 Canal Bank Developments GP Inc., Armstrong Planning & Project Management submitted an application for a Regional Official Plan Amendment (ROPA) for lands located at 475-635 Canal Bank Street in the City of Welland. The ROPA proposes to remove the employment land designation from Schedule G2 and to refine/delineate the boundaries of the existing "Environmental Conservation Area" and add "Environmental Protection Area" to the subject lands on Schedule C to facilitate the redevelopment of the subject lands from vacant industrial (previously John Deere) to a residential and mixed-use subdivision.

- The applications are being processed as a land use change from employment lands to residential and mixed-use pursuant to new *Growth Plan* policies which requires the development to retain 285,000 square feet of space for a similar number of jobs to remain accommodated on site.
- In addition to the ROPA, the applicant has submitted concurrent planning applications to the City of Welland for a Local Official Plan Amendment (LOPA 30), Zoning By-law Amendment and Draft Plan of Subdivision in relation to the same matter.
- Regional staff deemed the application complete on December 10, 2020. On January 23, 2021, the Region advertised this Statutory Public Meeting in newspapers that have general circulation surrounding the subject lands. The application was then circulated to prescribed agencies on January 25, 2021. No comments were received from the public.
- A statutory public meeting for draft ROPA 19 was held March 10, 2021 and LOPA 30 on March 2, 2021 in accordance with *Planning Act*, 1990 requirements. No public delegations were made. All comments received on this matter have been reviewed and considered in staff's recommendation on ROPA 19 and LOPA 30.
- ROPA 19 and LOPA 30 conforms with and is consistent with Provincial policy.

Financial Considerations

There are no direct financial implications arising from this report.

The cost to process ROPA 19 is included in the review fee received for this application.

In the event Council's decision is appealed to the Local Planning Appeal Tribunal, additional resources would be needed. In such case, a further report on financial implications will be provided.

The Region may incur future costs as a result of the development of these lands in accordance with the Region's Brownfields Incentive Policies. More detailed information in this regard will be provided through a future report.

Background

The properties subject to this amendment are located at 475-635 Canal Bank Street in the City of Welland. The site was formerly occupied by John Deere (a farm equipment manufacturing operation from 1911 to 2009). The site has sat vacant for many years and is now considered a brownfield site. The location of the subject lands is shown in Appendix 1.

ROPA 19 has been initiated by Armstrong Planning & Project Management on behalf of 555 Canal Bank Developments GP Inc. The proposed amendment is being requested to facilitate the redevelopment of the subject lands for residential and mixed use consisting of a mixed-use subdivision ("Dain West") that would allow for a maximum development of 870 residential dwelling units consisting of a mix of detached, semi-detached and townhouse dwellings, a 4.0 hectare mixed-use employment block containing 285,000 square feet of space, a stormwater management pond, an elementary school, parks and open space on approximately 74 hectares of land. The subject lands are located on the north side of Forks Road, east of the Welland Recreational Canal, west of the CN railway line, and south of the Townline Tunnel.

Regional Official Plan Amendment (ROPA) 19

ROPA 19 proposes to remove the subject lands from the Employment Land designation on Schedule G2 – Niagara Economic Gateway Employment Lands and to refine/delineate the boundaries of the existing "Environmental Conservation Area" and add "Environmental Protection Area" to the subject lands on Schedule C. No text changes are proposed.

A copy of ROPA 19 is included as Appendix 2.

Local Official Plan Amendment (LOPA) 30

Given the site specific nature of the ROPA (removing the Employment Land designation) which is a Regional interest, the Region has retained authority to approve LOPA 30.

The LOPA proposes to change the designation of the property in the City of Welland's Official Plan from the existing Special Policy Area #4, General Industrial and Core Natural Heritage to Special Exception Area Low Density Residential, Community Commercial Corridor, Open Space and Recreation and Core Natural Heritage. The purpose of the Amendment in the Low Density Residential Special Exception

designation is to allow for a maximum density of 54 units per net hectare. The Community Commercial Corridor will allow, in addition to the uses permitted in this designation: supermarket, retail centre, retirement home, hotel, assembly hall, research and development establishment, art gallery, commercial parking lot, parking structure or garage, and street townhouses.

Regional staff submitted comprehensive review comments on the planning applications to the City in our letter dated April 26, 2021, including detailed conditions of draft plan approval for the subdivision.

LOPA 30 was adopted along with the concurrent draft plan of subdivision and zoning by-law amendment applications by the City of Welland on May 4, 2021 and circulated the notice of adoption on May 10, 2021. Regional staff worked with City staff and the applicant to ensure that the language incorporated into the LOPA satisfies and meets the intent of Regional and Provincial Policy. No modifications to the LOPA are required.

A copy of LOPA 30 is included as Appendix 3. City Staff's report P&B-2021-23 (as identified as Appendix IV in the LOPA) is found here <https://www.welland.ca/council/c2021/CA20210504.pdf>.

Analysis

After the initial local pre-consultation meeting on April 18, 2019, a working group comprised of Staff from the City and the Region along with the applicant and their consultants was formed to aid in the comprehensive master planning of this large-scale redevelopment. Regional staff actively participated in establishing the Terms of Reference (TOR) for the submission of required studies for the LOPA and ROPA, as well as the TOR for the Employment Area Market Review and Land Needs Study required to determine conformity with Provincial and Regional policy.

The ROPA application was deemed complete on December 10, 2020. Concurrent LOPA and Zoning By-law Amendment and Draft Plan of Subdivision Applications were also submitted to the City of Welland for this development which included the following supporting documents:

- Planning Rationale Report
- Land Use Compatibility – Air Quality Assessment
- Environmental Impact Study (EIS)
- Phase 1 – Environmental Site Assessment
- Phase 2 – Environmental Site Assessment

- Preliminary Functional Servicing Report
- Preliminary Functional Servicing Drawings
- Preliminary City Water and Wastewater Servicing Capacity Assessment
- Geotechnical Investigation Report
- Hydrogeological Investigation
- Employment Land Needs Study Update
- Employment Area Market Review and Land Needs Study
- Mixed-use Block & Dain City Economic Cluster Concept
- Noise and Vibration Feasibility Study
- Stormwater Management Report
- Traffic Impact Study
- Proposed Urban Design & Architectural Control Guidelines
- Pre and Post – Development Site Specific Water Balance

To address Regional comments (dated February 23, 2021) the applicant submitted the following additional documents and report addendums in support of the planning applications:

- Planning Rationale Report-Addendum
- Revised Final Report- Employment Area Market Review and Land Needs Study
- Revised Urban & Architectural Design Guidelines
- Environmental Impact Study (EIS) Addendum
- Response Matrix to Preliminary Regional Comments
- Revised Draft Plan of Subdivision

Copies of these reports/studies are available via the City's website under Planning Division at <https://www.welland.ca/reportsstudies.asp>.

The following is a summary of staff's detailed review and addresses comments and inquiries raised through the public meeting and agency circulation.

Provincial and Regional Policy

The subject lands are located within the Welland Urban Area, as designated in the Regional Official Plan (ROP). The Welland Urban Area is considered as a Settlement Area by the 2020 Provincial Policy Statement (PPS).

The ROP, PPS and A Place to Grow: Growth Plan for the Greater Golden Horseshoe (Growth Plan) together direct development to take place in urban areas and support intensified development where appropriate servicing and infrastructure exists. Both Regional and Provincial policy place an emphasis on intensification and infill as the

preferred form of development to help foster the development of complete communities that have a mix of land uses, employment opportunities, and are active-transportation and transit supportive.

The subject lands are located within the provincially designated Built-up Area of the City of Welland. Accordingly, the proposed residential growth will count towards the City's annual residential intensification target of 40% and therefore, generally conforms with and is consistent with Provincial and Regional growth management policy directions.

Employment Land Needs Assessment

In 2019-2020, City and Region staff met to discuss Welland's City-wide employment areas and lands and how that relates to the subject lands. City and Regional staff agreed that other lands in the City were "employment areas" (as that term is used in Provincial and Regional planning documents) and the subject lands were "employment lands" but not employment area.

The applicant made its submission on this basis: that it would be converting employment lands and not employment area. The Region refers to this as an employment "land use change" rather than an employment conversion which apply in other cases.

The agreement between the City and Region on the location of employment areas was critical to the processing of the current application. Since the City and Region have agreed on employment area locations, the City and Region were agreeable to processing this application as a land use change.

The applicant's materials, including the "*Employment Area Market Review and Land Needs Study*" (dated November 30, 2020) and "*Employment Land Needs Study Status Update*" (dated September 14, 2020) both prepared by IBI Group confirmed the sufficiency of employment areas in Welland to allow the land use change for the subject lands.

The key Growth Plan section for employment land use changes is policy 2.2.5.14, as follows:

"Outside of Employment Areas, development criteria should be established to ensure that the redevelopment of any employment lands will retain space for a similar number of jobs to remain accommodated on site."

The above policy is critical in how the Region reviews and considers both ROPA 19 and LOPA 30. To address this policy, a 4.0 ha mixed-use employment block has been incorporated into the draft plan of subdivision in order to retain 285,000 square feet of space to be accommodated on site. This calculation is based on the premise that John Deere housed approximately 800 jobs during its peak operations. In order to justify this space requirement, Regional staff has reviewed and accepted the *Revised Final Report-Employment Area Market Review and Lands Needs Study* (dated February 24, 2021) prepared by IBI Group. Considering Welland's sufficient supply of Employment Area lands to support future growth, Regional Staff is satisfied that the removal of the subject lands from the Employment Land designation on Schedule G2 – Niagara Economic Gateway Employment Lands is appropriate and conforms with and is consistent with policies of the Growth Plan.

Regional staff notes that the Growth Plan policy requirement to retain space for a similar number of jobs has been adequately incorporated into LOPA 30 as well as the draft plan conditions to be incorporated through the future Subdivision Agreement.

Core Natural Heritage

Regional staff is satisfied that the *EIS* (dated September 2020) and *EIS Addendum* (dated April 2021) both by Terrastory Environmental Consulting Inc. demonstrates that the development can be accommodated without significant negative impact to the natural features on the subject property, provided that the mitigation measures outlined in the EIS and EIS Addendum are implemented, and that all required authorizations are received from applicable regulatory agencies. Both ROPA 19 and LOPA 30 have adequately addressed the features to be protected through the appropriate designations and delineation (through their respective schedules) identifying the significant woodland and natural heritage corridor as an Environmental Conservation Area (ECA) and the wetland areas and habitat of endangered species as an Environmental Protection Area (EPA).

Servicing

Regional staff note that servicing will be under the jurisdiction of the City of Welland and will require the construction of water, sanitary and storm services for the proposed development area. The Regional Dain City Sewage Pumping Station (SPS) and forcemain service the area for Dain City which includes these lands. The Dain City sanitary system is impacted by significant peak wet weather flows. The City has started a sanitary flow monitoring program to analyze where inflows are occurring and what measures are required to reduce inflow to help alleviate past flooding to the Dain City

Pumping Station. Reduction of these wet weather flows is essential in order to provide adequate servicing capacity for this development.

There is currently a construction project underway to replace the entire Dain City SPS forcemain which is being completed in five (5) phases. Phases 1 and 2 have been completed and Phase 3 is underway which will see the forcemain completed to the Canal Bank Bridge. The remaining two phases are currently scheduled to be completed in 2021, pending budget approvals. It is anticipated that the new forcemain will be able to service the ultimate build out of Dain City as currently proposed.

Additionally, a sustainability upgrade project for the Dain City SPS is currently underway in the design phase with construction forecasted for 2022 with an average dry weather flow of 5 L/s and a firm capacity of 115 L/s available. The sanitary flows at the Dain City SPS will be monitored on a continual basis and an upgrade to the capacity will be implemented in the future depending on actual flows received.

The applicant is aware that approval of this subdivision does not include a commitment of servicing allocation by Niagara Region and that verification of the available capacity in the Dain City Sewage Pumping Station and Ontario Street Sewage Pumping Station sewershed be completed prior to final registration of each phase of the development to the satisfaction of Niagara Region.

Land Use Compatibility –Air Quality

The existing industries surrounding the proposed development were evaluated with respect to air quality in accordance with the Ministry of the Environment, Conservation and Parks (MECP) D-6 Guidelines. The report identified that Verbio Diesel Canada is a renewable fuel facility located immediately to the west of the subject property, which is located within the recommended 300 metre area of influence from the Class II facility. Within their current Environmental Compliance Approval (ECA) the biodiesel facility is required to meet the MECP guidelines for air quality contaminants at their property line. While the introduction of the mixed-use employment block could trigger the facility to re-assess compliance at new receptor locations, the current proposal of low rise commercial buildings are not anticipated to trigger compliance issues for the facility. The location of the Open Space block within the design of the subdivision acts as a buffer between the development and the industrial uses. As such, the surrounding Class II industry is not anticipated to be of concern from an air quality perspective.

The adjacent industry was informed of the existing planning applications and given an opportunity to comment. Verbio provided a letter to the City that raised concerns that

the proposed residential uses could impact their operation and planned future expansions as well as the limit of the Class 4 Noise Designation on the adjacent property. To address this, City staff and the applicant met with Verbio, which resulted in their concerns being satisfied that the proposed residential construction would not impact the ability for Verbio to expand their facility.

Noise Impacts

The subject lands are situated adjacent to an industrial facility, operational railway lines to the east and south, and a Provincial Highway (#58A) to the north. As these uses represent significant sources of noise and vibration, a *Noise and Vibration Feasibility Study* prepared by HGC Engineering (dated August 31, 2020) was submitted in support of the applications.

Regional staff notes that the applicant has worked with the City prior to submission of this Study to evaluate the most appropriate solutions for noise mitigation to ensure that required mitigation would not compromise the layout/design of the proposed development. The City of Welland, as the approval authority for the Draft Plan of Subdivision, has applied the Class 4 designation in this instance, which provides increased sound thresholds for stationary source noise impacts. Only portions of the site are proposed to be designated as a Class 4 acoustical environment which includes the first row of dwellings at the far easterly lot line immediately adjacent to the rail line.

Based on the Consultants evaluation, sound level predictions for transportation based noise were made at the worst-case location. With no mitigation, future sound levels are expected to exceed MECP guideline limits at some of the dwellings within the development. To address stationary and transportation noise, an acoustic earth berm and noise barrier will provide beneficial acoustical shielding for future dwellings, in which the sound level predictions will be well within the MECP's sound level criteria. In addition, other mitigation measures (i.e. warning clauses) have been recommended to protect the proposed development from noise impacts. Overall, the results of the assessment indicate that it is feasible to achieve the MECP sound level guidelines at the proposed residential development provided the recommendations for noise control are implemented.

CN Rail was informed of the existing planning applications and given an opportunity to comment and provided comment and/or conditions of approval that will be incorporated into the draft plan of subdivision. Through this review, CN Rail has identified minimum requirements for setbacks and vibration limits allowed on lands adjacent to the railway; they have also requested that a number of different warning clauses be included in all

agreements of purchase and sale. In addition, CN Rail requires that an environmental easement be registered on title to lots adjacent to the rail line to act as a warning to all future purchasers. Safety on the rails is regulated by the Ministry of Transport. They set speed limits on rail lines based on type and location of rail and have recently issued an order to reduce speed limit restrictions in metropolitan areas; these restrictions, along with the warning clauses and setback limits imposed by CN Rail improve rail safety for new and existing developments in proximity of rail lines.

Environmental Site Assessment

The PPS requires that contaminated sites be remediated as necessary to ensure there will be no adverse effects to the proposed use. Regional staff are aware that previous Environmental Assessments were completed on the subject lands along with a Risk Assessment (RA) and Record of Site Condition (RSC) filed in 2004. However, as O.Reg. 153/04 has been amended since the filing of these reports, additional studies are underway to update and supplement the data from the previous reports as remediation is ongoing on the subject property. The filing of a RSC remains a requirement prior to building permits being issued for the proposed development.

Consultation Summary

Statutory Public Meeting

The *Planning Act, 1990*, requires that a statutory public meeting be held for all amendments to Official Plans. A public meeting was held on March 10, 2021 to present a draft of ROPA 19 to Planning and Economic Development Committee and receive comments from the public.

The Notice of Public Meeting was advertised on January 23, 2021 in newspapers having general circulation in and around the subject lands. Notice of the meeting was also provided to prescribed agencies and those that had already provided comments. Several written submissions were received pre and post public meeting from commenting agencies. No comments were received from the public at the Public Meeting for ROPA 19.

Applicant's Response to Committee's Inquiries Raised at the Public Meeting

The applicant submitted a *Planning Rational Report Addendum* by Armstrong Planning & Project Management (dated April 7, 2021) to address the inquiries raised by Committee Members at the ROPA 19 Public Meeting as outlined below.

Sustainability

There are a number of different opportunities to incorporate sustainable design when developing a new subdivision. These range from location (within the built boundary) to neighbourhood design (increased connections, low impact development design, etc.) and use of green infrastructure. The Dain West subdivision is strategically located within the existing built-up area of Welland. It adds significant density and makes good use of existing infrastructure (certain upgrades may be needed). The site is currently identified as a brownfield and through the proposed redevelopment will be remediated to residential standards (confirmed through filing of a record of site condition as regulated by the Province). This will eliminate potential impact that the contaminated lands may have otherwise had on the community (including the adjacent canal). The site will include a well-connected active transportation network. As part of the proposed trail network, the applicant is also proposing educational signage that provides users with information about their surroundings and the unique features present on site. New trees will be planted along street frontages providing shade and reducing the overall heat-island impact. Native species are being proposed along the street and in the stormwater management pond to ensure new trees work well with the existing woodlots (being protected and incorporated into the overall site). Engineering design may incorporate low impact development tools where possible, including the disconnection of downspouts, and use of extra deep topsoil on lots to encourage infiltration. The report states that the applicant (Empire Communities) builds homes that use resources (like energy and water) more efficiently than standard house construction.

Accessibility

The proposed subdivision is designed to incorporate sidewalks and rolled curbs to encourage accessibility throughout the site and facilitate access for people of all abilities to parks and other neighbourhood amenities. Any trails built through the significant woodlots are proposed as woodchip trails and not as a paved surface. This is a specific design requirement as it is meant to minimize impact of the trail on the natural features and function of and within the woodland.

In addition, the applicant offers certain upgrades to purchasers and can accommodate specific accessibility needs within new homes as requested (through upgrades) by any purchaser at time of sale.

Density & Affordability

The report states that the proposed subdivision proposes to maintain a density of over 69 people and jobs per hectare and provides for a variety of housing forms and lot sizes. Affordability is incorporated into the community design through the provision of offering a range in lot sizes and housing types. This includes townhouses 6.1m, small lot detached 8.2m, 9.1m, 10.1 m. 10.4 m and 11m lot sizes (and associated house size). This allows for a variety of price points throughout the subdivision.

Tax Revenues

The subject site is currently a vacant industrial site. These lands have been vacant for over 10 years (since 2009) and have been generating minimal tax revenue. For example, tax revenue collected on a vacant (large) industrial site valued at approximately \$4.5 million dollars, the annual tax payable is approximately \$176,000. If this site were to be occupied with another industrial use and the value became \$10 million dollars, the annual tax payable would be approximately \$500,000.

Although individual tax revenue from future residential units is not known (as it is based on the homes appraised value), the City of Welland has posted that the average residential property, with an assessment value of \$209,864, generates \$3,358.23 in annual taxes (2020) including \$1,661.57 for the City of Welland, \$1,375.57 for Niagara Region and \$321.09 for the Board of Education. It is likely, the new homes built on the subject lands will be assessed at a higher value (their value would be above the average assessment value for Welland) and therefore will pay higher taxes. However, assuming no change to average house cost the proposed site would generate just under \$3 million dollars in annual tax revenue. In addition, the commercial block designed to accommodate 280,000 sq ft of mixed-use employment will generate additional tax revenue (not included in \$3 million dollar tax revenue). Overall, if the proposed subdivision is built out it would generate more taxes than if the site remains vacant or is developed for industry.

Timing of Construction

The applicant has indicated that construction works could occur as early as summer 2021. One of the fundamental elements of the proposed subdivision is the realignment of Canal Bank Street. If the proposed applications are approved, the applicant will proceed with the realignment works before other subdivision works get underway. Doing this improves access to the site and community early on; it also allows for the creation of the new waterfront park. Timing for the build out of the park will depend on when

earthworks, servicing and home building can commence as it will be incorporated into subdivision works.

555 Canal Bank Developments GP Inc. also owns lands at 401 Canal Bank (with access from Forks Road known as “Dain East” Subdivision). These lands were recently approved for up to 1,405 residential units, new parks, an elementary school, open space and a stormwater management pond. Earthworks for this site is expected to start spring 2021; servicing is anticipated to start this fall with home building starting in September 2022. Through ROPA 19, development of the subject site will be phased in to compliment development of the proposed Dain East subdivision.

Brownfield Remediation & Financial Incentives

The applicant has identified that brownfield remediation costs for this site are expected to be approximately \$16-18.5 million dollars. In support of site remediation, the applicant is in discussion with the City and the Region to better understand how redevelopment of this brownfield site could benefit from the incentive programs offered by both governments. If applicable, this will be brought forward to Committee and Council through a future staff report.

Active Transportation & Parking

The applicant is working with the City of Welland to determine appropriate street cross sections throughout the proposed subdivision and has incorporated a variety of opportunities for active transportation which include; design to include a grid-like road network, sidewalks on one or both sides of the street to improve and facilitate movement, including pedestrian traffic. Pedestrian connections in the form of a small park and two walkways provide additional direct pedestrian (or bike) connections to Canal Bank Street encouraging the use of active transportation as an alternate method of getting around. The applicant has indicated that there is opportunity to build approximately 4km of new trails throughout the site making connections to existing environmental areas (to be protected) and to the existing waterfront trail network. Canal Bank Street will be widened to a 30m right of way adjacent to the site (it is currently approximately 20m wide). As part of this realignment, Canal Bank Street will be urbanized and there will be sidewalks on both sides. The 4.0-hectare mixed-use employment block will have provisions for bike parking and pedestrian movement. It is believed that through construction of the Dain East subdivision and the proposed Dain West subdivisions that this significant population base may be enough to support the extension of existing transit routes into Dain City. As such, the site represents a significant improvement to the active transportation network in Dain City.

The issue was raised as to how additional community parking would be incorporated on site. Users and visitors to the South Niagara Rowing Club were using the existing vacant parking lots on site during large events. These private parking lots are a remnant of the old manufacturing plant and although there is no intent to replace the significant amount of parking they offer; the addition of new public streets within the proposed subdivision and the widening of Canal Bank Street will create new, legal, opportunities for on-street parking in proximity to the South Niagara Rowing Club. Furthermore, as part of the detailed design for the proposed Canal Bank Street right-of-way, the applicant is also looking to formalize a layby for safe, drop-off and pick-ups along Canal Bank Street.

Public and Agency Comments

All comments received have been reviewed and considered in the Region's recommendation prior to finalizing ROPA 19. The comments received are attached as Appendix 4.

Correspondence received from prescribed agencies as part of the circulations for both ROPA 19 and LOPA 30 generally offered no comments/objections or to ensure that applicable guidelines be adhered to through the development approval process. Staff have taken the necessary steps to include appropriate conditions through the draft plan approval to be incorporated into the future Subdivision Agreement.

The City advised that other than Verbio, no public comments were received as a result of the circulation for LOPA 30.

Conclusion

In making this recommendation, the Region has relied on the justification of the supporting technical studies. Through our detailed review of these studies and associated development applications, which is the culmination of a collaborative process involving the proponent and City and Regional staff, Regional staff are supportive of the redevelopment of 475-635 Canal Bank Street as the proposed development will provide for the remediation and clean-up of this underutilized brownfield site.

The Growth Plan policy requirement has been adequately incorporated into LOPA 30 through the inclusion of a 4.0 ha mixed-use employment block in order to retain 285,000 square feet of space to be accommodated on site. Regional staff determined that City of Welland has an appropriate supply of Employment Area lands to support future growth.

As such, Regional Staff support ROPA 19 in the removal of the subject lands from the Employment Land designation on Schedule G2 – Niagara Economic Gateway Employment Lands as it conforms with and is consistent with policies of the Growth Plan.

Through staff's review of the technical studies regarding the Core Natural Heritage Features, ROPA 19 will also refine/delineate the boundaries of the existing "Environmental Conservation Area" and add "Environmental Protection Area" to the subject lands on Schedule C.

In conclusion, staff recommends that Regional Council approve ROPA 19 and LOPA 30 as the amendments represent good planning.

Alternatives Reviewed

Alternative Option:

Council could choose not to approve ROPA 19 and LOPA 30. This alternative is not recommended because Staff are satisfied that the applicant has met the Provincial policy requirements and have sufficient justification in its materials and planning opinion to support the land use change. The Region has worked with the applicant as well as City of Welland staff to ensure a streamlined approach to the complete submission and review of the development applications. Should Council choose not to approve ROPA 19 and LOPA 30, Council's decision could be appealed to the Local Planning Appeal Tribunal (LPAT), in which additional financial resources may be needed.

Relationship to Council Strategic Priorities

ROPA 19 and LOPA 30 has the potential to support the following Council strategic priorities:

- Supporting Businesses and Economic Growth- the Growth Plan policy requirement to retain space for a similar number of jobs has been adequately incorporated into the development through the inclusion of a 285,000 square feet mixed-use employment block to serve the community and future residents.
- Healthy and Vibrant Community- the proposed mixed-use subdivision will provide for future growth within the Urban Built Up area in the City of Welland. The subdivision has been proactively planned and supported through the various studies to encompass a complete community.

- Responsible Growth and Infrastructure Planning- there is infrastructure available to service the proposed mixed-use subdivision. It is anticipated that the new forcemain will be able to service the ultimate build out of Dain City as currently proposed. Therefore, the subdivision will allow for orderly growth to occur and to utilize this infrastructure in a fiscally responsible manner.

Other Pertinent Reports

- PDS 15-2021- Statutory Public Meeting for Regional Official Plan Amendment 19 - 475-635 Canal Bank Street, Welland

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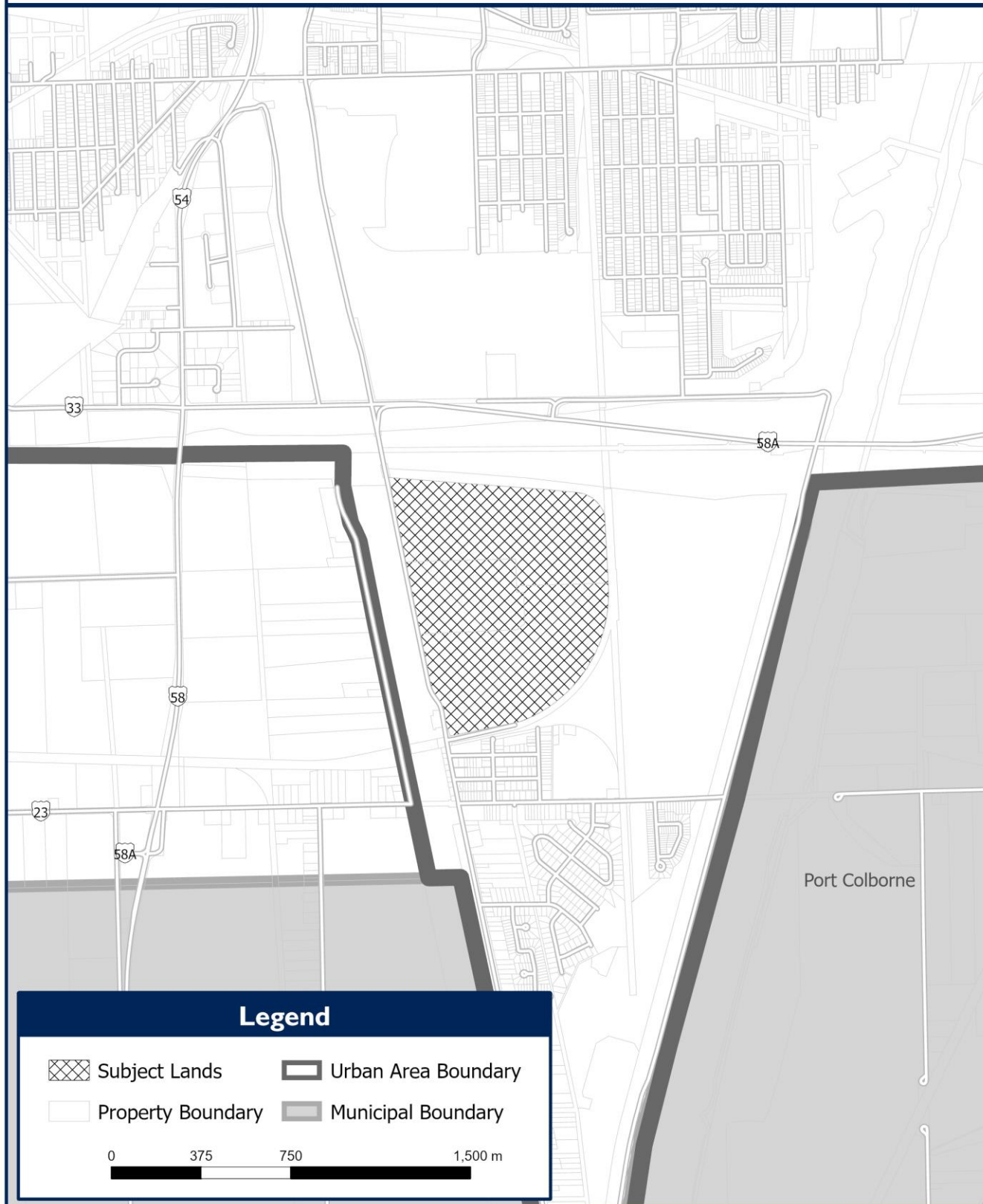
Submitted by:

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This report was prepared in consultation with Diana Morreale, MCIP, RPP, Director Development Approvals

Appendices

Appendix 1	Location Map
Appendix 2	ROPA 19
Appendix 3	LOPA 30
Appendix 4	Public and Agency Comments



REGIONAL OFFICIAL PLAN AMENDMENT 19

TO THE NIAGARA REGION

OFFICIAL PLAN

PART “A” – THE PREAMBLE

The preamble provides an explanation of the Amendment including the purpose, location, background, and basis of the policies and implementation, but does not form part of this Amendment.

- Title and Components
- Purpose of the Amendment
- Location of the Amendment
- Background
- Basis for the Amendment
- Implementation

PART “B” – THE AMENDMENT

The Amendment describes the additions and/or modifications to the Niagara Region Official Plan, constitutes as Official Plan Amendment No. 19.

- Map Changes

PART “C” – THE APPENDICES

The Appendices provide information, public participation and agency comments relevant to the Amendment, but do not form part of this Amendment.

PART “A” – THE PREAMBLE

TITLE AND COMPONENTS:

This document, when approved in accordance with Section 17 of the Planning Act, 1990, shall be known as Regional Official Plan Amendment 19 (ROPA 19) to the Niagara Region Official Plan. Part “A” – The Preamble, contains background information and does not constitute part of this Amendment. Part “B” – The Amendment, consisting of map changes, constitutes Amendment 19 to the Niagara Region Official Plan. Part “C” – The Appendices, does not constitute part of the Amendment. These Appendices contain information related to public involvement and agency comments associated with the Amendment.

PURPOSE OF THE AMENDMENT:

The purpose of this amendment is to update mapping to the Regional Official Plan to remove the subject lands from “Employment Land” designation and to further delineate/refine the boundary limits of the “Environmental Conservation Area” and add “Environmental Protection Area” designation on the subject lands.

LOCATION OF THE AMENDMENT:

This amendment applies to the lands known municipally as 475-635 Canal Bank Street in Dain City, Welland Ontario.

BACKGROUND:

This is a privately initiated Regional Official Plan Amendment (ROPA) to accommodate the redevelopment of the subject lands from vacant industrial to a residential and mixed-use community that includes Commercial, Residential, Parks and Open Space, Environmental Conservation Areas and Environmental Protection Areas.

The amendment consists of mapping changes to remove the lands from the Employment Land designation on Schedule G2 – Niagara Economic Gateway Employment Lands, which will result in an urban designation in the Region’s Official Plan. The Amendment will also refine/delineate the boundaries of the “Environmental Conservation Area” and add “Environmental Protection Area” to the subject lands on Schedule C based upon review of the technical studies submitted in support of the application to allow for additional protections.

As a requirement of this land use change, the lands must retain space for a similar number of jobs. A mixed use employment block is proposed to accommodate a minimum of 280,000 sq ft of space for employment and jobs. The mixed use employment block will be designated as such in the local Official Plan.

BASIS FOR THE AMENDMENT:

1. This Amendment establishes a new land use designation for the subject site.
2. The amendment has been supported by required studies to justify the removal of the Employment Land designation and retain space for a similar number of jobs on the subject lands in accordance with Policy 2.2.5.14 of the Growth Plan.
3. The Amendment was the subject of a Public Meeting held under the *Planning Act* on March 10, 2021. Public and agency comments were addressed as part of the preparation of this Amendment.
4. Based on the Region's review of the *Planning Act 1990*, the Provincial Policy Statement, the Growth Plan, applicable Provincial Plans, the Regional Official Plan, public consultation, and agency consultation, Regional staff is of the opinion that the Amendment is consistent and conforms with provincial policy and represents good planning.

IMPLEMENTATION:

Section 14, Implementation of the Niagara Region Official Plan, shall apply where applicable.

PART “B” – THE AMENDMENT
Amendment 19

To The Official Plan for the
Niagara Planning Area

The Official Plan for the Niagara Planning Area is amended as follows:

Map Changes (attached):

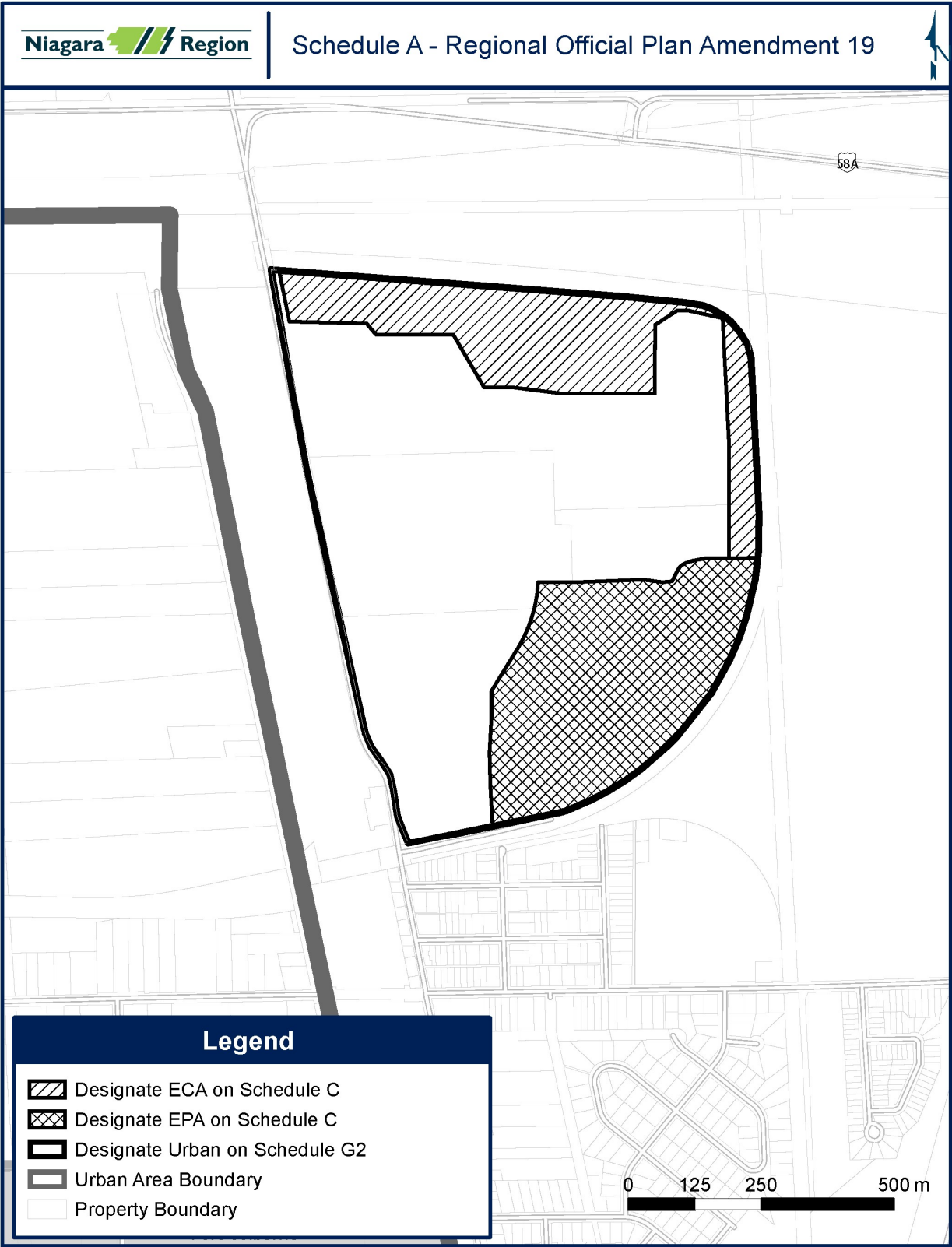
1. The following Regional Official Plan Schedules are hereby amended for the lands located at 475-635 Canal Bank Street within the City of Welland shown on Schedule A to this amendment, as follows:

- a) Schedule C: Core Natural Heritage, is amended by further refining/delineating the limit of the “Environmental Conservation Area” and adding “Environmental Protection Area” designations on the subject lands.
- b) Schedule G2: Niagara Economic Gateway Employment Lands, is amended by removing the subject lands from the “Employment Land” designation.

Text Change:

Not Applicable to this Amendment.

SCHEDULE "A" – LAND USE PLAN



PART “C” – THE APPENDICES

The following appendices do not constitute part of Amendment No. 19 to the Niagara Region Official Plan, but are included only as information supporting the amendment.

- APPENDIX I - Affidavit
- APPENDIX II - Notice of Adoption
- APPENDIX III - Minutes of Public Meeting
- APPENDIX IV - Staff Report
- APPENDIX V - Council Resolution (Certified)

AMENDMENT NO. 30
to the
OFFICIAL PLAN
of the
CORPORATION OF THE CITY OF WELLAND

MAY 4, 2021

**THE CORPORATION OF THE CITY OF WELLAND
BY-LAW NUMBER 2021- 74**

**A BY-LAW TO AUTHORIZE THE ADOPTION
OF OFFICIAL PLAN AMENDMENT NO. 30**

WHEREAS the Official Plan of the Corporation of the City of Welland was adopted by the City of Welland on May 4, 2010.

AND WHEREAS the Regional Municipality of Niagara gave partial approval to the Official Plan on October 21, 2011.

AND WHEREAS the Ontario Municipal Board gave partial approval to the Official Plan on June 24, 2014.

AND WHEREAS the Council of the Corporation of the City of Welland deems it expedient to amend the Official Plan.

AND WHEREAS the Regional Municipality of Niagara is the approval authority for Amendments to the Official Plan of the Corporation of the City of Welland.

**NOW THEREFORE THE MUNICIPAL COUNCIL OF THE CORPORATION OF
THE CITY OF WELLAND ENACTS AS FOLLOWS:**

1. That the Corporation of the City of Welland hereby adopts Official Plan Amendment No. 30 for the Corporation of the City of Welland.
2. That Staff is hereby authorized and directed to give Notice of Council's adoption of Amendment No. 30 to the Official Plan of the Corporation of the City of Welland in accordance with Section 17(23) of the Planning Act.
3. That Staff is hereby authorized and directed to forward the decision and required materials to the Region of Niagara for approval in accordance with Section 17(23) of the Planning Act.

**READ A FIRST, SECOND AND THIRD TIME AND PASSED BY COUNCIL THIS
4TH DAY OF MAY, 2021.**

Original Signed_____Mayor

Original Signed_____Clerk

**AMENDMENT NO. 30 TO THE OFFICIAL PLAN OF THE
CORPORATION OF THE CITY OF WELLAND**

PART A - THE PREAMBLE (This does not constitute part of the Amendment)	1
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PART A - THE PREAMBLE (This does not constitute part of the Amendment)

TITLE AND COMPONENTS

This document, when approved in accordance with the Planning Act, shall be known as Amendment No. 30 to the Official Plan of the Corporation of the City of Welland.

Part "A", the Preamble, does not constitute part of this Amendment.

Part "B", the Amendment, consists of the map and text changes.

Part "C", the Appendices, which does not constitute part of this Amendment, contains the background data, planning considerations and public involvement associated with this Amendment.

PURPOSE OF THE AMENDMENT

The purpose of Official Plan Amendment No. 30 is to redesignate the lands shown on attached Schedule "A" from Special Policy Area, General Industrial and Core Natural Heritage System to Special Policy Area Low Density Residential, Community Commercial Corridor, Core Natural Heritage System and Parks, Open Space, and Recreation. The purpose of the amendment is to redesignate the lands to allow for a mixed-use subdivision. The Special Policy Low Density Residential will permit a minimum density of 15 units per net hectare and a maximum density of 54 units per net hectare. The uses permitted in the Low Density Residential and Commercial designation shall be those permitted in the Special Policy Area.

LOCATION

The lands are located on the north side of St. Clair Drive, west of the CN Canal Sub Rail Line, south of Highway 58A, and east of the Welland Recreational Canal. The lands are approximately 74 hectares in size.

BASIS

The subject lands are within the urban area boundary for the City of Welland and currently designated General Industrial and Core Natural Heritage System. This amendment for a land use change from employment lands to mixed-use residential is required to retain space for a similar number of jobs to remain accommodated on site, in accordance with Policy 2.2.5.14 of the *A Place to Grow, Growth Plan for the Greater Golden Horseshoe* ("Growth Plan") dated August 2020 in order to permit the proposed residential subdivision within the built boundary in the City of Welland.

PART B - THE AMENDMENT

All of the Amendment entitled PART B - THE AMENDMENT, consisting of the following Policies and the map referred to as Schedule “A” - Land Use Plan and Policies, constitutes Amendment No. 30 to the Official Plan of the Corporation of the City of Welland.

MAP CHANGES

1. Schedule A, City Structure Map is hereby amended by identifying additional Environmental Conservation and Environmental Protection Areas on the property.
2. Schedule B, Land Use Map is hereby amended by identifying the lands as Residential, Commercial, and Core Natural Heritage, as well as identifying the special exemption on the property. The Area Specific Policy 4 designation will also be removed from this property.
3. Schedule B1, Residential Hierarchy Land Use Map is hereby amended by identifying a portion of the lands as Low Density Residential and Core Natural Heritage with the special exemption.
4. Schedule B2, Commercial Hierarchy Land Use Map is hereby amended by adding the Community Commercial Corridor area to the map and identifying the special exemption on the property.
5. Schedule C, Core Natural Heritage System Map is hereby amended by identifying additional Environmental Conservation and Environmental Protection Areas on the property.
6. Schedule C1, Components of the Natural Heritage System Map is hereby amended by identifying the additional Environmental Conservation Areas on the property.

TEXT CHANGES

1. The Official Plan of the City of Welland is hereby amended by adding the following:

4.2.3.20 Exemptions

- 4.2.3.20 F Notwithstanding the density provisions of Section 4.2.2.2, the lands will be permitted to have a minimum density of 15 units per net hectare and a maximum density of 54 units per net hectare.

The mixed-use employment block designated as community commercial corridor (“Employment Block”) shall have no less than 280,000 sq. ft. of space for employment uses to remain accommodated on site, as was concluded in the *Revised Final Report-Employment Area Market Review and Lands Needs*

Study 475, 555 and 675 Canal Bank Street, Welland (dated February 24, 2021) prepared by IBI Group.

The Employment Block is of City and Regional interest since it represents the space retained in accordance with Growth Plan (2020) policy. The Employment Block must be comprehensively planned to achieve the minimum required space. The minimum space area will be calculated on future *Planning Act* applications within the mixed-use employment block, in which the Region will comment through circulation.

Future development proposed within the Employment Block shall be considered with regard to the *Mixed-Use Block & Dain City Economic Cluster* report (dated August 28, 2020) and the *Urban & Architectural Design Guidelines* (revised March 26, 2021) prepared by Armstrong Planning and Project Management, or other documents deemed acceptable by City and Regional staff

SCHEDULE "A" LAND USE PLAN



SCHEDULE "A" TO AMENDMENT NO. TO THE OFFICIAL PLAN OF THE CORPORATION OF CITY OF WELLAND

LAND USE PLAN

**NOTE: THIS SCHEDULE FORMS PART OF AMENDMENT NO.
TO THE OFFICIAL PLAN OF THE CORPORATION OF THE CITY OF WELLAND
AND MUST BE READ IN CONJUNCTION WITH THE WRITTEN TEXT**

	LAND DESIGNATED FROM GENERAL ENVIRONMENTAL AND SPECIAL POLICY AREA 4 TO ENVIRONMENTAL CONSERVATION AREA
	LAND DESIGNATED FROM GENERAL ENVIRONMENTAL AND SPECIAL POLICY AREA 4 TO ENVIRONMENTAL PROTECTION AREA
	LAND DESIGNATED FROM ENVIRONMENTAL CONSERVATION AREA TO ENVIRONMENTAL PROTECTION AREA
	LAND DESIGNATED FROM GENERAL ENVIRONMENTAL AND SPECIAL POLICY AREA 4 TO SPECIAL EXCEPTED LOW DENSITY RESIDENTIAL
	LAND DESIGNATED FROM GENERAL ENVIRONMENTAL AND SPECIAL POLICY AREA 4 TO SPECIAL EXCEPTED COMMUNITY COMMERCIAL CORRIDOR
	LAND DESIGNATED FROM GENERAL ENVIRONMENTAL AND SPECIAL POLICY AREA 4 TO PARKS, OPEN SPACE, AND RECREATION



*Infrastructure and
Development Services*
Planning Division

PART C - THE APPENDICES

The following appendices do not constitute part of Amendment No. 30 to the Official Plan of the Corporation of the City of Welland, but are included only as information supporting the amendment.

APPENDIX I	-	Affidavit
APPENDIX II	-	Notice of Adoption
APPENDIX III	-	Minutes of Public Meeting
APPENDIX IV	-	Staff Report
APPENDIX V	-	Council Resolution (Certified)

APPENDIX I - AFFIDAVIT

IN THE MATTER OF SECTION 7, ONTARIO
REGULATION 543/06

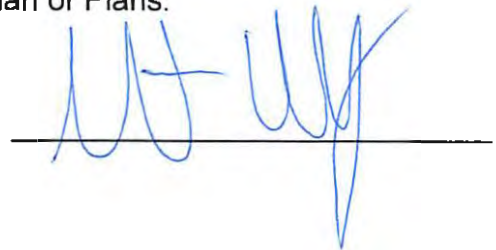
AND

IN THE MATTER OF THE ADOPTION OF
OFFICIAL PLAN AMENDMENT NO. 30 BY BY-
LAW 2021-74 PASSED BY COUNCIL OF THE
CORPORATION OF THE CITY OF WELLAND
ON MAY 4, 2021

I, Grant Munday of the City of Welland in the Regional Municipality of Niagara, make oath and say as follows:

1. I am the Director, Development and Building Services of the Corporation of the City of Welland.
2. That in accordance with Section 17(15) of The Planning Act, as amended and Section 3 of Ontario Regulation 543/06, Notice of the Public Meeting was published in the Niagara This Week Newspaper on January 21, 2021. I hereby certify that the required Public Meeting was held virtually on March 2, 2021 by the Council of the Corporation of the City of Welland.
3. A list of all persons or public bodies which made oral submissions at the Public Meeting is attached as Schedule "A" to this Affidavit.
4. That in accordance with Section 17(23) of The Planning Act, as amended, and Ontario Regulation 543/06, the requirements for the giving of Notice of Adoption of the Amendment have been complied with.
5. That in accordance with Section 7(7) of Ontario Regulation 543/06, the decision of Council is consistent with the Policy Statements issued under sub-Section 3(1) of the Act and conforms to any applicable Provincial Plan or Plans.

Sworn before me at the City of Welland
in the Regional Municipality of Niagara,
this 18th day of May, 2021.



SCHEDULE “A” TO APPENDIX 1 - AFFIDAVIT

List of individuals who made oral submission at the Statutory Public Meeting conducted March 2, 2021 concerning Amendment No. 30 to the Official Plan of the Corporation of the City of Welland .

Opposed

No one

In Favour

Amanda Kosloski, Armstrong Planning & Project Management



CITY OF WELLAND
NOTICE OF ADOPTION OF
AMENDMENT NO. 30 TO THE
OFFICIAL PLAN OF THE CORPORATION OF THE CITY OF WELLAND

Take notice that the Council of the Corporation of the City of Welland passed By-law 2021-74, being a By-law to adopt Amendment No. 30 to the Official Plan on May 4, 2021 under Section 17(23) of The Planning Act, as amended.

The Purpose of Amendment No. 30 is to redesignate a portion of the property from General Industrial, Core Natural Heritage, and Special Policy Area 4 to Special Exemption Low Density Residential, Special Exemption Community Commercial Corridor, Core Natural Heritage System, and Parks, Open Space, and Recreation. The Low Density Residential Special Exemption will allow for a minimum density of 15 units per net hectare and a maximum of 54 units per net hectare. The Community Commercial Corridor Special Exemption Area will identify Dain City Square a Community Commercial Node and be planned to accommodate up to 280,000 square feet of commercial space (including limited light industrial) and allow residential uses on the ground floor.

The Effect of the redesignation is to allow for the development of the property with a mixed-use subdivision with a mix of single detached, semi-detached, townhouse, apartment and accessory apartment dwellings, commercial, mixed use blocks, as well as parks, stormwater management facilities, natural environment blocks, and potentially an elementary school.

Pursuant to Section 17(23.1)(a) of the Planning Act, as amended, City Council took into consideration all written and oral presentations made to it before rendering a decision.

The Region of Niagara is the approval authority for this proposed Official Plan Amendment. Any person or public body will be entitled to receive notice of the decision of the Council of the Region of Niagara if a written request to be notified of the decision is made to the Region of Niagara Planning and Development Services at 1815 Sir Isaac Brock Way, P.O. Box 1042, Thorold, ON L2V 4T7.

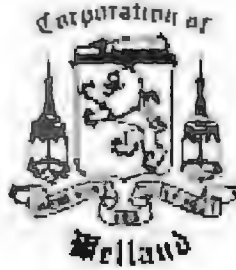
The land to which this proposed Amendment to the Official Plan applies is also the subject of a Zoning By-law Amendment (File No. 2020-09) and Draft Plan of Subdivision (26T-14-20007).

A copy of the Amendment and Staff Report are available for inspection by the public as of April 30, 2021 on the City of Welland website www.welland.ca/council/AgendasMinutes.asp.

Dated at the City of Welland this 10th day of May, 2021.

GRANT MUNDAY, B.A.A., MCIP, RPP
DIRECTOR
DEVELOPMENT AND BUILDING SERVICES
OF THE CORPORATION OF THE CITY OF WELLAND

APPENDIX III - MINUTES OF PUBLIC MEETING -



**MINUTES OF
SPECIAL COUNCIL MEETING, MARCH 2, 2021
TO CONSIDER MATTERS FROM FEBRUARY 23, 2021
CIVIC SQUARE, COUNCIL CHAMBERS
60 EAST MAIN STREET**

Council met in Committee-of-the-Whole closed to the public at 5:06 p.m. and in open session at 5:21 p.m. on the above date.

His Worship Mayor Frank Campion in the Chair.

Members Present:

Councillors J. Chiocchio, T. DiMarco, B. Fokkens, B. Green, M.A. Grimaldi, J. Larouche, D..McLeod (5:09 p.m.), A. Moote, G. Speck, C. Richard and L. Van Vliet.....

Members of Staff and Others Present:

Interim CAO/General Manager, Corporate Services, Chief Financial Officer/Treasurer, S. Zorbas
City Clerk, T. Stephens
Deputy City Clerk, L. Bubanko (5:20 p.m.)
Interim Director of Engineering and Public Works, SM. Millar
Interim Director of Development and Building Services, G. Munday
Economic Development Officer, L. DeChellis
Manager of Human Resources, A. Daisley (until 5:12 p.m.)

2021 - 69**21-25**

Moved by Van Vliet and Richard

THAT THE COUNCIL OF THE CITY OF WELLAND meet, with the Mayor as Chair, in Committee-of-the-Whole closed to the public at 5:06 p.m. to consider:

- Personal matters about an identifiable individual, including municipal or local board employees; and
 - *CUPE Negotiations update.*
- Proposed or pending acquisition or disposition of land by the municipality or local board;
 - *Sale of City Owned Land.*

CARRIED**2021 - 70****21-25**

Moved by McLeod and Green

THAT THE COUNCIL OF THE CITY OF WELLAND arise from its closed Committee-of-the-Whole meeting at 5:20 p.m. without report.

CARRIED**THE FOLLOWING ITEMS WERE DELETED:**

04-48 Report ENG-2021-02 - Gen. Mgr., Infrastructure and Development Services, T. Fitzpatrick - Amendment to the Insurance Provisions in the Atlas Landfill Post-Closure Agreement between the Corporation of the City of Welland and Walker Environmental Group Inc.

04-48 A By-law to authorize entering into amending Post-Closure Agreement with Walker Environmental Group Inc. for the Atlas Landfill site at 685 River Road.

2021- 71**18-87**

Moved by Fokkens and Grimaldi

THAT THE COUNCIL OF THE CITY OF WELLAND receives for information and endorses the correspondence from the Regional Municipality of Niagara Police Services Board dated November 4, 2020 regarding Medical Cannabis Grow Operations - Public Safety Concerns; and further THAT Welland City Council requests this motion endorsing the correspondence be forwarded to the Minister of Public Safety and Emergency Preparedness and the Minister of Justice and Attorney General of Canada.

CARRIED**2021- 72****20-78**

Moved by DiMarco and Green

THAT THE COUNCIL OF THE CITY OF WELLAND receives for information staff Report CLK-2021-04: Results - Welland Ward and Council Review - Public Engagement Survey.

CARRIED**2021- 73****20-82**

Moved by Fokkens and Grimaldi

THAT THE COUNCIL OF THE CITY OF WELLAND directs staff to prepare a report for council consideration regarding moving forward with a municipal comprehensive review, under section 4.3.3.1 of the Official Plan, for the property as outlined in Report P&B-2021-08 for an Employment Land conversion from Gateway Economic Centre to Agriculture; and further THAT the staff report be presented at the March 9, 2021 Council Meeting.

.....

20-82

Moved by Larouche and McLeod

THAT Welland City Council moves the Notice of Motion to the March 23rd, 2021 Special Council Meeting.

CARRIED

2021- 74**20-115**

Moved by McLeod and Grimaldi

THAT THE COUNCIL OF THE CITY OF WELLAND approves application for Zoning By-law Amendment for lands on the north and south sides of Webber road and east and west sides of South Pelham Road, west of Clare Avenue, and east of Murdock Road, being Block 5 on Plan 5Mm-466, Blocks 3-26 on Plan 59M-477, former Township of Thorold, Part 1 on Plan 59R-16195, Part 1 on Plan 59R-7834 and Part 1 on Plan 59R-7994, except 59M-472, City of Welland with multiple addresses to amend the existing site specific RL2-15, RM-37, and RL2-96 zone provisions.

CARRIED**2021- 75****21-2**

Moved by Green and McLeod

THAT THE COUNCIL OF THE CITY OF WELLAND approves Report TRAF-2021-11: City of Welland Business Licenses - Waiving of 2021 Fees; and further
 THAT Welland City Council directs staff to refund all fees associated with obtaining a 2021 Business License, excluding fire inspection fees; and further
 That Welland City Council directs staff to waive all fees associated with obtaining a business license in 2021, excluding fire inspection fees.

CARRIED**2021- 76****21-52**

Moved by Green and Van Vliet

THAT THE COUNCIL OF THE CITY OF WELLAND supports the 2021 Census, and encourages all residents to complete their census questionnaire online at www.census.gc.ca. Accurate and complete census data support programs and services that benefit our community.

CARRIED**BY-LAWS**

Moved by McLeod and Grimaldi

THAT THE COUNCIL OF THE CITY OF WELLAND having given due consideration to the following By-law, as reproduced in this evening's Council Agenda, now read a first, second and third time and pass same, and authorize the Mayor and Clerk to sign and seal same.

20-115

BYL 2021 - 19

A By-law to amend City of Welland Zoning By-law 2017-117 (Mountainview Homes Inc. - File 2021-01) Block 55 Plan 59M-446; Blocks 3-26 Plan 59M-477; and, Part Lot 258, former Township of Thorold, Part 1 on Plan 59R-16195, Part 1 on Plan 59R-7834 and Part 1 on Plan 59R-7994, except 59M-472, City of Welland.

CARRIED

Moved by Speck and Fokkens

THAT THE COUNCIL OF THE CITY OF WELLAND having given due consideration to the following By-law, as reproduced in this evening's Council Agenda, now read a first, second and third time and pass same, and authorize the Mayor and Clerk to sign and seal same.

21-22

BYL 2021 - 20

A By-law to appoint Hearings Officers pursuant to By-law 2014-81 and to repeal By-law 2015-95.

CARRIED

Moved by DiMarco and Chiocchio

THAT THE COUNCIL OF THE CITY OF WELLAND having given due consideration to the following By-law, as reproduced in this evening's Council Agenda, now read a first, second and third time and pass same, and authorize the Mayor and Clerk to sign and seal same.

21-53

BYL 2021 - 21

A By-law to exempt certain lands from Part-Lot Control - Parts 1, 2, 3, 4, 5, and 6 on Plan 59R-16853, Lot 76 Plan NS-19 (70-72 Northgate Drive), City of Welland

CARRIED

Moved by Moote and Larouche

THAT THE COUNCIL OF THE CITY OF WELLAND having given due consideration to the following By-law, as reproduced in this evening's Council Agenda, now read a first, second and third time and pass same, and authorize the Mayor and Clerk to sign and seal same.

21-1

BYL 2021 - 22

A By-law to adopt, ratify and confirm proceedings of the Council of the Corporation of the City of Welland at its meeting held on the 2nd day of March, 2021.

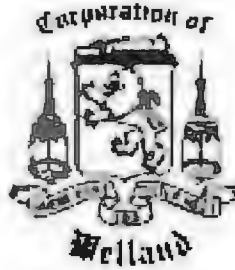
CARRIED

Council adjourned at 6:12 p.m.

These Minutes to be approved and adopted by Motion of Council this 20th day of April, 2021.

MAYOR

CITY CLERK



MINUTES OF
COUNCIL MEETING, MARCH 2, 2021
CIVIC SQUARE, COUNCIL CHAMBERS
60 EAST MAIN STREET

Council met in open session at 7:01 p.m. on the above date.

His Worship Mayor Frank Campion in the Chair.

Members Present:

Councillors J. Chiocchio, T. DiMarco, B. Fokkens, B. Green, M.A. Grimaldi, J. Larouche, D. McLeod,
A. Moote, G. Speck, C. Richard and L. Van Vliet.

Members of Staff and Others Present:

Interim CAO/General Manager, Corporate Services, Chief Financial Officer/Treasurer, S. Zorbas

City Clerk, T. Stephens

Deputy City Clerk, L. Bubanko

Interim Director of Engineering and Public Works, SM. Millar

Interim Director of Development and Building Services, G. Munday

Economic Development Officer, L. DeChellis (until 10:00 p.m.)

Manager of Fleet, Equipment and Purchasing, A. Beres (until 9:45 p.m.)

THE FOLLOWING ITEM WAS ADDED:

04-48 A By-law to authorize entering into amending Post-Closure Agreement with Walker Environmental Group Inc. for the Atlas Landfill site at 685 River Road.

PRESENTATION

12-96 Robert Swayze, Interim Integrity Commissioner addressed Council regarding a Report to Council.

Councillor Van Vliet presided as Chair of the Public Hearings:

20-97 Complete Applications have been made by ARMSTRONG PLANNING & PROJECT MANAGEMENT on behalf of 555 CANAL BANK DEVELOPMENTS GP INC. for Draft Plan of Subdivision Approval, to redesignate and to rezone lands legally described as Part of Lots 21, 22, 23, Concession 5, former Township of Humberstone, part of the Road Allowance between Lots 22 and 23, Concession 5 (closed), Parts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 on 59R-15225, City of Welland, municipally known as 475, 555, and 635 Canal Bank Street from the existing TEMPORARY SITE SPECIFIC RESIDENTIAL LOW DENSITY 2 (T-RL2-100) with the underlying zone of GENERAL INDUSTRIAL (G1) and ENVIRONMENTAL CONSERVATION OVERLAY (EC) to SITE SPECIFIC RESIDENTIAL LOW DENSITY 2 (RL2), SITE SPECIFIC COMMUNITY COMMERCIAL CORRIDOR (CC2), NEIGHBOURHOOD OPEN SPACE (O1), ENVIRONMENTAL CONSERVATION OVERLAY, and HOLDING SITE SPECIFIC INSTITUTIONAL (INS1) in Zoning By-law 2017-117. The purpose of the Amendment is to Site Specific Residential Low Density 2 is to: provide site specific provisions for frontage, lot area, front yard setbacks, side yard setbacks (interior and exterior), building height, and lot coverage for single detached, semi-detached, and townhouse dwellings; amends the definition of 'Landscaping' to include walkways; allows opened and roofed porches to encroach 2.5 metres into the front yard and into the rear yard 3.75 metres, with a maximum height from grade of 3 metres; to allow parking spaces in garages to be a minimum size of 3 metres by 6 metres; to allow stairs with no more than three risers to encroach into the parking space; and, that the maximum number of units per block will be identified on the Draft Plan of Subdivision, but the number of new lots created shall not exceed 870 lots, not including parkland, open space, and stormwater management blocks. The purpose of the Site Specific Zoning By-law Amendment is to allow supermarket, retail centre, retirement home, hotel, assembly hall, research and development establishment, art gallery, commercial parking lot, parking structure or garage, and street townhouses in addition to the uses already permitted in the CC2 Zone, as well as to eliminate the maximum lot coverage and create specific front yard provisions. The purpose of the Holding Special Exception Institutional Zone is to allow for an Elementary School on the property, however, if the option for the construction of a school is not realized within five years of registration of the subdivision, the lands can be developed with residential uses, subject to the site specific Residential Low Density 2 provisions. The Official Plan designation is General Industrial. Application for Regional Official Plan Amendment, City of Welland Official Plan Amendment (OPA No. 31), and Draft Plan of Subdivision (26T-14-20007).

Grant Munday confirmed that the statutory requirements for public hearing had been met, summarized the purpose of the hearing and reviewed the Planning Division Report.

Amanda Kosloski, VP, Planning and Project Management, Armstrong Planning and Project Management, 1600 Steels Avenue West, Suite 318, Vaughan, ON L4K 4M2 on behalf of the applicant.

In support of the application:

- No one spoke.

There being no persons present to speak in support of the application, the Chair asked for those opposing the application.

In opposition of the application:

- No one spoke.

There being no persons present to speak in opposition to the application, the hearing was concluded.

PRESENTATION

99-99 Mordechai Kanner and Robert Melohn, Plazacom addressed Council regarding 439 King Street - Deck at the Canal.

2021 – 77

21-1 Moved by Larouche and Van Vliet

THAT THE COUNCIL OF THE CITY OF WELLAND hereby approves and adopts the minutes of the Regular Council Meeting of February 23, 2021 as circulated.

CARRIED

2021 – 78

99-99 Moved by McLeod and Richard

THAT THE COUNCIL OF THE CITY OF WELLAND receives for information the presentation by Mordechai Kanner and Robert Melohn, Plazacom regarding 439 King Street - Deck at the Canal.

CARRIED

2021 – 79

99-99 Moved by Green and Larouche

THAT THE COUNCIL OF THE CITY OF WELLAND approves the construction of a 20' x 80' wood deck for public ownership and use along the east side of the Welland Recreational Canal, south of Lincoln Street as shown in Appendix II, attached to this report, and further

That Welland City Council authorizes the Mayor and City Clerk to sign any documents necessary to implement Council's decision.

YEAS: Councillors Larouche, Green, Speck, Chiocchio, McLeod, DiMarco, Richard, Grimaldi, Moote, Van Vliet and Mayor Champion.

NAYS: Councillor Fokkens.

CARRIED

2021 – 80

02-160 Moved by Fokkens and Larouche

THAT THE COUNCIL OF THE CITY OF WELLAND declares one seat on Council in Ward 3 vacant in accordance with section 262(1) of the Municipal Act, 2001, as a result of a resignation of Councillor Lucas Spinosa; and further

THAT Welland City Council directs staff to prepare a report for Council consideration for filling the vacancy for Ward 3 Council; and further

THAT a report be presented to Council on March 9, 2021.

CARRIED

2021 – 81

02-160 Moved by Speck and Moote

THAT THE COUNCIL OF THE CITY OF Welland directs staff to prepare a report comparing the Procedural By-laws of the 11 other municipalities in the Niagara Region, including the Niagara Region related to timeframe of when their agendas are posted publicly to residents; and

THAT Welland City Council requests information not only what is written in their Procedural By-law but what their common practice is; and further

THAT this report is to be completed within the next 3 months.

.....

02-160

Moved by Fokkens and Moote

THAT Welland City Council refers back to staff Notice of Motion regarding council agendas being posted publically to residents.

CARRIED**2021 – 82****04-48**

Moved by Moote and Green (in block)

1) THAT the insurance provisions in the Atlas Landfill Post-Closure Agreement between the Corporation of the City of Welland and Walker Environmental Group Inc be modified in accordance with Report ENG-2021-02; and

2) That staff prepare the necessary amending agreement for execution by the Mayor and Clerk; and further

3) That the Mayor and Clerk be authorized to execute the said amending agreement.

CARRIED**2021 – 83****09-104**

Moved by McLeod and Chiocchio

THAT THE COUNCIL OF THE CITY OF WELLAND receives for information staff Report CLK-2021-05: Audit Review Committee; and further

THAT Welland City Council approves the dissolving the Audit Review Committee.

.....

09-104

Moved by McLeod and Green

THAT Welland City Council approves the expansion of the Audit Review Committee to include all of Council and to be included in regular council meetings.

CARRIED

**FOLLOWING THE VOTE ON THE AMENDING MOTION, THE MAIN
MOTION WAS PUT AS AMENDED AND**

CARRIED

(Councillor DiMarco asked to be recorded as opposed to this Resolution).

2021 – 84**10-130**

Moved by Moote and Green (in block)

THAT THE COUNCIL OF THE CITY OF WELLAND receives for information the correspondence from Niagara Regional Housing (NRH) dated February 19, 2021 regarding the NRH 2021 1st Quarterly Report.

CARRIED**2021 – 85****12-96**

Moved by Van Vliet and McLeod

THAT THE COUNCIL OF THE CITY OF WELLAND receives for information the presentation by Robert Swayze, Interim Integrity Commissioner regarding a Report to Council; and further

THAT Welland City Council approves the suspension pay for Councillor Speck for an additional 60 days, in addition to the current 30 days.

YEAS: Councillors Larouche, McLeod, Grimaldi, Moote, Van Vliet and Mayor Campion.

NAYS: Councillors Green, Chiocchio, DiMarco, Richard and Fokkens.

CARRIED

2021 – 86**20-82**

Moved by Richard and Speck

1. THAT THE COUNCIL OF THE CITY OF WELLAND as the approval authority under the Expropriations Act, do not approve the expropriation of 349 Ridge Road, also known as Lot 16, Concession 7, Township of Crowland, Welland, Ontario; and
2. THAT Welland City Council directs staff to contact the owner's counsel to advise that the municipal council has exercised its authority as the approval authority to not approve the expropriation of 349 Ridge Road, therefore a Hearing of Necessity is not required and therefore request the owner's consent to collectively withdraw the request for a Hearing of Necessity, considering the expropriation will not be proceeding; and
3. THAT if the owner does not consent to collectively withdrawing the request for a Hearing of Necessity, staff are directed to contact the inquiry officer and advise that a Hearing of Necessity is not required to proceed, as the municipal council as the approval authority has directed the expropriation not proceed on 349 Ridge Road; and further
4. THAT Welland City Council directs staff to review the owner's submitted reasonable expenses incurred as a natural and reasonable consequence of expropriation and professional fees for the determination of compensation in accordance with section 32 of the Expropriations Act. If such expenses are reasonable, staff is directed to reimburse such expenses.

.....

20-82

Moved by Richard and Chiocchio

THAT Welland City Council requests to call the question regarding Report CLK-2021-07: Alternative option to stop expropriation of 349 Ridge Road.

YEAS: Councillors Larouche, Green, Chiocchio, DiMarco, Richard, Grimaldi, Fokkens, Moote, Van Vliet and Mayor Campion.

NAYS: Councillors Speck and McLeod.

CARRIED

**FOLLOWING THE VOTE TO CALL THE QUESTION, THE MAIN MOTION
WAS PUT AND**

YEAS: Councillors Larouche, Green, Speck, Chiocchio, DiMarco, Richard, Grimaldi, Fokkens, Mayor Campion.

NAYS: Councillors McLeod, Moote and Van Vliet.

CARRIED**2021 – 87****20-97**

Moved by Van Vliet and Grimaldi

THAT THE COUNCIL OF THE CITY OF WELLAND receives Report P&B-2021-12 regarding Applications for Official Plan Amendment (OPA No. 30), Zoning By-law Amendment (2020-09), and Draft Plan of Subdivision (26T-14-20007) for lands on the east side of Canal Bank Street, north of Forks Road, south of the Townline Tunnel, described as Part of Lots 21, 22, 23, Concession 5, former Township of Humberstone, part of the Road Allowance between Lots 22 and 23, Concession 5 (closed), Parts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 on 59R-15225, City of Welland, municipally known as 475, 555, and 635 Canal Bank Street.

YEAS: Councillors Larouche, Green, Chiocchio, McLeod, Richard, Grimaldi, Fokkens, Moote, Van Vliet and Mayor Campion.

NAYS: Councillors Speck and DiMarco.

CARRIED

2021 – 88**20-105** Moved by Green and McLeod

THAT THE COUNCIL OF THE CITY OF WELLAND accepts the offer to purchase 5.64 acres of land south of Shaw Street, north of Highway 58A, east of Prince Charles Drive South and west of the Welland Recreational Canal; and

THAT Welland City Council directs staff to prepare all the necessary documentation and by-laws relative to the transfer; and further

THAT the Mayor and City Clerk be authorized to execute all the necessary documents relative to the transfer; and further

THAT Welland City Council directs staff to deposit the revenues from the sale of these lands into the Economic Development Reserve Fund.

CARRIED**2021 – 89****20-108** Moved by Larouche and McLeod

THAT THE COUNCIL OF THE CITY OF WELLAND accepts the offer to purchase a portion of vacant city owned lands on the north-east corner of Fourth Street and Canal Bank Street; and

THAT Welland City Council directs staff to prepare all the necessary documentation and by-laws relative to the transfer; and further

THAT the Mayor and City Clerk be authorized to execute all the necessary documents relative to the transfer; and further

THAT Welland City Council directs staff to deposit the revenues from the sale of these lands into the Economic Development Reserve Fund.

(Councillor Fokkens asked to be recorded as opposed to this Resolution).

CARRIED**2021 – 90****21-40** Moved by McLeod and Green

1. THAT THE COUNCIL OF THE CITY OF WELLAND approves and accepts the tender from Circle P Paving Inc. of Stevensville, Ontario as detailed in Report ENG-2020-03 for Utility Cuts Final Reinstatement 2021 at the tendered price of \$548,162.00 (excluding taxes);

2. THAT Council directs staff to prepare the necessary by-law and documents to execute the project; and

3. THAT Council authorizes the Mayor and Clerk to execute all necessary documents to execute the project.

YEAS: Councillors Green, Speck, Chiocchio, McLeod, Richard, Grimaldi, Fokkens, Moote, Van Vliet and Mayor Campion.

NAYS: Councillor DiMarco.

CARRIED**2021 – 91****21-41** Moved by Van Vliet and Moote

1. THAT THE COUNCIL OF THE CITY OF WELLAND approves and accepts the tender of Springside Paving Limited as detailed in Report ENG-2021-04 for the 2021 Asphalt Patching Program at the tendered price of \$92,800.00 (excluding taxes); and

2. THAT Council directs staff to prepare the necessary By-law and documents to execute the project; and further

3. THAT Council authorizes the Mayor and Clerk to execute all necessary documents to execute the project.

CARRIED

2021 – 92

21-46 Moved by Moote and Green (in block)

THAT THE COUNCIL OF THE CITY OF WELLAND approves the purchase of one (1) cab and chassis assembly from PTG Mississauga Enterprises Limited Partnership operating as Premier Truck Group, being the offering that met specifications and provided best overall value; and further

THAT Welland City Council directs the City Clerk to prepare all necessary and appropriate By-laws to enter into a purchase contract with PTG Mississauga Enterprises Limited Partnership.

CARRIED

2021 – 93

21-55 Moved by Moote and Green (in block)

THAT THE COUNCIL OF THE CITY OF WELLAND receives for information the correspondence from the Association of Managers, Clerks and Treasurers of Ontario (AMCTO) dated February 18, 2121 regarding an Open Letter to Ontario Municipal Councils.

CARRIED

2021 – 94

21-56 Moved by Speck and Moote

THAT THE COUNCIL OF THE CITY OF WELLAND receives for information the correspondence from the Town of Lincoln dated February 8, 2021 regarding Town of Lincoln Council Resolution - Explore Options for Securing Recycling Bin Contents.

CARRIED

2021 – 95

21-58 Moved by McLeod and Grimaldi

THAT THE COUNCIL OF THE CITY OF WELLAND requests a report regarding brownfield employment lands that are non-employment producing within the city limits; and further

THAT Welland City Council directs staff to identify potential strategies related to their rejuvenation and/or clean-up be presented to Council.

CARRIED

2021 – 96

21-59 Moved by Mayor Campion and McLeod

THAT THE COUNCIL OF THE CITY OF WELLAND directs staff to create a report on a strategy to aggressively pursue the acquisition of seaway lands from the Federal government, to discuss with them an accelerated process to declare such lands surplus and enter into discussions for the acquisition of identified properties and review options for "lease to own" such lands until such time as they become available; and

THAT staff identify Seaway lands of interest and develop servicing plans and other strategies as may be required; and further

THAT staff identify other lands within and/or adjacent to employment lands identified in Welland's official plan that would be strategic acquisitions for the purpose of industrial/employment use and see if owners are interested in selling those lands to the municipality. If they are not interested the city would not pursue expropriation. In relation to all of the above staff would prepare strategies and associated costs to service lands so that they would be "shovel ready".

CARRIED

2021 – 97

21-60 Moved by Richard and Speck

1. THAT THE COUNCIL OF THE CITY OF WELLAND accepts the tender of Demar Construction Inc in the amount of \$1,823,878.27 (plus HST) being the lowest of seven (7) bid submissions received for the Scholfield Avenue – Road Reconstruction and Sanitary Sewer Replacement project; and

2. THAT Welland City Council directs staff to prepare the necessary By-law and documents to execute the project; and further

3. THAT Welland City Council authorizes the Mayor and Clerk to execute all necessary documents to execute the project.

CARRIED

BY-LAWS

Moved by Moote and Green (in block)

THAT THE COUNCIL OF THE CITY OF WELLAND having given due consideration to the following By-laws, as reproduced in this evening's Council Agenda, now read a first, second and third time and pass same, and authorize the Mayor and Clerk to sign and seal same.

21-46

BYL 2021 – 23

A By-law to authorize purchase of one truck cab and chassis from PTG Mississauga Enterprises Limited partnership operating as Premier Truck Group.

04-48

BYL 2021 – 25

A By-law to authorize entering into amending Post-Closure Agreement with Walker Environmental Group Inc. for the Atlas Landfill Site at 685 River Road.

CARRIED

Moved by Chiocchio and Fokkens

THAT THE COUNCIL OF THE CITY OF WELLAND having given due consideration to the following By-law, as reproduced in this evening's Council Agenda, now read a first, second and third time and pass same, and authorize the Mayor and Clerk to sign and seal same.

21-14

BYL 2021 – 24

A By-law to amend By-law 1998-11325, being a By-law to provide for paying remuneration to the Members of the Council and extended medical benefits to the Mayor.

CARRIED

Moved by Grimaldi and Moote

THAT THE COUNCIL OF THE CITY OF WELLAND having given due consideration to the following By-laws, as reproduced in this evening's Council Agenda, now read a first, second and third time and pass same, and authorize the Mayor and Clerk to sign and seal same.

20-105

BYL 2021 – 26

A By-law to authorize acceptance of an offer from Neeraj Bakshi for the sale of vacant land south of Shaw Street, north of Highway 58A, east of Prince Charles Drive south and west of the Welland Recreational Canal.

20-108

BYL 2021 - 27

A By-law to authorize acceptance of an offer from Property Force (Canada) Inc. for the sale of vacant land on the north-east corner of Fourth Street and Canal Bank Street.

21-40

BYL 2021 – 28

A By-law to authorize entering into contract with Circle P. Paving Inc. for Utility Cuts Final Reinstatement 2021.

21-41

BYL 2021 – 29

A By-law to authorize entering into contract with Springside Paving Limited for the 2021 Asphalt Patching Program.

21-60

BYL 2021 – 30

A By-law to authorize entering into contract with Demar Construction Inc. for the construction of roadway and sanitary sewer replacement on Scholfield Avenue between East Main Street and Welland Street.

CARRIED

Moved by Larouche and Van Vliet

THAT THE COUNCIL OF THE CITY OF WELLAND having given due consideration to the following By-law, as reproduced in this evening's Council Agenda, now read a first, second and third time and pass same, and authorize the Mayor and Clerk to sign and seal same.

21-1

BYL 2021 - 31

A By-law to adopt, ratify and confirm proceedings of the Council of the Corporation of the City of Welland at its meeting held on the 2nd day of March, 2021.

CARRIED

Council adjourned at 10:54 p.m.

These Minutes to be approved and adopted by Motion of Council this 20th day of April, 2021.

MAYOR

CITY CLERK

APPENDIX IV - STAFF REPORT

APPENDIX V**- COUNCIL RESOLUTION**

FROM THE OFFICE OF THE CITY CLERK

RESOLUTION NO: 2021-87

REFERENCE NO. 20-97

March 05, 2021

Dear Sir or Madam:

Welland City Council passed the following motion

on

March 02, 2021

"THAT THE COUNCIL OF THE CITY OF WELLAND receives Report P&B-2021-12 regarding Applications for Official Plan Amendment (OPA No. 30), Zoning By-law Amendment (2020-09), and Draft Plan of Subdivision (26T-14-20007) for lands on the east side of Canal Bank Street, north of Forks Road, south of the Townline Tunnel, described as Part of Lots 21, 22, 23, Concession 5, former Township of Humberstone, part of the Road Allowance between Lots 22 and 23, Concession 5 (closed), Parts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 on 59R-15225, City of Welland, municipally known as 475, 555, and 635 Canal Bank Street."

TS:cap

G. Munday, Interim Director of Development & Building Services
c.c. - R. Larocque, Interim Manager of Planning

From

J. Stephens
City Clerk

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	<p>CP's approach to development in the vicinity of rail operations is encapsulated by the recommended guidelines</p> <p>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.</p> <p>Noted. Comments have been addressed through appropriate conditions of draft plan of subdivision approval.</p>

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

CAUTION: This email originated from outside of the Niagara Region email system. Use caution when clicking links or opening attachments unless you recognize the sender and know the content is safe.

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

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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

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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



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.

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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

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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

EXTERNAL: PLEASE PROCEED WITH CAUTION.

This e-mail has originated from outside of the organization. Do not respond, click on links or open attachments unless you recognize the sender or know the content is safe.

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: 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

CAUTION: This email originated from outside of the Niagara Region email system. Use caution when clicking links or opening attachments unless you recognize the sender and know the content is safe.

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 | Fax: 905 704-3683
3401 Schmon Parkway, Thorold ON L2V 4Y6

enbridgegas.com

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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

EXTERNAL: PLEASE PROCEED WITH CAUTION.

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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: 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

CAUTION: This email originated from outside of the Niagara Region email system. Use caution when clicking links or opening attachments unless you recognize the sender and know the content is safe.

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>

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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

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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

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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>

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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

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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

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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>

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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

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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

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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
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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

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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, NOA 1H0
Website: <http://mncfn.ca/>
Ph: 905-768-4260
Cell:289-527-6580

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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, 2020.

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.



DEPARTMENT OF CONSULTATION AND ACCOMMODATION

Mississaugas of the Credit First Nation
4065 Hwy #6, Hagersville, Ontario N0A 1H0



Phone: (905) 768-4260



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.



DEPARTMENT OF CONSULTATION AND ACCOMMODATION

Mississaugas of the Credit First Nation
4065 Hwy #6, Hagersville, Ontario N0A 1H0



Phone: (905) 768-4260



Request for Missing Information

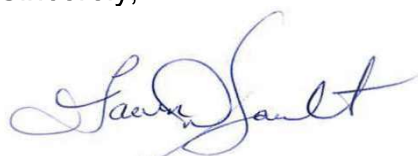
In order to proceed with our follow-up review, we ask you to ensure that all available information relating to the project has been transmitted to us. We have identified the following general information as missing from your initial project communication:

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



DEPARTMENT OF CONSULTATION AND ACCOMMODATION

Mississaugas of the Credit First Nation
4065 Hwy #6, Hagersville, Ontario N0A 1H0



Phone: (905) 768-4260



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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.

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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

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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

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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 statute, such as the Environmental Assessment Act, Planning Act, and Aggregate Resources Act, among others.

The conservation of resources of archaeological value³ 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 our 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 MCFN's 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 it 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 contract, 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 1.1¹²

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 determine 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 advise 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 0.25m² 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 Glossary¹³

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.

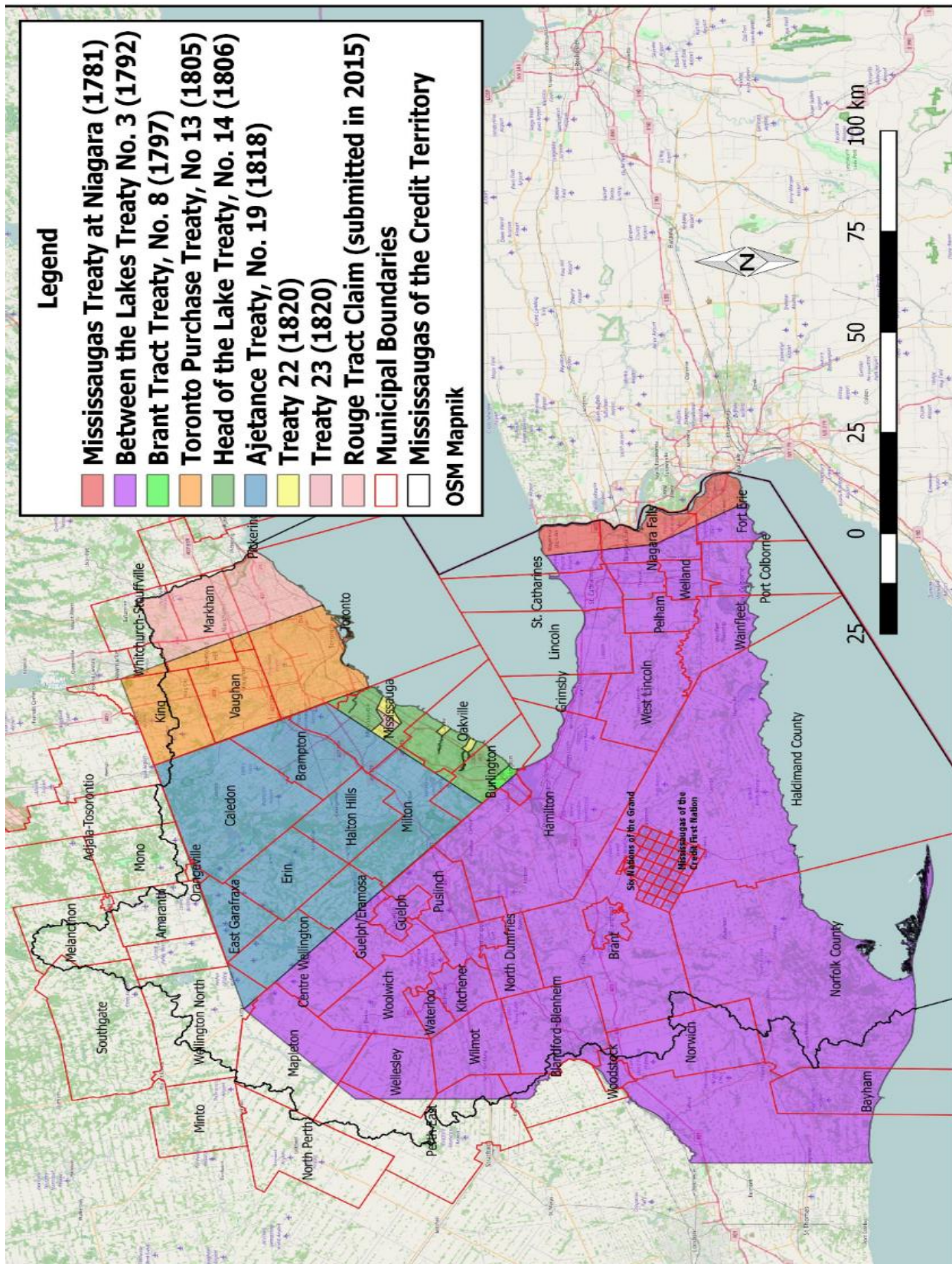
protection

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



Municipal Boundaries Related to the Between the Lakes Treaty, No. 3 (1792)



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

[printed name of signatory]
[job title]
[department]
[name of the proponent]

Authorized Signatory on behalf of
Mississaugas of the Credit First Nation

Mark LaForme
Director
Dept. of Consultation and Accommodation
Mississaugas of the Credit First Nation

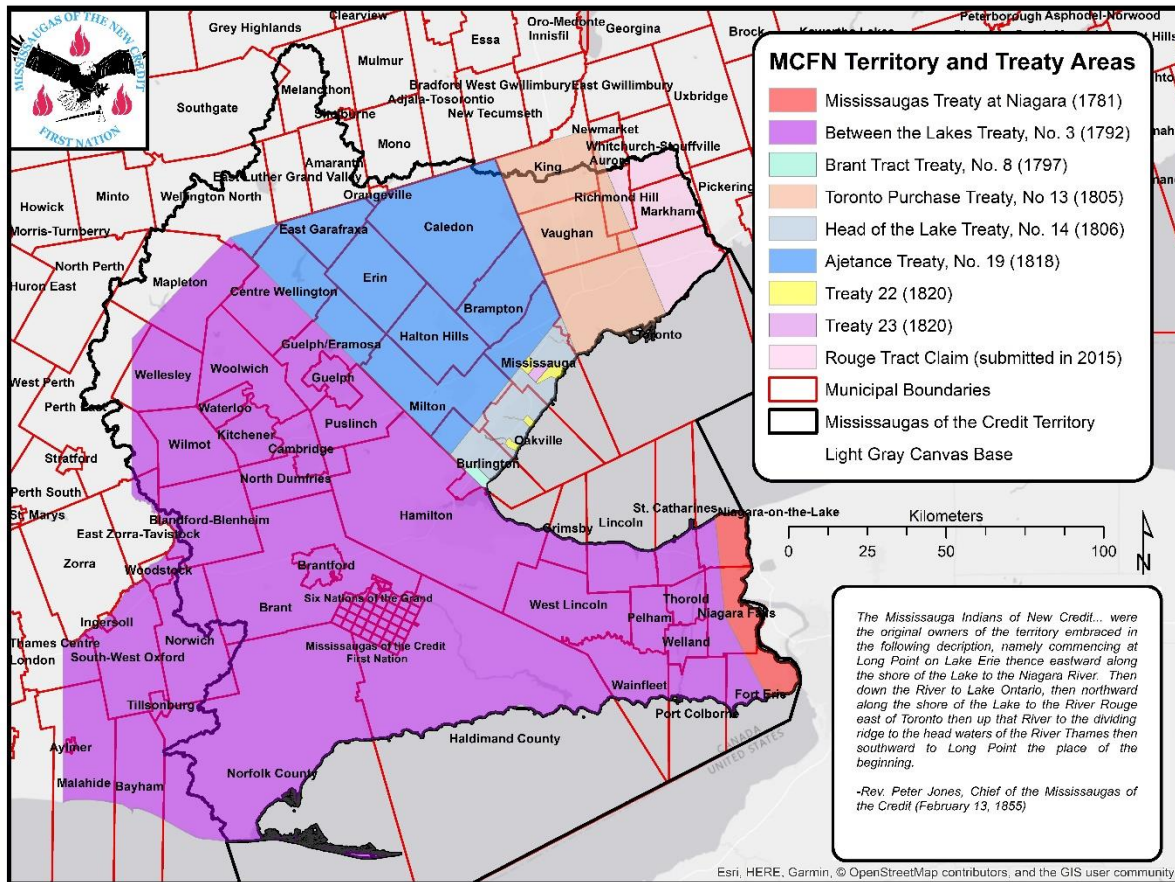
Witness

[printed name of witness]
[job title]
[department]
[name of the proponent]

Witness

Megan DeVries
Archaeological Operations Supervisor
Dept. of Consultation and Accommodation
Mississaugas of the Credit First Nation

Schedule A



Municipalities within Mississauga 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:
- 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
 - 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
 - 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
 - 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

[printed name of signatory]
[job title]
[department]
[name of the proponent]

Authorized Signatory on behalf of
Mississaugas of the Credit First Nation

Mark LaForme
Director
Dept. of Consultation and Accommodation
Mississaugas of the Credit First Nation

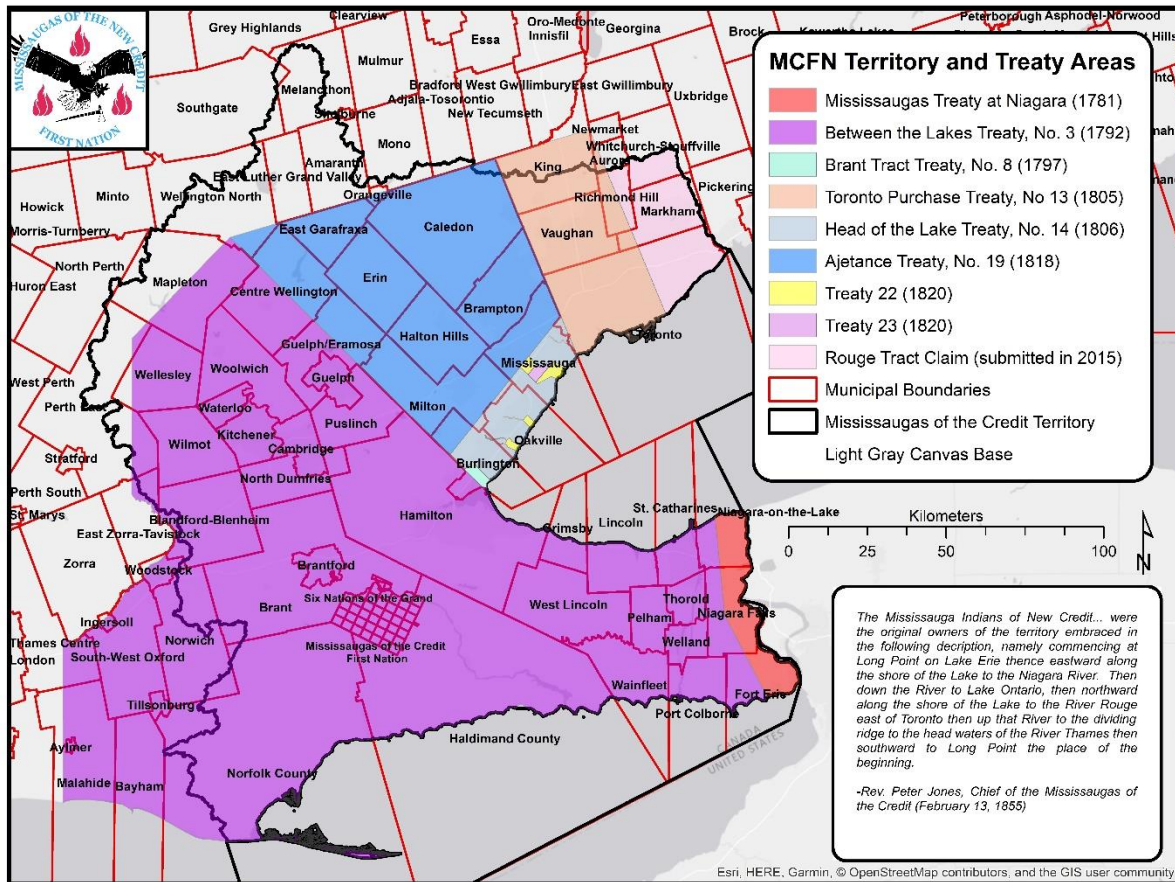
Witness

[printed name of witness]
[job title]
[department]
[name of the proponent]

Witness

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

<u>MISSISSAUGAS OF THE CREDIT FIRST NATION MILEAGE & ALLOWANCE CHART</u>			
<i>EFFECTIVE APRIL 1, 2020 to MARCH 31, 2021</i>			
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, 2020.

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

DEPARTMENT OF CONSULTATION AND ACCOMMODATION

Mississaugas of the Credit First Nation
4065 Hwy #6, Hagersville, Ontario N0A 1H0



Phone: (905) 768-4260



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.

Request for Missing Information

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

Mississaugas of the Credit First Nation
4065 Hwy #6, Hagersville, Ontario N0A 1H0



Phone: (905) 768-4260





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, 2020.

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

DEPARTMENT OF CONSULTATION AND ACCOMMODATION

Mississaugas of the Credit First Nation
4065 Hwy #6, Hagersville, Ontario N0A 1H0



Phone: (905) 768-4260



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

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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.



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

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“CAUTION: This email originated from outside of the Niagara Parks email system. Use caution when clicking links or opening attachments unless you recognize the sender and know the content is safe.”

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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

CAUTION: This email originated from outside of the Niagara Region email system. Use caution when clicking links or opening attachments unless you recognize the sender and know the content is safe.

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
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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

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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

CAUTION -- EXTERNAL E-MAIL - Do not click links or open attachments unless you recognize the sender.

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

Appendix 3
Public and Agency Comments
PDS 15-2021
March 10, 2021

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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

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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, NOA 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

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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

CAUTION -- EXTERNAL E-MAIL - Do not click links or open attachments unless you recognize the sender.

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

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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

This email did not originate from Canadian Pacific. Please exercise caution with any links or attachments.

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
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Toll Free: 1-800-263-7215
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