

City Planning

Urban Design/Heritage
Toronto City Hall
100 Queen Street West
19th Floor, East Tower
Toronto ON M5H 2N2

Tel: 416-338-1079
Mary.MacDonald@toronto.ca

Ministry of Citizenship and Multiculturalism
Heritage Policy and Programs Division
56 Wellesley Street West
16th Floor
Toronto, ON
M7A 1C1
Canada

heritage.consultation@ontario.ca

Re: Heritage Framework Transformation: Proposals related to Ontario's Archaeology Program, including targeted changes to the Standards and Guidelines for Consultant Archaeologists (ERO 026-0216)

On behalf of the City of Toronto, I am pleased to submit the City's comments and recommendations to the proposed changes to the *Standards and Guidelines for Consultant Archaeologists* and the proposal to create new evaluation criteria for Licensed Consultant Archaeologists. Below is a summary of the City's comments and recommendations.

1. Heritage Framework Transformation: Archaeology

The City of Toronto is supportive of the Ministry of Citizenship and Multiculturalism's (MCM) commitment to update Ontario's heritage framework for archaeology as identified in the Environmental Registry of Ontario Posting 026-0216, and we offer the following comments:

- a) The City of Toronto supports in principle any processes to reduce MCM review times for Stage 1 and Stage 2 archaeological assessment reports, which represents approximately 95% of all archaeological assessments undertaken in the City of Toronto. Reducing MCM review times ensures that the City of Toronto can continue to make decisions on development applications in a timely and efficient manner. However, given the importance of cultural heritage to the people of Ontario, as articulated in the *Provincial Planning Statement 2024*, the City of Toronto wants to ensure that any improvements to efficiency in MCM review does not reduce the quality of archaeological assessment reports or present increased risk to municipalities approving developments on lands containing archaeological resources or areas of archaeological potential.
- b) The City of Toronto supports updates to Ontario's Past Portal (PastPort) system to introduce new features and improve user experience, such as the integration of Geographic Information System capabilities, automatic notifications to approval authorities and proponents on report review status, and enhanced compliance

tracking. As municipal approval authorities are key partners in the approval of land development matters, the City of Toronto requests MCM to expand PastPort access to allow for approval authorities and other regulatory bodies to review report details, status of report review, and information related to the Ontario Archaeological Sites Database.

- c) The City of Toronto would request further information regarding the proposed timing of each of the subsequent updates to Ontario's Heritage Framework and how they integrate with each other. For example, the development of appropriate licensing compliance measures and mechanisms is necessary before Stage 1 and Stage 2 report review efficiencies can be implemented.
- d) The City of Toronto continues to be available to provide expertise as an approval authority in the establishment of any technical tables to develop a path forward for modernizing Ontario's Heritage Framework.

2. Proposed major changes to the Standards and Guidelines for Consultant Archaeologists

While the City of Toronto is supportive of the proposal to make targeted changes to the *Standards and Guidelines for Consultant Archaeologists (Standards & Guidelines)* to streamline archaeological assessments and modernize the document through administrative updates, we note that this should be done thoughtfully and with the perspectives of the professional archaeological community, Indigenous communities, and other regulated and regulatory bodies, such as municipalities, public bodies, and other relevant provincial ministries and agencies.

- a) The City of Toronto notes that the ambitious proposal to enact these targeted changes to the *Standards & Guidelines* during the upcoming 2026 field season may not allow for appropriate consultation with appropriate bodies. Municipal archaeological requirements and Terms of Reference will require updating to ensure alignment with the *Standards & Guidelines* in order to not present conflict between provincial licensing requirements and development application requirements. A transition period should be established between matters in progress and new matters commenced after a certain date, with sufficient time and notice to municipalities and all interested persons, including development proponents and archaeologists, to ensure proponents and approval authorities understand the process under which their submissions would be evaluated under.
- b) The City of Toronto supports in principle a process that allows for limited archaeological assessment, and in particular Table 1.1 Standard 2, which allows for limited assessment for small scale impacts related to development applications, in that it balances the need for efficient development decisions against the need to protect areas of archaeological potential. However, we are of the opinion that there are several additional considerations that should be reflected in this change:

- i The City of Toronto requests the MCM to remove the requirement that this only applies to private landowners and consider public land-holding bodies as one of the prescribed proponents. This will allow municipalities and other public land-holding bodies to advance housing options while protecting areas of archaeological potential.
- ii As archaeological assessment reports are often produced early in the development application process, such as through zoning by-law amendment applications, a municipality may not be in a position at the time of Stage 2 archaeological assessment report production to properly identify whether other impacts may be necessary as part of a given development application. As such, Section 7.7.1 Standard 1e. bullet iv., which requires confirmation from the approval authority that the development application will not authorize any impacts within unassessed lands, may be difficult to obtain. Approval authorities may not be willing or authorized to provide this commitment to archaeologists as a condition of report submission to the MCM, thus delaying report submission and, ultimately, development approval. The City of Toronto recommends that the MCM provide further guidance on how licensed consultant archaeologists should obtain this confirmation from approval authorities, including definition of impacts and designated signatory from an approval authority. This may require consultation with approval authorities to articulate in the *Standards and Guidelines*.
- iii The City of Toronto does not support the requirement that unassessed lands must be transferred to a public body, in the absence of additional information. While development applications often involve the transfer of lands, the transfer of land with archaeological encumbrances has the potential to create an additional burden on municipalities. Even if the Province intends to facilitate this type of transfer against the wishes of a Municipality, it is unclear under what statutory authority the City would be acquiring such lands being transferred to a public body.
- iv The City of Toronto strongly encourages the MCM to explore other tools to allow for long-term protection of unassessed lands without transferring to a public body and encourages the MCM to provide further direction to approval authorities on how to implement this provision, including necessary legislative change to facilitate this type of requirement. Considerations may include the use of a conservation easement under the *Ontario Heritage Act*, use of zoning regulations to prohibit development in areas of archaeological potential, use of holding provisions in Zoning By-laws, or other mechanisms to secure further concerns on title. The City of Toronto does not support a system which relies solely on landowner or proponent commitment as this does not protect properties and is not binding under any current statutory scheme.

- c) The City of Toronto supports in principle the proposed changes to the existing 'Partial Clearance' process in the *Standards & Guidelines* to ensure greater compliance with these provisions and ensure the temporary protection of archaeological sites while allowing critical development to proceed. However, the City of Toronto notes several areas in the proposed changes which require further clarification and revision.
- i The City of Toronto supports the proposed use of 50 metre protective buffers around archaeological sites identified during Stage 2 archaeological assessment which have not been subject to further archaeological assessment. Using a standard 50 metre buffer is consistent with the treatment of archaeological sites throughout the *Standards & Guidelines*, such as reporting requirements and background research during Stage 1 assessment and will lead to greater compliance.
 - ii Section 7.7.1 Standard 1e. bullet iii recommends the use of no-go instructions placed on construction drawings to prevent inadvertent impacts during construction activities for areas of archaeological potential on a property. The City of Toronto recommends that MCM implements similar requirements for proponent or landowner confirmation as part of reporting in Section 7.7.4 Standard 3 and Section 7.8.4 Standard 4.
 - iii The City of Toronto notes that landowner or proponent confirmation of temporary protection measures will not protect an archaeological site. While approval authorities may secure the protection of archaeological sites through the passing of zoning by-laws which prohibit any use of land and the erecting, locating or using of any class or classes of buildings or structures on land that is the site of a significant archaeological resource (e.g., Section 34(1) 3.3 of the *Planning Act*), doing so is only feasible through the zoning by-law amendment process which may be inappropriate for temporary protection of an archaeological site. The City of Toronto encourages MCM to consider actionable means to effectively protect archaeological sites, such as registration on title and modifications to the requirements for applicable law under the Building Code related to archaeology.
 - iv The City of Toronto encourages the MCM to further clarify how this 50 metre buffer will be used when it includes adjacent properties under different ownership which have not been subject to archaeological assessment or have been previously cleared through Stage 1 or Stage 2 archaeological assessment. While local by-laws can be used to ensure protection, this may not be feasible or may be onerous for municipalities if these adjacent lands are not subject to an active zoning by-law amendment application.

3. Proposed administrative updates to the Standards and Guidelines for Consultant Archaeologists

As terminology and policy frameworks have changed over the last 15 years, the City of Toronto supports the Ministry of Citizenship and Multiculturalism's (MCM) commitment to make administrative changes to the *Standards & Guidelines* with the intent to modernize the document and reflect evolved administrative practices. However, the City of Toronto observes that many of the proposed changes that are identified as "administrative", are significant changes and do not simply reflect a process of updating anachronistic language or reference to outdated legislation. For example, several of the proposed updates will have a significant impact on the practice of archaeology in Ontario and the quality and scope of archaeological assessment reports. As such, the City of Toronto recommends that further consultation should be undertaken to understand the impacts of these substantive changes to approval authorities, Indigenous communities and licensed consultant archaeologists.

- a) The revised *Standards & Guidelines* propose the removal of the option to undertake a property inspection as part of a Stage 1 archaeological assessment and the introduction of a standalone Standard for Stage 2 inspection. We are of the opinion that it remains important for a property inspection to occur as part of any Stage 1 archaeological assessment to ensure that the recommendations of the archaeological assessment report reflect real conditions of the property or project area.
 - i A property inspection is a crucial part of evaluating the archaeological potential of a property during Stage 1 archaeological assessment, particularly if the Stage 1 archaeological assessment is recommending that all or parts of the property should be considered free of further archaeological concern.
 - ii The City of Toronto is of the opinion that the introduction of new standards in Section 1.3.2 for evaluating extensive and deep land alterations and the ability to confirm disturbance using only historical aerial photographs, as described in Section 7.6.2 Standard 3 is insufficient to determine that lands are too disturbed to contain archaeological resources.
 - iii The City of Toronto does not support the removal of the optional property inspection during Stage 1 archaeological assessment. If a Stage 1 archaeological assessment cannot recommend property clearance without an inspection, applicants may need to commission both a Stage 1 archaeological assessment and a Stage 2 archaeological inspection (Section 2.1.1 and Section 7.7.3 Standard 1). Producing additional reports to meet development application requirements will increase costs to applicants without providing any additional benefit to the City of Toronto or the MCM.
 - iv Under the proposed *Standards & Guidelines*, inspection is described as "*A detailed in-person visual examination of the complete extent of a project area with the objective of identifying and confirming presence of features of*

*archaeological potential and with the further objective of supporting the preparation and design of the survey strategy for areas of high archaeological potential.” It is unclear how this definition differs from the stated intent of a Stage 1 archaeological assessment and what value this provides by moving inspection to Stage 2 archaeological assessment. The City of Toronto supports the introduction of a mandatory property inspection to evaluate archaeological potential and recommends that this requirement be included in Section 1 of the *Standards & Guidelines*.*

- v The City of Toronto does not support the removal of Section 1.4.2 of the 2011 *Standards & Guidelines*, which required a property inspection during Stage 1 archaeological assessment when exempting a property from Stage 2 archaeological assessment where a municipal Archaeological Management Plan exists.
- b) The City of Toronto does not support the removal of the definition of “archaeological resources” in the *Standards & Guidelines*. The replacement of “archaeological resources” with “archaeological site” in several Standards may have a significant impact on the treatment of objects, materials and physical features identified during Stage 2 archaeological assessment and may remove the critical role of licensed archaeologists in the evaluation and interpretation of archaeological data.
 - i By removing the definition of “archaeological resources” in the *Standards & Guidelines*, archaeologists will only be required to collect and report on items that demonstrably exhibit cultural heritage value, as per Ontario Regulation 170/04. This may be difficult to determine as part of archaeological fieldwork and removes the important role of post-fieldwork artifact analysis and interpretation of artifacts that are not immediately identifiable during fieldwork.
 - ii Please note that that “archaeological resources” still appears 15 times in the revised *Standards & Guidelines*. Including an undefined element in the document increases the risk of non-compliance, interpretation issues, delays arising from lack of clarity, and is not aligned with the MCM’s stated intent of these administrative updates. Further consideration should be given to the impact of removing the term “archaeological resources” as a central element to evaluating cultural heritage value in the archaeological assessment process.
 - iii It is important to emphasize that the term “archaeological resources” is included in Section 4.6 and Section 6.2, as well as in several definitions of the *Provincial Planning Statement, 2024*. As a key document for municipalities and approval authorities under the *Planning Act* for consistency of decisions, the removal of this term in the *Standards & Guidelines* *will likely* introduce conflicting requirements, understanding and interpretation issues between provincial legislation and regulations and the new proposed guidelines.

- c) While the City of Toronto supports in principle the proposal to change references from “Aboriginal” to “Indigenous” throughout the *Standards & Guidelines*, these changes may have impacts on established rights and should be guided by meaningful consultation with First Nations and Indigenous communities.
- d) The City of Toronto supports the proposed change in the *Standards & Guidelines* which updates the definition of the spatial limits of archaeological sites in Section 2.2.1 to include all artifacts. However, requiring that any “artifacts that are located less than (*sic*) 20 metres apart” be considered part of one archaeological site, will remove the complexity of discrete archaeological sites and will make any archaeological site which includes discrete clusters of artifacts from different periods of use (e.g., Indigenous and Euro-Canadian artifacts), a multi-component site. This may remove the ability to recommend specific survey strategies for different types of archaeological sites and will not reflect the complexity of the soil formation processes at a particular location. This may ultimately reduce the quality of documentation.
- e) The City of Toronto supports the proposed update for geospatial documentation from use of the Global Positioning System (GPS) to use of the Global Navigation Satellite System (GNSS). This update follows current industry best practices and provides greater accuracy, particularly in forested or urban areas with limited satellite visibility.

The City of Toronto has several other minor suggestions related to the proposed changes to the *Standards and Guidelines for Consultant Archaeologists* that we believe would improve the clarity of the document. Please feel free to reach out directly if you would like to receive these comments.

4. Proposed Criteria for Evaluating Licensed Consultant Archaeologist Compliance

While the City of Toronto strongly supports any measures to improve compliance records of provincially Licensed Consultant Archaeologists (LCAs) and ensure that LCAs are producing reports to the highest standards, the City of Toronto has some suggestions below for consideration to ensure that the proposed criteria will lead to the desired outcomes:

- a) The City of Toronto notes that previous compliance metrics among LCAs may be the result of inconsistencies in the previous *Standards & Guidelines*, which has been noted by the MCM as one of the reasons for several of the administrative updates in this proposal. The City of Toronto requests that any evaluation criteria appropriately consider the complexity of work and previous reporting which may have required revisions from the MCM and whether this type of work was well-articulated in the 2011 *Standards & Guidelines*.
- b) The City of Toronto does not support the development of any criteria or policy changes that privilege certain LCAs over others based on unclear performance metrics or on the establishment of efficiency measures within the MCM. MCM’s current process of entering specific classes of archaeological assessment reports

directly into the Ontario Public Register of Archaeological Reports without technical review may skew compliance records and present inequalities between LCAs who undertake assessments within these prescribed classes of reports and those who undertake projects not within these prescribed classes (e.g., Stage 3 and Stage 4 archaeological assessments).

- c) The City of Toronto suggests that MCM explore actions that can be taken to encourage LCAs to practice archaeology to the highest standards rather than using a punitive process which is focused on previous licensing actions by the MCM (e.g., suspension, revocation, refusal). The City of Toronto proposes that LCAs who have not demonstrated a high standard of work be required to undertake specialised training or re-certification to demonstrate awareness of best practices and MCM requirements.
- d) The City of Toronto notes that proposed criteria of LCAs being a member in good standing of an archaeological organization with a code of ethics or code of conduct is already a licensing condition. The City of Toronto encourages the MCM to consider measures to ensure that LCAs are members in good standing for the entire duration of licensing and not only when applying to renew a licence. This is particularly relevant should the MCM wish to introduce program and policy changes which allow for extended licence duration, such as a proposal to remove the requirement to renew a licence for LCAs who demonstrate strong compliance.
- e) The City of Toronto does not support the proposal to remove the requirement to renew a licence for LCAs who demonstrate strong compliance unless these licensees remain subject to periodic review of compliance records. Additionally, the City of Toronto notes that the MCM's proposal to streamline the entry of Stage 1 and 2 archaeological assessment reports into the public Register without review will need to be properly considered in the development of compliance measures and mechanisms to ensure that LCA's record of compliance can still be accurately evaluated.
- f) The City of Toronto is very concerned about a system where the licensing body and compliance review body are the same. This is particularly relevant as many MCM staff are also professionally-licensed archaeologists. As such, the City of Toronto strongly recommends the establishment of an independent review body which is separate from the MCM but is required to confirm compliance review with MCM as part of any licensing or compliance measurement system. The City of Toronto strongly supports the establishment of an independent Professional Review Board to ensure that LCA's continue working to the highest standards.
- g) The City of Toronto strongly encourages MCM to consider additional requirements of LCAs in order to maintain a licence in good standing, such as the requirement to maintain a professional portfolio and meet baseline Continuous Professional Learning requirements. Continuous Professional Learning could include conference and workshop attendance, awareness of issues and best practices in related

industries (e.g., engineering, built heritage, materials conservation, planning), and training or courses related to Indigenous community cultural protocols, safety and traditional knowledge.

- h) The City of Toronto would like to understand how these proposed changes may apply to LCAs whose licence status is currently "Expired-Deemed to Continue". If a licensee has submitted all required information and is awaiting MCM review by the date of implementation of any new licensing standards, the review of their licence should reflect previous compliance measures.

Should you have any questions regarding the City's submission or would like to arrange a meeting with City staff, please contact me directly or Alison Torrie Lapaire, Project Manager Archaeology, Heritage Planning (Alison.Torrie-Lapaire@toronto.ca or 416-392-4395).

Yours truly,

A handwritten signature in dark ink, reading "Mary L. MacDonald". The signature is fluid and cursive, with the first name "Mary" and last name "MacDonald" clearly legible.

Mary L. MacDonald, MA, CAHP
Senior Manager, Heritage Planning
Urban Design, City Planning