

Clause embodied in Report No. 5 of the Economic Development and Parks Committee, as adopted by the Council of the City of Toronto at its meeting held on June 24, 25 and 26, 2003.

## 14

**Archaeological Master Plan  
of the Central Waterfront**

*(City Council on June 24, 25 and 26, 2003, adopted this Clause, without amendment.)*

**The Economic Development and Parks Committee recommends:**

- (1) the adoption of the report (November 1, 2002) from the Commissioner of Economic Development, Culture and Tourism, subject to:**
  - (a) Chapter 4.0 of the Archaeological Master Plan of the Central Waterfront (the “Master Plan”) being revised as outlined in Schedule 1;**
  - (b) deleting Recommendation No. (2) and inserting in lieu thereof the following:**

**“(2) the following Recommendation be referred to the Planning and Transportation Committee:**

**‘it is recommended that the City use, and the Committee of Adjustment be requested to use, its powers under the Planning Act, as outlined in Chapter 4.0 of the Archaeological Master Plan of the Central Waterfront, as amended, to require that (an) archaeological assessment(s) and appropriate mitigation measures are completed before any development that involves soil disturbance is permitted on lands that are partially or wholly within a zone of “archaeological potential” as shown on the site potential maps contained in the Master Plan; the archaeological assessment(s) and mitigation must be completed to the satisfaction of the Ministry of Culture, Heritage Operations Unit;’ and**
  - (c) in the event that Recommendation No. (2) above is adopted, amending Recommendation No. (1) by adding after the word “endorsed” the words “subject to any changes to the implementation procedures that may arise as a result of the recommendations of the Planning and Transportation Committee,” so that such recommendation now reads as follows:**

**“(1) the Archaeological Master Plan of the Central Waterfront be endorsed, subject to any changes to the implementation procedures that may arise as a result of the recommendations of the Planning and**

**Transportation Committee, and that the Toronto Waterfront Revitalization Corporation incorporate the Plan as a resource document into ongoing work associated with the development plan and the business strategy process for the Central Waterfront;”;** and

- (2) **that Council receive the confidential report (May 27, 2003) from the City Solicitor respecting the Archaeological Master Plan of the Central Waterfront, which was forwarded to Members of Council under confidential cover; and further that in accordance with the Municipal Act, discussions pertaining thereto be held in-camera having regard that the subject matter relates to the receiving of advice that is subject to solicitor-client privilege.**

**The Economic Development and Parks Committee submits the communication (February 19, 2003) from the City Clerk:**

City Council at its regular meeting held on February 4, 5 and 6, 2003, had before it Clause No. 10 contained in Report No. 1 of The Economic Development and Parks Committee, headed “Final Report: Archaeological Master Plan of the Central Waterfront”.

Council struck out and referred this Clause back to the Economic Development and Parks Committee, and requested the City Solicitor to submit a report for consideration therewith on the legal implications of the November 1, 2002 report from the Commissioner of Economic Development, Culture and Tourism.

In addition, Council adopted the following recommendations:

“It is recommended that:

- (1) Council reiterate its request to the Province of Ontario that the heritage preservation tax incentives presently written into the new Municipal Act be permitted to pierce the caps on commercial properties to encourage archaeological preservation and data recovery on private property;
- (2) the Minister of Culture be requested to advocate for this on behalf of the City of Toronto; and
- (3) the Association of Municipalities of Ontario be so advised.”

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(Clause No. 10 of Report No. 1 of The Economic Development and Parks Committee, as adopted by Council at its regular meeting held on February 4, 5 and 6, 2003)

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In addition, Council adopted the following recommendations:

“It is recommended that:

- (1) Council reiterate its request to the Province of Ontario that the heritage preservation tax incentives presently written into the new Municipal Act be permitted to pierce the caps on commercial properties to encourage archeological preservation and data recovery on private property;
- (2) the Minister of Culture be requested to advocate for this on behalf of the City of Toronto; and
- (3) the Association of Municipalities of Ontario be so advised.”)

The Economic Development and Parks Committee recommends the adoption of the report (November 1, 2002) from the Commissioner of Economic Development, Culture and Tourism, as recommended by the Waterfront Reference Group, viz.:

- (1) the Archaeological Master Plan of the Central Waterfront be endorsed and that the Toronto Waterfront Revitalization Corporation incorporate the Plan as a resource document into ongoing work associated with the development plan and the business strategy process for the Central Waterfront;
- (2) an archaeological assessment be required when a planning or building permit application is submitted that is partially or wholly within a zone of “archaeological potential” as shown on the site potential maps of the Archaeological Master Plan of the Central Waterfront; the archaeological assessment must be prepared to the satisfaction of the Ministry of Culture, Heritage Operations Unit, prior to soil disturbance and the issuance of a building permit;
- (3) the appropriate City staff prepare guidelines for Council’s consideration for projects on City owned land within the zones of “archaeological potential”; and
- (4) Council direct City staff within the Culture Division and the Waterfront Project Secretariat, to investigate opportunities for completing the background research required within the Level 2 Archaeological Potential Zones and incorporating the budget costs within the Toronto Waterfront Revitalization Corporation’s Business Plan.

The Economic Development and Parks Committee submits the communication (November 15, 2002) from the City Clerk:

Recommendation:

The Waterfront Reference Group recommends that the report (November 1, 2002) from the Commissioner of Economic Development, Culture and Tourism be adopted subject to amending Recommendation No. (1) by adding the words:

“and that the Toronto Waterfront Revitalization Corporation incorporate the Plan as a resource document into ongoing work associated with the development plan and the business strategy process for the Central Waterfront;”;

and forwards this report, as so amended, to the Economic Development and Parks Committee for consideration at its meeting on December 9, 2002.

Background:

At its meeting on November 14, 2002 the Waterfront Reference Group gave consideration to the report (November 1, 2002) from the Commissioner, Economic Development, Culture and Tourism, recommending that:

- (1) the Archaeological Master Plan of the Central Waterfront be endorsed;
- (2) an archaeological assessment be required when a planning or building permit application is submitted that is partially or wholly within a zone of “archaeological potential” as shown on the site potential maps of the Archaeological Master Plan of the Central Waterfront. The archaeological assessment must be prepared to the satisfaction of the Ministry of Culture, Heritage Operations Unit, prior to soil disturbance and the issuance of a building permit;
- (3) the appropriate City staff prepare guidelines for Council’s consideration for projects on City owned land within the zones of “archaeological potential”;
- (4) Council direct City staff within the Culture Division and the Waterfront Project Secretariat, to investigate opportunities for completing the background research required within the Level 2 Archaeological Potential Zones and incorporating the budget costs within the Toronto Waterfront Revitalization Corporation’s Business Plan; and
- (5) this report be forwarded to the Economic Development and Parks Committee for consideration at the meeting to be held December 9, 2002.

Mr. Dalton Shipway appeared before the Group in connection with the foregoing matter.

(Report dated November 1, 2002 addressed to the Waterfront Reference Group from the Commissioner of Economic Development, Culture and Tourism)

Purpose:

This report recommends the adoption of the Archaeological Master Plan of the Central Waterfront including the Toronto Islands.

Financial Implications and Impact Statement:

There are no financial implications resulting from the adoption of this report.

Recommendations:

It is recommended that:

- (1) the Archaeological Master Plan of the Central Waterfront be endorsed;
- (2) an archaeological assessment be required when a planning or building permit application is submitted that is partially or wholly within a zone of “archaeological potential” as shown on the site potential maps of the Archaeological Master Plan of the Central Waterfront; the archaeological assessment must be prepared to the satisfaction of the Ministry of Culture, Heritage Operations Unit, prior to soil disturbance and the issuance of a building permit; and,
- (3) the appropriate City staff prepare guidelines for Council’s consideration for projects on City owned land within the zones of “archaeological potential”.
- (4) Council direct City staff within the Culture Division and the Waterfront Project Secretariat, to investigate opportunities for completing the background research required within the Level 2 Archaeological Potential Zones and incorporating the budget costs within the Toronto Waterfront Revitalization Corporation’s Business Plan.
- (5) this report be forwarded to the Economic Development and Parks Committee for consideration at the meeting to be held December 9, 2002.

Background:

As part of the Culture Division’s contribution to the Secondary Plan for the Central Waterfront, Heritage Preservation Services retained Archaeological Services Inc. to prepare an Archaeological Master Plan as authorized through Council directive.

The Toronto Preservation Board at its meeting on May 30, 2002 endorsed the following staff recommendations:

- (1) the Toronto Preservation Board endorse the draft Archaeological Master Plan of the Central Waterfront subject to incorporating discussions on the Development Permit system and the Co-operative Waterfront Environmental Assessment process;
- (2) Council endorse the Archaeological Master Plan of the Central Waterfront once it has been approved by the Ontario Ministry of Culture, Heritage Operations Unit; and
- (3) Council require that an archaeological assessment be prepared that is satisfactory to the Ontario Ministry of Culture, Heritage Operations Unit, when a planning or building permit application is submitted that is partially or wholly within a zone of “archaeological potential” in the Archaeological Master Plan of the Central Waterfront prior to soil disturbance and the issuance of a building permit.

The Plan has now been finalized and meets with the approval of the archaeological section of the Ontario Ministry of Culture, Heritage Operations Unit. The study area includes the Central Waterfront area, encompassing the lands between Leslie and Jameson Streets south of Front

Street, and also includes the Toronto Islands. Since the final draft of the Plan was received by the City, there have been some changes in planning terminology which are not reflected in the document.

Comments:

The Archaeological Master Plan for the waterfront study area consists of four major components:

- An overview of settlement history as it pertains to archaeological resources.
- Mapping of the zones of archaeological potential.
- Inventory of the 19 major areas of archaeological significance.
- Guidelines for the management, development review and conservation of known and potential archaeological resources.

The majority of the modern waterfront was created through lake-filling activities undertaken by the railways, major industries and the Harbour Commission. As a result, large parcels of land are artificial and hold limited archaeological potential.

For the Central Waterfront, the Archaeological Master Plan identified three areas:

- (1) Level 1 – areas of archaeological potential;
- (2) Level 2 – areas where the archaeological potential has not been determined; and
- (3) the balance of the Central Waterfront – areas where it has been determined that there is little potential of finding archaeological resources.

The zones of archaeological potential are representative of the pre- and post-European history of the City including that of the First Nations, the French regime, the early British Colonial Era, the War of 1812, commercial maritime development, the early railway era and subsequent industrialization. Since there is a high potential of finding archaeological resources in Level 1 and 2 areas, it is recommended that in these areas approval of a development application be preceded by an archaeological resource assessment (Attachment No. 1). The remaining lands in the study area do not exhibit archaeological potential due to twentieth century development and accompanying disturbances. Development within these areas need not be preceded by an archaeological resource assessment.

Level 1, Archaeological Potential Zones, comprise lands where archaeological potential has been confirmed through the research and results of the master planning study and the findings of previous studies. Level 2, Archaeological Potential Zones, comprise lands where archaeological potential has not been determined; therefore, further background research is required in these areas before the lands can be deemed to hold archaeological potential. It would be beneficial to complete the required background research within the Level 2 Archaeological Potential Zones in order to determine the archaeological significance of this area. It is recommended that Culture Division staff in consultation with Waterfront Project Secretariat staff, investigate the cost of completing the research and communicate the findings to the Toronto Waterfront Revitalization Corporation. It is appropriate that the Toronto Waterfront Revitalization Corporation allocate the necessary funds for the completion of the research within its business plan. Culture Division staff should assume the lead in co-ordinating the research project.

An archaeological resource assessment is conducted by a licenced archaeologist and identifies the presence of archaeological resources. It also provides options for addressing the archaeological resource. These options are:

- (a) Preservation - Preservation may involve long term protective measures such as project design changes that integrate the resources within the overall development plan.
- (b) Systematic Data Recovery – Involves the recovery of data from significant archaeological sites, when other mitigative options are not feasible. It includes a complete or partial surface collection and/or a site excavation. This mitigation strategy results in the destruction of the archaeological site.
- (c) Monitoring - Monitoring may be undertaken in specific circumstances to ensure that adverse impacts on archaeological sites which could not be predicted prior to construction are addressed as construction proceeds.

Archaeological resources are non-renewable and form an irreplaceable record of the City's past. Archaeology is regulated by the Province of Ontario, but the development review is the responsibility of the municipality. The Archaeological Master Plan of the Central Waterfront will enable the City to incorporate archaeology into the planning process through the use of site potential maps and recommend an appropriate mitigative option for the resource. The Plan will ultimately serve as an important cultural resource planning tool for the City's waterfront region.

The Culture Division has consulted with City Planning and the Waterfront Project Secretariat in Urban Development Services on the content and implementation of the Plan. The Plan has received technical and policy review approval from the Ministry of Culture, Heritage Operations Unit. The Plan will be circulated to the Toronto Waterfront Revitalization Corporation for information purposes.

The archaeological review process, as shown on Attachment No. 2, would be initiated once a planning application or proposal within the Central Waterfront was submitted for the City's consideration. Staff would undertake a review of the subject property and determine the archaeological potential using the site potential maps which form part of the Archaeological Master Plan. If a property is situated either partially or wholly within a zone of archaeological potential and the development proposal includes soil disturbance, an archaeological assessment would be required as part of the planning application process.

The archaeological resource assessment would be submitted to the Ministry of Culture, Heritage Operations Unit, for review. If the assessment encountered archaeological resources, the archaeologist would recommend a mitigative option for the management of the resource to be approved by the Ministry. Once the mitigative measures were completed and the resulting reports reviewed by the Ministry, it would issue a clearance letter to the applicant and the City. The standard Ministry response time for comment ranges from approximately two to six weeks. Upon receipt of the clearance letter, the City would consider the planning application to be free of archaeological concern and the City would process the application.

The City of Toronto should also develop and adopt a contingency plan for the protection of archaeological resources in urgent situations. Such situations are encountered in the event that archaeological assessments fail to detect significant deeply buried or isolated deposits. This may occur in situations where landfill covers the original landscape and buried archaeological resources are not discovered until development work is in progress. The contingency plan would specify the steps when such resources are encountered, be communicated to the appropriate City departments and thereby assist in facilitating the completion of the work.

Conclusions:

The Archaeological Master Plan of the Central Waterfront is an important planning tool in the revitalization of Toronto's Central Waterfront that ensures the conservation of archaeological resources. It is appropriate that the Archaeological Master Plan of the Central Waterfront and its implementation be endorsed.

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Schedule I

Revised Chapter 4.0, Archaeological Master Plan of the Central Waterfront

4.0 Planning for the Archaeological Resources in the Central Waterfront Area

This section of the report presents the provincial planning and policy context for the study as well as a series of recommendations for the future management of archaeological features within the City.

4.1 The Threats to Archaeological Resources

Protecting archaeological sites has become especially important in southern Ontario, where landscape change has been occurring at an ever increasing rate since 1950, resulting in substantial losses to the non-renewable archaeological record.

The scale of the threats facing the archaeological record of southern Ontario were considered in a study in which rates of demographic and agricultural change were examined over the last century, and estimates generated of the number of archaeological sites that have been destroyed (Coleman and Williamson 1994). While the period of initial disturbance to sites was from 1826 to 1921, when large tracts of land were deforested and cultivated for the first time, that disturbance typically resulted in only partial destruction of archaeological data as most subsurface deposits remained intact. However, extraordinary population growth in the post-World War I period, resulted in a more disturbing trend as large amounts of cultivated land were consumed by urban growth.

Indeed, consideration of development within the Region of York, including the City of Toronto, in the post-World War II period provides an instructive example of the nature and potential magnitude of the threat that continued landscape change poses to a finite and non-renewable archaeological resource base. It is possible that almost 2,400 sites were destroyed in York Region between 1951 and 1991, with the majority of this destruction occurring prior to 1971 (Coleman and Williamson 1994: Tables 2 and 3). Much of this resource loss may be directly attributable to housing, commercial and industrial development within urban areas, resulting in the concomitant total destruction of archaeological features. It is further estimated that approximately 25 percent of these sites (approximately 600) represented significant archaeological resources that merited some degree of archaeological investigation, since they could have contributed meaningfully to our understanding of the past.

While there has recently been a marked reduction in the rate of archaeological site destruction throughout much of the province, since certain municipalities adopted progressive planning policies concerning archaeological site conservation, the potential for the loss of archaeological resources in the future remains great, due to continuing growth and re-development.

#### 4.2 Jurisdiction Over Archaeological Resources

In terms of direct conservation and protection, the lead provincial government role has been filled by the Minister of Culture. The Minister is responsible for encouraging the sharing of cultural heritage and for determining policies, priorities and programs for the conservation, protection and preservation of the heritage of Ontario (Cuming 1985). In order to maintain a professional standard of archaeological research and consultation, the Minister is responsible for issuing licences to qualified individuals, without which archaeological activities involving exploration, survey or field work are illegal. All reports submitted to the Ministry, as a condition of an archaeological licence, are reviewed by Ministry staff to ensure that the activities conducted under a licence meet current technical guidelines, resource conservation standards, and the regulations of the Ontario Heritage Act.

The rationale for a greater sharing of responsibilities between provincial and local governments for all types of heritage including archaeological resources was explained most effectively in a document entitled A Strategy for Conserving Ontario's Heritage (Ontario Heritage Policy Review 1990). This document suggested a re-allocation of roles, in which the provincial government would maintain an advisory function and the municipal governments would assume the day-to-day responsibility for monitoring those archaeological features in their jurisdiction.

#### 4.3 Provincial Legislation

The specific provincial legislation governing planning decisions is complex, but provides for a number of opportunities for the integration of archaeological conservation. The two principal pieces of legislation are the Planning Act and the Environmental Assessment Act. Despite the on-going provincial transfer of review responsibilities, well over 1,000 formal development applications throughout the province, under both Environmental Assessment and Planning Act processes, are reviewed annually by the Ministry of Culture. Consequently, approximately 300 to 500 archaeological sites have been documented annually in southern Ontario since 1990 as a result of planning mechanisms (Ferris 1998).

## The Planning Act

Section 2 of the Planning Act requires that municipalities “in carrying out their responsibilities under this Act, shall have regard to, among other concerns, matters of provincial interest such as ... (d) the conservation of features of significant architectural, cultural, historical, archaeological or scientific interest”. Moreover, new heritage policies in the Provincial Policy Statement under Section 2.5.2 “Cultural Heritage and Archaeological Resources” state in the case of archaeological resources:

Development and site alteration may be permitted on lands containing archaeological resources or areas of archaeological potential if significant archaeological resources have been conserved by removal<sup>1</sup> and documentation or preservation on site. Where significant archaeological resources must be preserved on site, only development and site alteration which maintain the heritage integrity of the site will be permitted.

<sup>1</sup> “Removal” of an archaeological resource is accomplished through mitigative documentation and/or excavation.

For the above policy statement, Significant Archaeological Resources are defined as follows:

The remains of any building, structure, activity, place or cultural feature, which because of the passage of time is on or below the surface of the land or water, and which has been identified and evaluated and determined to be significant to the understanding of the history of a people or a place. The identification and evaluation of this resource is based upon an archaeological assessment.

Provincial interests in land use planning are detailed in the Provincial Policy Statement issued under Section 3(1) of the Act. Section 3(5) of the Act states:

In exercising any authority that affects a planning matter, the council of a municipality, a local board, a planning board, a minister of the Crown and a ministry, board, commission or agency of the government, including the Municipal Board, shall have regard to the policy statements issued under subsection (1).

Thus all decisions that affect a planning matter, regardless of the identity of the development proponent or the relevant approval agency, must have regard for potential heritage resource impacts. Sections 2 and 3 of the Act, along with other sections of the Act, permit a municipality to require that an archaeological assessment be completed prior to the approval of most planning applications relating to lands that contain areas of archaeological potential.

In the interest of meeting legislated processing deadlines under the Planning Act, it is appropriate and acceptable to make the requirement to undertake an archaeological assessment a condition of approval rather than a pre-requisite.

In the case of a zoning by-law, however, Section 36 allows a municipality to attach a holding “H” symbol to a zoning by-law and require that as a condition of removing the holding symbol, and before development can proceed, an archaeological assessment or other matter be completed. Site Plan Control requires the approval of plans by the municipality, which implies that due regard has been given to matters of provincial interest.

In regard to municipal projects, the Planning Act under Section 24(1) states that where there is an Official Plan in effect, no public work shall be undertaken that does not conform with the Plan.

Section 34 (1) 3.3 of the Act also permits municipalities to pass zoning by-laws: “for prohibiting 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”.

In summary, a municipality is obligated, within the existing legislative framework, to have regard for archaeological concerns in connection with any planning application and is able to require that an archaeological assessment be undertaken for most applications relating to lands containing areas of archaeological potential. The City can also pass zoning by-law(s) regulating the use of land that is the site of a significant archaeological resource. Moreover, a municipality is prevented from undertaking any public work that does not comply with its Official Plan. Heritage protection policies are appropriate in Official Plans, if developed and incorporated properly. If a municipality has a sound basis in its policies (Official Plan), it is possible to refuse applications that do not conform to heritage requirements.

The Heritage Operations Unit of the Ministry of Culture has the primary responsibility under the Planning Act for matters relating to cultural heritage including archaeological resources. One of their primary responsibilities is to oversee the Municipal Plans Review process. The first component of this process is the determination of the potential for a development application to impact archaeological resources, based on a range of environmental and historic criteria. Should it be determined that there is potential for impacts to archaeological resources resulting from the approval of the development application, then the second component is the requirement that the development proponent undertake an archaeological assessment, the results of which are subject to Ministry of Culture review and approval. Such assessments may be required for smaller-scale developments reviewed under consent and zoning by-law amendment applications. In all of those cases where potential is identified on all or a portion of a subject property, a standard archaeological condition is attached to the development application.

The current condition recommended by the Ministry of Culture reads:

The proponent shall carry out an archaeological assessment of the subject property and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No grading or other soil disturbances shall take place on the subject property prior to the City of Toronto and the Ministry of Culture confirming that all archaeological resource concerns have met licensing and resource conservation requirements.

While a generic primer has been developed by the Ministry of Culture (1997) for informing municipal planners about evaluating archaeological potential, those municipalities that have undertaken detailed archaeological potential studies or master plans have access to much more detailed information, that provides more effective and accurate means of determining archaeological potential and whether or not an assessment will be required. The review of site specific development applications, for the purpose of determining if archaeological resources or areas of archaeological potential are present, is now made directly by the City of Toronto, sometimes in consultation with the Province.

In the case of the Central Waterfront Area, this can now be accomplished through the use of this Archaeological Master Plan, consisting of potential mapping, explanatory text, and policies and procedures for implementation of the study's conclusions. Review of the resulting archaeological investigations, in order to determine that Heritage Act and Planning Act requirements have been satisfied, remains the responsibility of the Ministry of Culture, which provides notification to the approval authority and the development proponent of the results of their review. That Ministry also administers all matters related to the management of the resources documented, mitigation strategies proposed, and any disputes arising from the conservation of archaeological resources under the land use planning process.

#### The Environmental Assessment Act

The Environmental Assessment Act, applies to public sector projects and designated private sector projects. Private sector projects that are designated by the Province as subject to the Act are usually major projects such as landfills. The purpose of the Act is "the betterment of the people ... by providing for the protection, conservation and wise management in Ontario of the environment" (Section 2). Environment is very broadly defined to include "the social, economic and cultural conditions that influence the life of humans or a community" [Section 1(c)(iii)] and "any building, structure ... made by humans" [Section 1(c)(iv)]. Thus, "environment" would include heritage artifacts and structures.

The Environmental Assessment Act requires the preparation of an environmental assessment document, containing inventories, alternatives, evaluations and mitigation. It is subject to formal government review and public scrutiny and, potentially, to a tribunal hearing. Heritage studies of these major undertakings are a common component. There are also Municipal Engineers Association (MEA) Class environmental assessments for municipal projects that require similar considerations, but entail a simplified review and approval process.

Various provincial ministries are establishing protocols related to activities subject to the environmental assessment process, in order to ensure that heritage concerns in their respective jurisdictions are addressed. The Ontario Ministry of Transportation, for example, ensures that archaeological surveys are undertaken in advance of all new road construction in order to ensure that no archaeological sites will be unknowingly damaged or destroyed, and the Ontario Ministry of Natural Resources prepared a set of guidelines on the conservation of heritage features as part of the Timber Management Planning Process.

## Other Provincial Legislation

Other land use legislation in the province provides opportunities for archaeological resource protection. The Aggregate Resources Act governs the approval of pits and quarries and is administered by the Ministry of Natural Resources. The development of a pit or quarry will often require an official plan amendment or zoning by-law amendment, and thus would require involvement by the municipality at either the upper or lower tier level. The process for addressing archaeological concerns is similar to that outlined for Planning Act related projects. A background study, field survey and detailed archaeological investigations are all identified as required Technical Reports under Part 2.2 of the Provincial Standards for Bill 53 under the Aggregate Resources Act.

The Cemeteries Act (Revised) addresses the need to protect human burials, both marked and unmarked, which are yet another valuable link to the past. The discovery of burials at archaeological sites will require further investigation in order to define the extent and number of interments, and either the registration of the burial location as a cemetery, or the removal of the remains for re-interment in an established cemetery. The actual workings of this process are complex and vary depending upon whether the burial(s) are an isolated occurrence, or part of a more formal cemetery, and whether the remains in question are Aboriginal or Euro-Canadian. In all cases, the success of the process is dependent upon the co-operation of the landowner, the next of kin (whether biological or prescribed), and the Cemeteries Registrar (Ministry of Consumer and Commercial Relations). The Ministry of Culture's role in the process is to assist in co-ordinating contact and negotiation between the various parties, and ensuring that archaeological investigations of such burial sites meet provincial standards.

With this legislative planning context, success in protecting heritage features depends on sufficient resource information, sound policies, the capability to implement requirements, and participation by both local and provincial heritage planners in the process.

### 4.4 Federal Legislation

The federal government's Archaeological Heritage Policy Framework (Department of Canadian Heritage 1990) states that:

As heritage protection is an essential element of our Canadian identity, and as our archaeological heritage is a source of inspiration and knowledge, it is the policy of the Government of Canada to protect and manage archaeological resources.

In order to realize these objectives on all lands and waters under federal jurisdiction, the Federal Archaeology Office of the Department of Canadian heritage (DCH), has an advisory role for the protection and management of all archaeological resources on all lands and waters under federal jurisdiction. The Federal Archaeology Office is also recognized as an "expert department" for matters involving implementation of specific legislation in the Canadian Environmental Assessment Act, where it is outlined that the Government of Canada seeks to conserve and enhance environmental quality and to ensure that the environmental effects of projects receive careful consideration before responsible authorities take actions in connection with them. An "environmental effect", in respect of a project, is defined to include:

Any change that the project may cause in the environment, including any effect of any such change on health and socio-economic conditions, on physical and cultural heritage, on the current use of lands and resources ...

Subject to a number of exceptions, the Canadian Environmental Assessment Act applies to a project if that project received federal funding, involves the leasing, purchase or transfer of federal land, or requires a federal authority to issue a permit or grant an approval in certain prescribed circumstances.

#### 4.5 Ownership

The question of ownership of archaeological resources, whether they be sites or individual artifacts has never been adequately resolved in Ontario. Consequently, issues of ownership have often complicated the protection or conservation of the resource.

This situation led the Ministry of Culture's Advisory Committee on New Heritage Legislation to the suggestion that:

Ontario should follow the lead of many provincial governments in asserting Crown ownership of archaeological objects. This cuts out all claims but those of true owners. In the case of material of Aboriginal origin, however, such an approach may be inconsistent with current steps toward First Nations' self-government and jurisdiction over certain matters. Resolution of this matter should be negotiated with First Nations (Minister's Advisory Committee 1992:42).

If the Crown is to become the custodian of such materials, however, it will first be necessary to make better provision for their storage, curation and access to interested individuals or groups, than currently exists (OHPR 1992:59). Furthermore, it will be essential to resolve the equally legitimate, but frequently conflicting, interests of First Nations, the scientific community and of society in general, regarding the ultimate disposition of pre-contact archaeological remains. Such an objective will only be met through a long process of negotiation and consultation among these groups. The first steps, however, have been taken in this regard. In the late 1980s, the Assembly of First Nations and the Canadian Museums Association together sponsored a Task Force on Museums, the purpose of which was to develop an ethical framework and strategies by which Aboriginal peoples and cultural institutions can work together to represent Aboriginal history and culture. The results of extensive consultations carried out by the Task Force are available in the Task Force Report on Museums and First Peoples. Also, the Canadian Archaeological Association together with the Federal Department of Communications sponsored an extensive program of consultation with aboriginal communities across Canada resulting in a Statement of Principles for Ethical conduct Pertaining to Aboriginal Peoples, which should serve to guide the actions of Canadian archaeologists (Nicholson, Pokotylo and Williamson 1996). While neither of these documents asserts singular ownership of artifacts, they both provide guidelines regarding their interpretation and presentation to the public.

With regard to the matter of ownership of artifacts under current provincial legislation, the legislation under which archaeologists are licensed to carry out archaeological activities is the Ontario Heritage Act. This legislation stipulates, under subsection 66(1), that “The Minister may direct that any artifact taken under the authority of a licence or a permit be deposited in such public institution as the Minister may determine, to be held in trust for the people of Ontario”. Moreover, under clause 6(a) of Regulation 881, pertaining to licensing under the above Act, it is a term and condition of a licence “that the licensee keep in safekeeping all objects of archaeological significance that are found under the authority of the licence and all field records that are made in the course of the work authorized by the licence, except where the objects and records are donated to her Majesty the Queen in right of Ontario or are directed to be deposited in a public institution under subsection 66(1) of the Act.”

The application of this section of the Act and this regulation typically involves the curation of recovered artifacts by the archaeologist until such time that the analyses are complete and that a place for ultimate disposition can be arranged, usually a fully accredited public repository. It is also generally assumed that archaeologists will consult with the landowner and/or their client to decide upon the location for the ultimate disposition of artifacts. In general, it is desirable that material from a particular archaeological site are ultimately deposited in a public institution located in the same community (either a local museum or a First Nation cultural centre), provided that adequate storage, curatorial facilities for both artifacts and field records are available, that the institution’s collections are accessible to researchers, and that the material is not transferred or disposed of without provincial approval.

#### 4.6 Conserving Archaeological Resources: Opportunities and Obstacles

In the protection of archaeological sites from land use disturbances or infrastructure facilities, the major characteristics of both archaeological sites and “planning” have a bearing on success. Archaeological resources have many distinct attributes that make their protection a challenging task. Not only are they fragile and non-renewable, but from a planning perspective one of their most important characteristics is that they are frequently located on private property. Thus, any policy must attempt to satisfy the dual, and sometimes conflicting objectives of respecting certain private property rights while at the same time, protecting a resource valued by society. “Planning” is generally undertaken in an effort to seek a common or public good that market forces and private interests do not seek. Within the context of planning and development approval, archaeological sites are similar to ecological features in that they may not have a tangible market value. Moreover, traditional benefit-cost valuation techniques are unable to price the resource accurately in market terms, since there is no legitimate market for archaeological artifacts. Consequently, individuals responsible for the disruption of archaeological sites may not comprehend the value of preservation to society, a factor which has an obvious impact on protection policies.

On the other hand, the nature of the decision-making process constitutes one of the major and unique characteristics of planning in Ontario. Indeed, properly documented heritage criteria are often considered in the determination of the form, spatial extent and character of land disturbances. Also, the involvement of public and interest groups is encouraged or mandatory, such that decisions are sensitive to community concerns and are discussed openly. Moreover, the review and approvals process permits administrative hearings on matters at issue, with an

independent decision. Thus, there is the opportunity to protect or conserve heritage features by selecting least damaging alternatives, through participation in planning decisions and in the review and approvals process.

#### 4.7 Implementation

##### Introduction

As discussed above, the role of municipalities in the conservation of heritage features is crucial. Planning and land use control are predominantly municipal government responsibilities and the impact of municipal land use decisions on archaeological resources is significant, especially since municipally-approved developments constitute the majority of land disturbing activities in the Province (Hansen 1984). Without adequate screening at a municipal level, the provincial government is unable to ensure protection for valued archaeological resources. Viewed from this perspective, archaeological protection cannot be implemented without municipal involvement.

Indeed, the primary means by which resources are best protected is through the planning process. This requires the development of appropriate policies for the City of Toronto and their incorporation into the review process. At present, the City and its Committee of Adjustment are the approval authorities for all planning applications.

##### New Procedures

The archaeological review procedure proposed by this Archaeological Master Plan will require close co-operation between the Culture Division staff and Department of Urban Development Services, the staff of the Heritage & Libraries Branch of the Ministry of Culture, as well as the development and archaeological communities. This procedure will be applicable to all applications made under the Planning Act, except for applications made under sections 41 (site plan approval) or 70.2 (development permits<sup>2</sup>) of the Act, in areas of Level 1 and Level 2 archaeological potential (as indicated on the accompanying maps).

<sup>2</sup> Under the current Regulation (O.Reg. 246/01).

Small-scale consent applications should also be reviewed in order to determine impacts upon potential archaeological resources, although the need for a subsequent archaeological assessment will probably be less frequent. While these impacts may be more restricted in extent and will be a less frequent concern, the city will need to recognize when a small scale Planning Act development application should have regard for Provincial Policy 2.5.2 under the Planning Act.

An archaeological condition should be applied for any consent application which creates a new building lot (on land that is presently vacant) if:

- The application is situated within the zone of archaeological potential, or
- The application contains or will directly affect a federal, provincial, or municipal historic landmark, monument, site or designated property.

Archaeological conditions of approval involving archaeological assessments, determination of mitigation methodologies, and the undertaking of archaeological site mitigation should be applied as early as possible in the development application and approval process, always prior to any site disturbance. This will minimize delays and provide an opportunity to tie the review of large-scale applications directly to a predetermination of archaeological concerns associated with a property, and even provide the opportunity to ensure that any outstanding heritage concerns are identified or resolved will in advance of submission of a formal application to the City. As the development and implementation of mitigation or preservation options for significant archaeological resources may occasionally be comparatively time-consuming activities, it is to the development proponent's advantage to identify, schedule and budget for any mitigation measures at the earliest possible opportunity. Therefore, determination of the need for an archaeological assessment may be made in consultation between the applicant and City staff prior to the submission of a final application for a site within the area of archaeological potential.

Establishing these procedures will address the provincial interest in archaeological resources identified in the Planning Act and the related components of both the Federal and Provincial Environmental Assessment Acts.

The new archaeological procedure should also apply to municipal development and/or infrastructure projects that might disturb soils in areas of archaeological potential. Any on-site activities such as site grading, excavation, removal of topsoil, or peat and the placing and dumping of fill, building construction; drainage works, except for the maintenance of existing municipal drains, should be subject to the same procedures.

#### 4.8 The Planning Review Process

The following outlines the basic procedure recommended for use in the development review process for all planning applications within the Central Waterfront Zone of the City of Toronto, except for applications under sections 41 (site plan approval) or 70.2 (development permits<sup>3</sup>) of the Planning Act (Figure 33).

<sup>3</sup> Under the current Regulation (O. Reg. 246/01).

The general sequence of actions is as follows:

- (1) As part of the consultation process, Culture Division staff will determine if an archaeological assessment is required for a proposed application by means of review of the archaeological potential mapping. Should any portion of the property fall within a Level 1 or Level 2 zone of archaeological potential, then the Culture Division will require that the applicant undertake an archaeological assessment. Preferably, the assessment should be completed and submitted as part of the application. The Ministry of Culture must be provided with a copy of the notice from the Culture Division that an archaeological assessment will be required of the application. The Ministry of Culture will require this in order to complete their review of the archaeological assessment and to be able to provide the applicant and the City of Toronto Culture Division, each, with a letter recommending clearance of outstanding archaeological concerns.

- (2) When part of a proposed development falls within a Level 1 zone of archaeological potential, the applicant must retain a licensed archaeologist to conduct a Stage 1 and 2 archaeological assessment. When part of a property falls within a Level 2 archaeological potential zone, the applicant must retain a licensed archaeologist to conduct a Stage 1 archaeological assessment. In either case, the entire subject property must be assessed, not simply the portion(s) that falls within the Level 1 or Level 2 zones. Any deviation from this approach must be approved by the Ministry of Culture. Also, all work conducted by the archaeologist as a result of the archaeological condition must conform to the standards set forth in the most current Archaeological Assessment Technical Guidelines authorized by the Ministry of Culture.

Wording for the Archaeological Condition:

- (1) The applicant shall retain a consultant archaeologist, licensed by the Ministry of Culture under the provisions of the Ontario Heritage Act (R.S.O. 1990), to carry out an archaeological assessment of the entire development property and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found.
- (2) The consultant archaeologist shall submit a copy of the relevant assessment report(s) to the Heritage Preservation Services Unit.
- (3) No demolition, construction, grading or other soil disturbances shall take place on the subject property prior to the City's Culture Division (Heritage Preservation Services Unit) and the Ministry of Culture (Heritage Operations Unit) confirming, in writing, that all archaeological licensing and technical review requirements have been satisfied. In some locations in the waterfront planning area, it may be appropriate to schedule field assessment in conjunction with construction if the potential feature is deeply buried and the Ministry of Culture approves the approach.

A Stage 1 assessment consists of background research concerning registered sites on the subject lands or within close proximity, as well as the environmental character of the property and its land use history.

A Stage 2 assessment consists of field survey to document any sites that may be present on a property. It should be noted that completion of an archaeological field assessment of a particular development property, no matter how rigorous, does not fully guarantee that all significant archaeological resources on that property will be identified prior to land disturbance. This is particularly the case in areas where processes such as filling, flooding or erosion have resulted in the burial of original ground surfaces, or with respect to isolated human burials that are typically small features that can escape detection.

Stage 3 investigations are designed to secure a detailed understanding of the nature and extent of a site and may involve complete or partial systematic surface collection and test excavation.

Stage 4 undertakings comprise extensive excavation; comparative analysis and interpretation of content and contextual information. Further discussion of the various mitigative options may be found in Section 4.9 below.

- (3) Once the archaeological assessment, consisting of background research, or background research and a field survey, has been completed, the archaeological consultant will submit a report to the Heritage Operations Unit of the Ministry of Culture. The Ministry of Culture staff will review the report to determine if the assessment has met current licensing and technical standards. If this is not the case, the Ministry of Culture will require the consultant to carry out additional fieldwork, and/or provide more extensive documentation.
- (4) If the assessment complies with current licensing and technical standards and did not result in the identification of any archaeological potential within the property (in the case of a Stage 1 assessment) or did not result in the documentation of any significant archaeological resources (in the case of a Stage 1-2 assessment), the Ministry of Culture will provide a letter to both the development applicant and the Culture Division, which will serve to notify them that all provincial concerns with respect to archaeological resource conservation and archaeological licensing have been met. Upon receipt of this notification of the Ministry of Culture approval, and supporting documentation from the archaeological consultant, the Culture Division may then clear the planning application of any further archaeological concern.
- (5) If a Stage 1 assessment of a property within the Level 2 archaeological potential zone confirms that potential does indeed exist, then a Stage 2 assessment must be completed.
- (6) If the assessment did result in the documentation of one or more significant archaeological resources, appropriate mitigation and/or preservation options must be recommended by the licensed archaeologist and approved by the Ministry of Culture. Upon completion of the mitigation, the archaeological consultant must provide a report detailing this work and its results to the Ministry of Culture, which will review the work and recommend to the consultant and the Culture Division that there are no further archaeological concerns, or that additional mitigations be undertaken, as the case may be.

It should be noted, in this regard, that even if one or more significant archaeological sites that will require further mitigation are documented during the course of an assessment, it is generally possible to secure partial clearance for the property, in that the archaeological requirement may be removed from the balance of the subject lands not encompassed by the archaeological site(s) and suitable protective buffer zones. Similarly, although the final report of a comprehensive archaeological mitigation may take many months to complete, final clearance for the property may be available upon the archaeological consultant completing the fieldwork and submitting a brief executive summary to the Ministry of Culture staff, and the proponent providing information regarding any outstanding concerns (e.g., commitment to production of the final report).

- (7) Upon receipt of notification that all Ministry of Culture archaeological conservation and licensing concerns have been addressed, and receipt of the necessary supporting documentation from the archaeological consultant, the Culture Division will clear the planning application of further archaeological concern.

## Toronto Waterfront Co-operative Environmental Assessment Process

The same sequence of actions should be followed for undertakings completed through the Toronto Waterfront Co-operative Environmental Assessment process. The purpose of the Toronto Waterfront Co-operative Environmental Assessment Process is to enable the process of complying with federal and provincial environmental assessment requirements to proceed in a timely manner. This will permit the Toronto Waterfront Revitalization Corporation to undertake proper management of the infrastructure construction and development processes for the Waterfront Revitalization.

The Toronto Waterfront Co-operative Environmental Assessment process provides for the consolidation of planning and assessment work that has been undertaken on the Toronto Waterfront over the last decade. It seeks to provide protection and wise management of the environment through the use of regional environmental assessment. The process will provide for the completion of environmental assessments for a large number of highly interrelated and spatially crowded projects in a relatively short period of time and will reduce overlap and costs.

## The Municipal Project Review Process

For municipal projects, whether or not they are subject to the Federal or Provincial Environmental Assessment Act, the same process will be followed. Should the project impact areas of archaeological potential, the completion of an assessment and any necessary mitigation, subject to the approval of the Ministry of Culture, will be required.

## Development Permit System

Within the Central Waterfront Part II plan area, the Department of Urban Development Services is recommending that the area be covered by a Development Permit By-law. The Development Permit System would not apply to the Toronto Islands at this time. Under Section 70.2 of the Planning Act, a municipality may, if permitted by provincial regulation, establish a Development permit system to control development. This system allows a streamlined municipal approval process by consolidating the current zoning, site plan control and minor variance processes into one process. The Central Waterfront Area is included within Schedule 1 of Ontario Regulation 246/01 as an area that may be established as a development permit system area. However, under this Regulation, no authority currently exists to require an applicant to undertake an archaeological assessment as a condition of a development permit approval.

### 4.9 Assessing Resource Impacts and Identifying Mitigation Strategies

If no adverse impacts to an archaeological resource will occur, then development may proceed as planned, however, a contingency plan should be designed for implementation throughout the process to ensure protection of a previously undetected resource (e.g., a deeply buried deposit) and for its rapid investigation.

Should a significant archaeological resource be discovered during the course of an assessment, the development proponent, the archaeological consultant, the Ministry of Culture, and the Culture Division must assess the potential impact to an archaeological resource and arrive at rational decisions regarding integration of that resource within the site or development plan or the implementation of mitigative options.

The review process at this stage, therefore, requires the input of the proponent in order to make the decisions regarding potential adverse effects to a site. Should a site be threatened, the two available options are to immediately integrate the site into the development plan through re-allocation of open space/community park space or provide for mitigative procedures. The decision-making process with respect to mitigative procedures may be subject, however, to a cost benefit analysis where the mitigative option involves input from all of the stakeholders, i.e. Culture Division, Ministry of Culture, the heritage community and the development proponent (either public sector or private sector). The Aboriginal community might also be consulted throughout the site mitigation process. As discussed below, there are a number of mitigative options including avoidance, modifications to construction techniques, and various degrees of documentation and/or excavation. In all cases, thought should be given to the interpretive and educational potential of the site.

It should also be noted that detailed information regarding a site is frequently required in order to make a more accurate assessment of significance and to determine the potential for adverse effects. This may involve different levels of on-site investigations (i.e. Stage 3 assessment information).

All management decisions that are made during the development process regarding a particular archaeological site must be informed by an assessment of that site's significance. It is only after such an evaluation that the most appropriate mitigative strategy, both in terms of resource protection and in terms of successful integration within the overall development plan, can be identified. This evaluation depends, in turn, upon information recovered during the course of the archaeological resource assessment that led to its discovery.

The process of site significance evaluation is based on a number of overlapping criteria. These are to be used in the evaluation of specific archaeological features and not to compare areas of archaeological potential. These criteria, therefore, must be applied on a case-by-case basis. They fall into two basic categories: information potential and perceived value.

Information potential is generally determined through objective assessment of the numerous factors which may be expected to affect a particular archaeological resource's potential contribution to an increased understanding of the past. Such an assessment must be carried out through consideration of the following site attributes.

- (a) Site integrity: the nature and extent of disturbance or physical alteration to which a site has been subject. Site integrity often influences the degree to which reliable data can be derived. Potential forms of disturbance range from those that are relatively minor, such as rodent or tree root activity, to more severe forms such as ploughing or road and building construction.
- (b) Context: temporal and spatial association(s); uniqueness or representativeness of patterns of cultural, political, economic, military or industrial history; inter-site relationships; demonstrated relationship to known historic events, processes and/or people of local, provincial, national or international significance.

- (c) Content: site size, density and complexity; range of data types present (e.g. ecological information, artifacts, settlement patterns). Sites represented by the recovery of isolated artifacts, for example, are seldom of significance, unless that artifact is rare or represents a relatively unknown temporal period or cultural group.
- (d) Potential for the presence of human remains: certain types of sites, such as settlements occupied for relatively long periods of time, may be reasonably expected to contain, or be associated with, isolated human burials or more extensive cemeteries.
- (e) Quality of documentation: applies only to large scale features that cover large areas (e.g., cribbing). If good quality drawings, illustrations and written records are available or other portions of the feature have been subject to archaeological investigation and recording, little additional new or non-redundant information may be obtained from the archaeological investigation of the feature. If, however, little documentation exists, or it is contradictory, physical examination may be necessary.

The perceived value of a specific archaeological site is determined through consideration of a number of factors.

- (i) Public interest: the level to which society at large recognizes the significance of a particular archaeological resource or category of resources as representing a source of “sustenance, coherence and meaning in our individual and collective lives” (OHPR 1990:18).
- (ii) Educational and economic potential: the degree to which preservation and/or examination of the site will contribute to the general public’s understanding of the past. This factor also reflects the degree to which the site represents an opportunity to form the basis of a long-term educational and interpretive programme aimed at both the local community and the tourism market. The development of such a programme, however, must always strive to achieve an appropriate balance between sensitivity to the natural environment as well as the culture of those whom the site represents, and the objectives of economic and tourism development.
- (iii) Importance to specific ethnic groups: the extent to which a site contributes to, or maintains, recognition of a particular ethnic group’s activities or presence as a factor contributing to the fabric of society at the local, regional or national level.
- (iv) Landscape setting: applies to archaeological sites manifested as visible ruins or earthworks, as well as to their associated traditions. Archaeological resource removal, even if fully documented, or changes to its immediate surroundings, may modify society’s perception of the area, if the visible elements of the site serve as a community landmark, or form an essential part of a vista.

Upon consideration of these significance criteria, further decisions with respect to the need for any further mitigative actions may then be undertaken. Many of the sites routinely encountered will prove to be of little or no significance and will not require further investigation, beyond the mapping, measuring and photographing of the surface attributes of the archaeological site that has already occurred during the course of the initial archaeological assessment.

Where more extensive archaeological mitigation is required, recommended mitigative options may take numerous forms, including:

- **Preservation:** the preferred mitigative option. Preservation may involve long term protective measures such as project design changes (site avoidance) that integrate the resource within the overall development plan. To further avoid both accidental impact and intentional vandalism and looting, additional protective measures may include fencing, screening, or capping (only in special circumstances).
- **Stabilization:** may be required in the case of eroding archaeological deposits. This may involve the salvage excavation of the eroding area and/or the construction of retaining walls or barriers.
- **Systematic Data Recovery:** involves the recovery of data from significant archaeological sites, when other mitigative options are not feasible. It includes a complete or partial systematic surface collection, excavation, or both; a comparative analysis and interpretation of content and contextual information; and production of an investigative report. This mitigation strategy ultimately results in the destruction of the archaeological site.
- **Monitoring:** monitoring may be undertaken (only in specific circumstances) to ensure that adverse impacts on archaeological sites which could not be predicted or evaluated prior to construction are addressed. Monitoring requires the presence of a licensed archaeologist during the construction phase of a project. This takes the form of schedule site visits and on-call availability during a long term project.

It should be noted that decisions regarding mitigative options or preservation strategies are subject to Ministry of Culture review and approval.

The site preservation/avoidance option has both short- and long-term components. The short-term component involves both the redesign of the development plan (e.g., lot layouts, parkland, road and service alignments) and ensuring that the resource(s) in question are physically protected during construction by means of fencing or other visible barriers. The long-term protective measures entail the use of prohibitive zoning by-laws, as permitted by subsection 34(1) of the Planning Act, or through other conditions or orders that prohibit any future land use activities that might result in soil disturbance.

#### 4.10 Planning Recommendations

In light of the preceding considerations, the following recommendations are made:

##### Recommended Changes to the City's Official Plan

###### Recommendation 1

It is recommended that the Official Plan for the City of Toronto be amended to include a section specific to archaeological planning. It is recommended that both a definition of archaeological resources, consistent with the definition laid out in the provincial policy statement, and recognition of their fragile nature, be included. The section should also reflect the Culture Division's commitment to adhering to the planning process identified herein.

## Recommendation 2

It is recommended that archaeological assessments be considered as an appropriate provision for the enactment of a holding by-law within the Official Plan.

### Recommended Implementation for the Waterfront Part II Plan

## Recommendation 3

Where any portion of a proposed development application exhibits potential for the presence of sites, as defined by the site potential maps (i.e., it falls within the Level 1 or Level 2 potential zones), an archaeological resource assessment must be prepared in accordance with current technical guidelines and to the satisfaction of the Ministry of Culture, to determine if an archaeological resource is present, and if so, to determine an appropriate method to protect and manage the resource. Such a report should be submitted to the City of Toronto and the Ministry in the case of all Planning Act applications (except applications under sections 41 and 70.2) and major municipal capital projects. In the case of small-scale consent applications which require an archaeological assessment, the report should also be submitted to the Culture Division and the Ministry prior to any land disturbing activity. In all cases, the plan for protection or salvage of any significant archaeological site(s) found during the course of the assessment must also be approved by the Ministry of Culture, and be implemented prior to land disturbance. It is not necessary to undertake such assessments on those lands that fall within zones identified as being of no potential.

## Recommendation 4

The City should also review all building permit applications that fall within the zones of archaeological potential, as defined by the site potential maps. While the Ontario Building Code Act is not a piece of legislation covered by the Provincial Policy Statement on Archaeology, urban development projects may be of special interest.

## Recommendation 5

It is recommended that the Culture Division establish guidelines with other agencies of the City (e.g. Exhibition Place) and City departments, such as Corporate Services and Works and Emergency Services, which ensure that in all appropriate circumstances, construction projects that may negatively impact archaeological resources on public lands (e.g., trail, playground, playing field, public washroom, parking lot construction, road widening/extension, trunk sewer and watermain construction, stormwater management facility construction, municipal building and structure construction) and which are located in areas of potential, are subject to archaeological assessment prior to any land disturbing activity.

## Other Recommendations

## Recommendation 6

In that there are certain situations in which the City has limited planning control, thus being restricted in its ability to implement archaeological management guidelines and given that archaeological assessments may fail to detect significant deeply buried or isolated deposits, it is

recommended that the Culture Division develop and adopt, in consultation with the urban Development Services Department, the Ministry of Culture, other appropriate agencies, landowners, and the public, a “Contingency Plan for the Protection of Archaeological Resources in Urgent Situations.”

As outlined in archaeological licensing regulations, the Contingency Plan should specify that if deeply buried archaeological remains are found on a property during construction activities, then the Ministry of Culture should be notified immediately. It should further specify that if human remains should be encountered during construction, the development proponent should immediately contact the police, the Ministry of Culture, and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Consumer and Commercial Relations. If the burials are determined to be of Aboriginal origin, the local aboriginal community must also be notified and their assistance sought. In any case in which deeply buried archaeological remains (including burials) are encountered, all construction activity in the vicinity of the discovery should be postponed until an appropriate mitigation strategy and funding are identified and all potential impacts to the feature have been mitigated.

Such a Contingency Plan should address a notification process, involving the City, the land owner, the Ontario Ministry of Culture, and the local Aboriginal community (if relevant) and an investigation and reporting process undertaken by a licenced archaeologist.

#### 4.11 Data Access

Under provincial policy, public access to information concerning archaeological site locations (either graphic or textual) is restricted, in order to reduce the possibility of illegal looting and site destruction. Access to information in the City’s possession is determined in accordance with the Municipal Freedom of Information and Protection of Privacy Act (“MFIPPA”).

Archaeological licence reports provided to the City are subject to MFIPPA and may be subject to copyright restrictions. There is no standard rule regarding ownership of copyright in archaeological licence reports, which depends, in part, on the nature of the contract between the person who commissioned the report and the authoring archaeologist. If copyright in a licence report is owned by a third party, the City may not reproduce the report without the express written permission of the copyright owner.

#### 4.12 Public Program and Interpretation

##### Site Interpretive Potential and Public Programmes in Archaeology

Concomitant with legislative measures intended to conserve and manage archaeological resources, means by which the general public might be made more knowledgeable of the wide range of archaeological resources present within the Culture Division, and of their significance as part of the area’s cultural heritage should also be sought (bearing in mind the necessity that site locations remain confidential). A heightened public awareness of the importance and fragility of archaeological resources can serve as an additional and effective means of protecting those resources.

While the public is generally supportive of environmental causes, we must share with others that humans exist in time as well as space, and that the record of our temporal environment is slowly vanishing. As a science, archaeology often suffers from the attitudes and actions which result from public misconceptions about its motives, aims and methods. It is encouraging to note that when members of the public are made aware of archaeological sites, there exists a genuine interest not only in the prehistory and history of a region, but also in archaeology itself as an academic discipline.

Direct experience with a working archaeological project and its staff can help facilitate a clearer perception of archaeology. This kind of open exchange can clarify misunderstandings and encourage an attitude of co-operation between archaeologists and the public. The public can have an important role to play in archaeological research in the province, although their involvement should be part of a much broader research design and occur only when long-term funding is available. Otherwise, there may not be sufficient funds to properly analyze and report upon the objects acquired during a public program.

Public education programs on archaeology increase popular knowledge and consequently increase public support for the protection of valuable cultural features. Local examples include the programs of the Toronto chapter of the Ontario Archaeological Society and the Public Archaeology program operated at the Ashbridge's Bay site by the Ontario Heritage Foundation and the University of Toronto.

The creation of "on site" interpretive facilities can provide the public with an excellent opportunity to view archaeology in its proper context, as an ongoing process. The facility should be associated with an archaeological site, especially one which has high values for information potential, accessible to the public, is within an area where the integrity of the natural setting has been maintained to provide an ecological context, is close to existing support facilities and is available for long-term archaeological research.

Advertising and media coverage are also essential components of any public archaeology program. Both are necessary to generate interest in the specific activities being offered at a particular site, and makes the public generally conscious of local archaeological resources and archaeological research. In order to generate the maximum amount of public interest and support for a public archaeology program, more government participation in advertising is essential. This participation would fit the mandate of certain ministries. These programmes deserve special government "high-profile" advertising.

These public archaeological programs, by offering a range of educational opportunities both appealing and beneficial to the public, have demonstrated the validity of public archaeology as a tool which can deepen the general understanding and awareness of archaeological resources. Public response, without exception, has been positive.

#### Recommendation 7

In light of the preceding, it is recommended that the City encourage site specific interpretation as a means of educating the public on the rich pre-contact and post-contact history of the City, enhancing awareness and understanding of archaeology and exhibiting the specific heritage significance of a site.

#### 4.13 Archaeological Collections from Sites in the City of Toronto: Management and Curation

There is a need to co-ordinate the disposition of artifacts recovered from archaeological sites within the City. As discussed in Section 4.5, it may be preferable that material from a particular archaeological site is ultimately deposited in a public institution located in the same community, provided that: adequate storage and curatorial facilities for both artifacts and field records are available; that the institution's collections are accessible to researchers; and that the material is not transferred to disposed of without provincial approval.

While the existing museum facilities within the City may already have collections of material, or may be willing to accept additional material, many artifacts from sites in Toronto are currently curated elsewhere. Collections derived from the activities of private licensed archaeological consulting firms, for the most part, remain in the care of those firms.

Should the Culture Division deem it desirable to seek to establish a guideline encouraging the curation of material from archaeological sites within the City at local museums (existing or proposed), researchers active in the area could be made aware of this interest. It would first be necessary, however, to ensure that such institutions possess adequate storage and curatorial facilities, and collection management policies.

Insert Table/Map No. 1  
Attachment 1 - Waterfront Overview

Insert Table/Map No. 1  
Attachment 1 - Western Portion

Insert Table/Map No. 2  
Attachment 1 - Central Portion

Insert Table/Map No. 3  
Attachment 1 - Eastern Portion

Insert Table/Map No. 4  
Attachment 1 - Toronto Islands

Planning Review Process  
Attachment 2 - Archaeological Master Plan  
for the Central Waterfront

(A copy of the report, entitled “The Archaeological Master Plan of the Central Waterfront City of Toronto, Ontario” referred to in the foregoing report was forwarded to all members of Council with the December 9, 2002 agenda of the Economic Development and Parks Committee and a copy thereof is also on file in the office of the City Clerk.)

*(City Council at its meeting held on June 24, 25 and 26, 2003, had before it, during consideration of the foregoing Clause, a confidential report (May 27, 2003) from the City Solicitor, such report to remain confidential in its entirety, in accordance with the provisions of the Municipal Act, having regard that it contains information which is subject to solicitor-client privilege.)*