

**ONTARIO
SUPERIOR COURT OF JUSTICE
(DIVISIONAL COURT)**

B E T W E E N:

EDWIN JOHN ROWSE

Applicant

- and -

**MINISTRY OF ENVIRONMENT, CONSERVATION AND PARKS, and MINISTRY OF
HERITAGE, SPORT, TOURISM AND CULTURE INDUSTRIES**

Respondents

AFFIDAVIT OF EDWIN JOHN ROWSE

I, Edwin John Rowse, a resident of the City of Toronto in the Province of Ontario, AFFIRM:

1. I am a heritage architect, and, as such, I have knowledge of the matters to which I depose, except information provided to me by third parties, which information I believe to be true.
2. Attached and marked as Exhibit “A” is a copy of my CV.
3. Attached and marked as Exhibit “B” is a copy of correspondence from myself, Edwin Rowse, to Karla Barboza, Ministry of Heritage, Sport, Tourism and Culture Industries dated March 3, 2020.
4. Attached and marked as Exhibit “C” is a copy of correspondence from Philip Evans, Principal, ERA Architects to Kendra Couling, Ministry of the Environment, Conservation and Parks dated February 22, 2021.

5. Attached and marked as Exhibit "D" is a copy of *Heritage Resources in the Land Use Planning Process*.

AFFIRMED BEFORE ME in)
The City Toronto)
in the Province of Ontario, this)
4th day of March, 2021)



A commissioner etc.



EDWIN JOHN ROWSE

**This is Exhibit "A" referred to in the
Affidavit of EDWIN JOHN ROWSE affirmed before
me this 4th day of March, 2021.**



A Commissioner, etc.

Edwin Rowse Architecture Inc



Edwin J. Rowse OAA, FRAIC, CAHP, RIBA, co-founder of ERA Architects Inc. in Toronto, is a registered architect in Ontario with forty four years of experience in the field of historical architecture, specializing in the conservation and restoration of historic buildings, the sustainability and adaptive reuse of existing buildings, and cultural heritage planning in urban and rural settings.

A graduate of the University of Edinburgh, he worked in London, England, for nine years for an internationally recognized firm of restoration architects. In 1984 he moved to Toronto, Canada, where he worked for heritage-based practices until founding ERA in 1990 with Michael McClelland. Their partnership became a corporation in 1994 and they welcomed four new principals as shareholders between 2013 and 2017. The firm now employs 100 staff in 3 offices and works throughout Canada.

Edwin's remarkable capacity to combine finely detailed architectural, historical and technical considerations – whether for heritage conservation or adaptive reuse projects - became a driving inspiration behind many of ERA's projects, from the Distillery District in Toronto to national historic sites such as Parkwood Estate and Ruthven Park, to Trinity St. Paul's Church renovation for Tafelmusik, to the recently completed Government Conference Centre in Ottawa, as a temporary home for the Canadian Senate.

Edwin retired from his role as a principal and director of ERA in September 2019, transitioning to Principal Emeritus with the firm. He continues to advise ERA on projects as a consultant.

In March 2020 Edwin incorporated a new practice as Edwin Rowse Architecture Inc. in order to undertake small community-based planning and architectural projects in his retirement.

In 2017 Edwin was given the Eric Arthur Lifetime Achievement Award by the Architectural Conservancy of Ontario “for his broad depth of knowledge of conservation science, longstanding commitment to the field of heritage architecture, and mentorship of a new generation of architects”.

Edwin Rowse Architecture Inc.

26 Wayland Avenue, Toronto
Ontario M4E 3C7
416-579-9947
Edwin@rowsearchitecture Inc.

**This is Exhibit “B” referred to in the
Affidavit of EDWIN JOHN ROWSE affirmed before
me this 4th day of March, 2021.**

A handwritten signature in cursive script, appearing to read "Eric Liff".

A Commissioner, etc.

From: Edwin Rowse <Edwin@rowsearchitecture.ca>
Date: Wednesday, March 3, 2021 at 11:44 AM
To: "karla.barboza@ontario.ca" <karla.barboza@ontario.ca>
Cc: "Smith-co, Todd" <todd.smithco@pc.ola.org>, "Jeff.yurek@pc.ola.org" <Jeff.yurek@pc.ola.org>, "lisa.macleod@pc.ola.org" <lisa.macleod@pc.ola.org>, "sferguson@pecounty.on.ca" <sferguson@pecounty.on.ca>, "emargetson@pecounty.on.ca" <emargetson@pecounty.on.ca>, "jhirsch@pecounty.on.ca" <jhirsch@pecounty.on.ca>, "ken@kdewar.com" <ken@kdewar.com>, Peter Lockyer <historyliveshere@bell.net>, "david.joyce@pc.ola.org" <david.joyce@pc.ola.org>
Subject: URGENT Request for Review re Sandbanks houses

Dear Karla,

Please see attached my letter and attachments regarding the Macdonald and Hyatt houses at Sandbanks.

Regards,

Edwin Rowse
Edwin Rowse Architecture Inc.
416 579-9947
Edwin@rowsearchitecture.ca

March 3, 2021

Dear Karla,

URGENT REQUEST re: Heritage assessment process for the MacDonald and Hyatt Houses at Sandbanks Provincial Park and decision to demolish the buildings, ERO # 019-0977

I am writing to you as you have knowledge of this file. The matter is urgent as demolition by Ontario Parks appears imminent: Tree clearing began this morning at the Hyatt House.

I respectfully request that the Ministry of Heritage, Sports, Tourism and Culture Industries **urgently undertake a review of the file in light of the several serious problems** noted in this email and briefly summarized in my March 2, 2021 email to Mayor Steve Ferguson and our MPP Todd Smith, copied to Mr Greg Walsh at the Ministry of the Environment, Conservation and Parks (Attachment #1), and also with reference to the detailed submissions from PEHAC and myself made through the Environmental Registry. If you find that even one concern is valid, I submit that demolition should be paused to allow time to seek a remedy.

The recent premature start, then pause of demolition of the Foundry Building in Toronto has shone a light on the Province's approach to the disposition of its heritage assets, especially assets with local significance. For this reason, MECP and MHSTCI should be meticulous and thorough in their response to concerns regarding the heritage process for the Sandbanks houses.

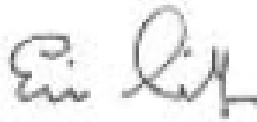
It was only this week that the final heritage impact assessments for the MacDonald and Hyatt Houses were released to the public through the Prince Edward Heritage Advisory Committee (PEHAC), and I was able to review them. The release of the final HIAs comes after the decision to demolish the buildings was posted on the ERO on February 22, 2021 by MECP. Serious concerns about the final HIAs remain, despite strong and detailed comments submitted through the ERO by PEHAC and myself, and a letter from the Mayor supporting retention of the buildings and PEHAC's comments.

I am writing to MHSTCI now because Mr Walsh responded to my March 2 email on the same day with further information regarding the HIA review process and MHSTCI and making statements that do not stand up to scrutiny (Attachment #2). He states:

"Ontario Parks ensured that the licensed heritage consultant considered the comments submitted during consultation. They have reconfirmed their original findings. Ontario Parks has further confirmed the findings of the consultant, as well as the heritage evaluation process undertaken, with the Ministry of Heritage, Sport, Tourism and Culture Industries ... The ministry [of Environment, Conservation and Parks] determined that the proposal [of an individual to enter into an agreement to restore the buildings] was not feasible ..."

It is misleading for Mr Walsh to claim that Ontario Parks ensured that the consultant considered the ERO comments. Nowhere in the final HIAs – and importantly not in the section discussing the option of retention of the buildings – is there any evidence that the consultant considered

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A handwritten signature in cursive script, appearing to read "E. J. Rowse".

A Commissioner, etc.



ERA Architects Inc.
#600-625 Church St
Toronto ON, M4Y 2G1

October 7, 2020

Kendra Couling, Park Planner – Southeast Zone
Ministry of the Environment, Conservation and Parks
300 Water Street, 4th Floor North
Robinson Place, South Tower
Peterborough, Ontario K9J 8M5
Email: kendra.couling@ontario.ca

Dear Ms Couling,

**RE: COMMENTS AND PROPOSAL MACDONALD AND HYATT HOUSES:
 SANDBANKS PROVINCIAL PARK**

I am writing in response to the September 15, 2020 “Demolition of Heritage Buildings // Notice of Completion for Category B Project Evaluation” for the MacDonal and Gray (also known as Hyatt) Houses at Sandbanks Provincial Park. I note that interested persons may submit additional comments and concerns by October 15, 2020 to you or to Park Superintendent Robin Reilly, copied here.

My comments and proposal relate specifically to “the potential to invest in the restoration of the buildings” referenced in the September 15 Notice. I understand that the Prince Edward County Heritage Advisory Committee (PEHAC) submitted one of the two comments arguing for this approach, and that Mayor Steve Ferguson’s March 10, 2020 letter to Minister Yurek reinforced PEHAC’s position and encouraged the review of alternate options. My proposal for private sector investment to preserve the two buildings is a response to the Ministry of the Environment, Conservation and Parks’ (MECP) decision not to take on the financial commitment, as announced in the Notice.

The MacDonal and Hyatt Houses are two culturally significant dwellings that are important to the local community and have immense potential within the special setting of Sandbanks Provincial Park. The buildings’ significance and potential are clearly recognized in the 1993 Sandbanks Provincial Park Management Plan and underscored by PEHAC’s submission to the Environmental Registry of Ontario. **I am aware that these buildings have fallen into disrepair; however, I am most interested in taking on their stewardship to ensure that they are repaired, maintained, managed, and celebrated, with new and impactful long-term sustainable uses.**

As an owner of ERA Architects, a Toronto firm of about 100 professionals with a commitment to conserving heritage buildings across Canada, I understand the needs of these buildings and the

alternative economic models that will allow them to flourish. I understand further that the MECP is unable at this time to make the financial commitment in these properties and that there is a need for a significant injection of capital to repair and operate them. It is for these reasons that I am proposing to enter into an agreement to lease the buildings and to identify appropriate new uses for them.

I have experience in developing the potential of heritage buildings in Prince Edward County. In 2015, I played a significant role in supporting the Drake Hotel's introduction to the region. Leading the ERA team as Architects of Record for the project, I guided the successful restoration and rehabilitation of the former inn, which is now a leading tourism and economic driver in downtown Wellington.

As the founder and former President of "Small", a non-profit organization committed to the regeneration of small rural communities, I understand what it is to build a cultural economy and invest in rural places. This non-profit leveraged unused, unique rural assets in order to complement and support other community initiatives. The organization is now a part of ERA, and the principles of the program live on as a key practice area for our company, for example, from facilitating community engagement in Newfoundland to reimagining civic assets in Banff National Park.

ERA looks to reimagine uses of heritage buildings in ways that celebrate their history, while increasing their contemporary usefulness and boosting access for all people. Here is a brief synopsis of some of the ERA projects I have led that provide a precedent for future adaptive reuse of the MacDonald and Hyatt Houses.

Evergreen Brick Works was once an abandoned brick factory and quarry. It is now a community hub with inclusive programming that showcases innovations in green design, place-making and city building. The lands are operated by Evergreen as part of a 25-year lease with the Toronto and Region Conservation Authority and required engagement with the Ontario Heritage Trust.

Coboconk Wellness Centre is a community wellness centre that involves the adaptive reuse of a historic train station on city-owned land leased to the local Chamber of Commerce.

Creemore Cultural Economic Plan is an engagement mandate with the community and board to explore an economic framework to leverage heritage buildings and local businesses towards a strong "cultural economy" and vision. This work is currently underway and builds on previous engagement on asset management we'd previously advised on.

TD Lands is a swath of downtown Creemore left vacant after the departure of the TD Bank. ERA led a public consultation with the Creemore Community Foundation to establish design parameters for new use of the space.

Bruce's Mill, located in a conservation area in Whitchurch-Stouffville, is the subject of a new engagement plan by the Toronto and Region Conservation Authority with ERA that will reimagine the use of the only structure in the area (pending).

Port Perry's Mill is located at the terminus to the downtown main street, on a site owned by the town. Small and ERA provided guidance to town staff and Council in the management of the unused structure. We also provided strategies for adaptive reuse and rehabilitation funded by an innovative leasing model with various entrepreneurial businesses (pending).

The Basins Project is a partnership between ERA and ARUP Canada that targets best practices for cultural assets in sensitive flood plains. Together we are working on a policy framework to increase the resiliency of communities and cities in the Great Lakes Basin. The understanding that I have gained from this work would benefit the rehabilitation of the MacDonald and Hyatt Houses within a park on the Lake Ontario waterfront.

Through these and other projects, I have seen the emergence of new models for client groups that provide innovative approaches to raise funds privately through grants, public-private partnerships, and operation leasing.

MY PROPOSAL

1. A 3-month due diligence period would be mutually agreed, and demolition paused, to allow me to:
 - a. confirm funding sources;
 - b. assess the condition of the buildings;
 - c. define the scope of work;
 - d. determine the financial feasibility of the project; and
 - e. develop an understanding with the Province and the Municipality.
2. Following the period of due diligence, I would enter into negotiation for a lease agreement with the MECP for a one-time modest consideration, for a proposed length of 49 years (or another time period agreeable to the parties), which would include the following elements:
 - a. a conservation and renovation scope for the rehabilitation of the buildings agreeable to the Province;
 - b. leaseholder's responsibility for the buildings, including a commitment to protect their recognized heritage value;
 - c. as landowner, MECP's responsibility for maintaining public utilities to the buildings, with coordination and implementation of any changes to the services to form part of the lease negotiation;
 - d. acceptable uses and activities for the buildings;
 - e. leaseholder's responsibility for operations;
 - f. houses to be operational within two to three years of possession at an agreed schedule; and
 - g. an agreed understanding with respect to net revenue over the term of the lease.

I am bringing forward my proposal as a private individual leading a group of potential investors. I believe that this proposal supports Mayor Ferguson's stated wish to find a path forward to respecting the Sandbanks Provincial Park Management Plan and also fulfills the expectation of the community that these valuable heritage assets will be conserved.

I look forward to your response to this proposal.

Regards,



Philip Evans
Principal, ERA Architects

Copies to:

Robin Reilly, Park Superintendent
Sandbanks Provincial Park

3004 County Road 12,
Picton, ON K0K 2T0

robin.reilly@ontario.ca

Jeff Yurek, Minister of the Environment, Conservation and Parks
jeff.yurek@pc.ola.org

Todd Smith, MPP Bay of Quinte
todd.smithco@pc.ola.org

Mayor Steve Ferguson, County of Prince Edward
sferguson@pecounty.on.ca

Councillor Ernest Margetson, County of Prince Edward
emargetson@pecounty.on.ca

**This is Exhibit “D” referred to in the
Affidavit of EDWIN JOHN ROWSE affirmed before
me this 4th day of March, 2021.**

A handwritten signature in cursive script, appearing to read "E. J. Rowse".

A Commissioner, etc.



HERITAGE RESOURCES IN THE LAND USE PLANNING PROCESS

*Cultural Heritage and Archaeology Policies of the
Ontario Provincial Policy Statement, 2005*



Acknowledgements

The Ministry of Culture would like to thank Su Murdoch of Su Murdoch Historical Consulting and Brandi Clement of Jones Consulting Group Ltd. for their valuable contributions to the development of these heritage information sheets.

Special thanks also goes to the following organizations and individuals for their thoughtful comments and contributions: Ministry of Municipal Affairs and Housing, Ministry of Environment, Ministry of Agriculture, Food and Rural Affairs, Ministry of Public Infrastructure and Renewal, the Town of Caledon, the City of Hamilton, the Town of Markham, the City of Mississauga, the City of Ottawa, the City of Peterborough, the City of Toronto, Community Heritage Ontario, Architectural Conservancy of Ontario, Friends of Fort York, Jones Consulting Group Ltd. planning staff, Marilyn Miller, Kyle MacIntyre, Ken Petersen, Erick Boyd, Matthew Ferguson, Bruce Curtis, Therisa Singh, Katherine Mills, Heather Watt, Caroline Cosco, Donna Mundie, Sally Drummond, David Cuming, Joseph Mueller, Regan Hutcheson, George Duncan, Stuart Lazear, Mark Warrack, Erik Hanson, Catherine Nasmith, Sean Fraser, Dena Doroszenko, Beth Hanna, Dana Hall.

The Government of Ontario gratefully acknowledges the Government of Canada's contribution to this publication.

Cover photos: Ministry of Culture



Information Sheet Series – Introduction

Winter 2006

WHAT ARE THE CULTURAL HERITAGE AND ARCHAEOLOGY POLICIES IN THE PROVINCIAL POLICY STATEMENT 2005?

2.6.1 *Significant built heritage resources and significant cultural heritage landscapes shall be conserved.*

2.6.2 *Development and site alteration shall only be permitted on lands containing archaeological resources or areas of archaeological potential if the significant archaeological resources have been conserved by removal and documentation, or by 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 may be permitted.*

What is the Provincial Policy Statement, 2005 of the Ontario Planning Act?

The Planning Act provides the legislative framework for land use planning in Ontario. It sets out:

- how the land use planning system works
- who makes decisions
- ways to resolve disputes and seek public input
- provincial and municipal roles in planning administration

Section 2 of the Act identifies matters of provincial interest, which includes the conservation of *significant* features of architectural, cultural, historical, archaeological or scientific interest.

Section 3 of the Act allows the province to issue policy statements on matters of provincial interest. The Provincial Policy Statement (PPS, 2005) is the framework for broad, integrated and long term planning. It provides policy direction to municipalities and approval authorities that make decisions on land use planning matters.

A New Provincial Policy Statement

The PPS, 2005 supports the principles of strong communities, a clean and healthy environment and economic growth for the long term in Ontario. It applies to all planning applications, matters or proceedings commenced on or after March 1, 2005.

The Act now requires that all decisions affecting land use planning matters “shall be consistent with” the PPS, 2005. This is a higher test than the former “shall have regard to.”

2.6.3 *Development* and site alteration may be permitted on *adjacent lands* to protected heritage property where the proposed *development* and *site alteration* has been evaluated and it has been demonstrated that the *heritage attributes* of the *protected heritage property* will be *conserved*.

Mitigative measures and/or alternative *development* approaches may be required in order to conserve the *heritage attributes* of the *protected heritage property* affected by the adjacent *development* or *site alteration*.

For more information on cultural heritage and *archaeological resources* contact:

Ontario Ministry of Culture

400 University Avenue, 4th Floor
Toronto, ON M7A 2R9

General_Info@mcl.gov.on.ca
(416) 212-0644

1 (866) 454-0049

web page:

<http://www.culture.gov.on.ca>

Additional information on the Provincial Policy Statement, 2005 is available on the Ministry of Municipal Affairs and Housing web page:
<http://www.mah.gov.on.ca>

In addition to the new “shall be consistent with” implementation standard, highlights of the PPS, 2005 include:

- new policy sections for Employment Areas, Public Spaces, Parks and Open Space, Air Quality and Energy that provide strong, clear direction on key issues that affect our communities
- enhanced policies which provide stronger protection for Ontario’s natural and cultural heritage resources
- definitions of several new and revised terms for clearer guidance (terms italicized in these Information Sheets are defined in the PPS, 2005)

Protecting cultural heritage and archaeological resources

PPS, 2005 Section 2.0: Wise Use and Management of Resources recognizes that Ontario’s long-term prosperity, environmental health, and social well-being depend on protecting natural heritage, water, agricultural, mineral, and cultural heritage and *archaeological resources* for their economic, environmental and social benefits.

PPS Section 2.6 sets out cultural heritage and archaeology policies:

Policy 2.6.1 *Built heritage resources* and *cultural heritage landscapes*

Policy 2.6.2 *Archaeological resources* and *areas of archaeological potential*

Policy 2.6.3 *Adjacent lands* and *protected heritage property*

The PPS, 2005, together with the provisions of the Ontario Heritage Act and its regulations, strengthens the framework for the identification and protection of Ontario’s cultural heritage and *archaeological resources*.

The Ministry of Culture information sheet series is support material for PPS, 2005, and is intended to provide guidance and information regarding cultural heritage and *archaeological resource* conservation in land use planning. The series includes:

Introduction

Info Sheet #1: Built Heritage Resources

Info Sheet #2: Cultural Heritage Landscapes

Info Sheet #3: Archaeological Resources and Areas of Archaeological Potential

Info Sheet #4: Adjacent Lands and Protected Heritage Property

Info Sheet #5: Heritage Impact Assessments and Conservation Plans

*Note: This InfoSheet was developed to assist participants in the land use planning process and to understand the PPS, 2005 policies related to the conservation planning of cultural heritage and *archaeological resources*. The information in the InfoSheet should not be relied upon as a substitute for specialized legal or professional advice in connection with any particular matter.



InfoSheet #1

Winter 2006

Built Heritage Resources

WHAT IS THE PROVINCIAL POLICY STATEMENT 2005 FOR THE CONSERVATION OF SIGNIFICANT BUILT HERITAGE RESOURCES?

2.6.1 *Significant built heritage resources and significant cultural heritage landscapes shall be conserved.*

A policy for the conservation of significant built heritage resources

The Provincial Policy Statement (PPS, 2005) policy 2.6.1 for the conservation of *significant built heritage resources* is not new, but it is strengthened by the direction under Section 3 of the Planning Act that land use planning decisions by municipalities and approval authorities “shall be consistent with” the PPS, 2005.

Municipalities and approval authorities can incorporate more detailed *built heritage resource* conservation objectives and policies reflecting local heritage sites into Official Plans, land use planning documents, and related *development* approval procedures or decisions.

The PPS, 2005 defines *built heritage resources* as involving “one or more *significant* buildings, structures, monuments, installations or remains associated with architectural, cultural, social, political, economic or military history and identified as being important to a community. These resources may be identified through designation or heritage conservation easement under the Ontario Heritage Act, or listed by local, provincial or federal jurisdictions.”

Identifying built heritage resources

Built heritage resources are identified through:

- **Historical Research**
Consulting maps, land records, photographs, publications, primary and other sources;
- **Site Survey and Analysis**
Windshield surveys, intensive surveys, site surveys and analysis;
- **Evaluation**
Applying criteria for evaluating design, history and context.

BUILT HERITAGE RESOURCES EXAMPLES CAN INCLUDE, BUT ARE NOT LIMITED TO:

Residential, commercial, institutional, or industrial buildings



(Nancy Morand)



(Ministry of Culture)



(© 2006 Ontario Tourism)

Churches or places of worship



(Su Murdoch)

An inventory or mapping of properties that contain *significant built heritage resources*, can be compiled by local, provincial, or federal jurisdictions. Some of these properties may become a *protected heritage property* under the Ontario Heritage Act.

A municipal heritage committee can be appointed under the Ontario Heritage Act by a municipal Council to identify cultural heritage resources, including *built heritage resources*, and can advise Council on heritage conservation matters. For more information on identifying *built heritage resources*, see the “Heritage Property Evaluation: A Guide to Identifying, Researching and Evaluating Cultural Heritage Property in Ontario Communities” (Ministry of Culture).

Defining significance

The PPS, 2005 defines “*built heritage resources*” and it defines “*significant*.” For *built heritage resources* to be *significant* or have cultural heritage value or interest, they must be “valued for the important contribution they make to our understanding of the history of a place, an event, or a people.”

Typically, the significance of a *built heritage resource* is identified by evaluation criteria that define the characteristics that have cultural heritage value or interest to local, provincial, or federal jurisdictions. Criteria to define local cultural heritage significance is prescribed in a regulation made pursuant to section 29(1) (a) of the Ontario Heritage Act.

For a *protected heritage property* under the Ontario Heritage Act, the designation by-law and/or heritage conservation easement agreement should state the significance of the *built heritage resource*, and identify its *heritage attributes*. These are known as statements of cultural heritage value or interest.

The PPS, 2005 defines *heritage attributes* as “the principal features, characteristics, context, and appearance that contribute to the cultural heritage significance of a *protected heritage property*.” These attributes should be identified and considered when significance is being evaluated.

Built heritage resources

The identification, listing, evaluation and protection of *built heritage resources* is an ongoing process. The PPS, 2005 policies and land use planning processes are applicable to *built heritage resources* that have significance to the jurisdiction. *Built heritage resources* include:

- a property with a *significant built heritage resource* listed by local, provincial or federal jurisdictions using evaluation criteria;
- a *protected heritage property*, which means:
 - real property designated under Part IV (individual property), Part V (heritage conservation districts), or Part VI (archaeology) of the Ontario Heritage Act
 - a heritage conservation easement property under Parts II or IV of the Ontario Heritage Act
 - property that is the subject of a covenant or agreement between the owner of a property and a conservation body or level of government, registered on title and executed with the primary purpose of preserving, conserving and maintaining a cultural heritage feature or resource, or preventing its destruction, demolition or loss (Municipal jurisdiction(s) or the Ontario Heritage Trust can also confirm if a property is a *protected heritage property*)
- a *significant built heritage resource* that is newly identified as part of a proposal for *development* or *site alteration*

What is meant by “conserved”?

In the PPS, 2005, *conserved* means “the identification, protection, use and/or management of cultural heritage and *archaeological resources* in such a way that their heritage values, attributes and integrity are retained. This may be addressed through a conservation plan or heritage impact assessment.”

The Ontario Heritage Act enables municipalities to identify, list and protect properties with cultural heritage value or interest. It also gives municipalities and the Ontario Heritage Trust the ability to hold heritage conservation easements on real property. The Ontario Heritage Trust, an agency of the Ministry of Culture, is dedicated to identifying, preserving, protecting and promoting Ontario’s rich and varied heritage resources.

Monuments, such as a cenotaph, statue, cairn, or markers



(Kurt Schick)

Structures, such as a water tower, bridge, fence, or dam



(Ministry of Culture)

Mining headframes



(City of Timmins)

Gravestones or cemetery markers



(Ministry of Culture)

Interior features such as fireplaces, woodworks, or plaster works



(Su Murdoch)

Conserving built heritage resources in land use planning

The Planning Act allows municipalities and approval authorities to adopt Official Plan objectives and cultural heritage conservation policies and approval procedures. These can include, but are not limited to:

- Demolition control by-laws
- Interim control bylaws
- Subdivision development agreements
- Financial incentives such as Community Improvement Plans

Ontario Heritage Act provisions to be considered include:

- Architectural design guidelines
- Heritage property listing and designation provisions
- Heritage conservation easements
- Recognition / role of municipal heritage committee
- Grants and loans for heritage conservation

In light of the above planning tools, municipalities and/or planning approval authorities, through their Official Plan and other planning policy documents, can identify, protect, use and/or manage *significant built heritage resources* within its jurisdiction.

To conserve a *significant built heritage resource*, a municipality or approval authority may require a heritage impact assessment (or equivalent study) to evaluate proposed *development* or *site alteration* to demonstrate that a *significant built heritage resource* will be *conserved*. Mitigative (avoidance) measures or alternative *development* or *site alteration* approaches may be required.

A conservation plan (or equivalent study) may be required as a long term strategy for conserving the *significant built heritage resource*. (See InfoSheet #5 on heritage impact assessments and conservation plans.)

For more information on *built heritage resources* contact:

Ontario Ministry of Culture

400 University Avenue, 4th Floor

Toronto, ON M7A 2R9

General_Info@mcl.gov.on.ca

(416) 212-0644

1 (866) 454-0049

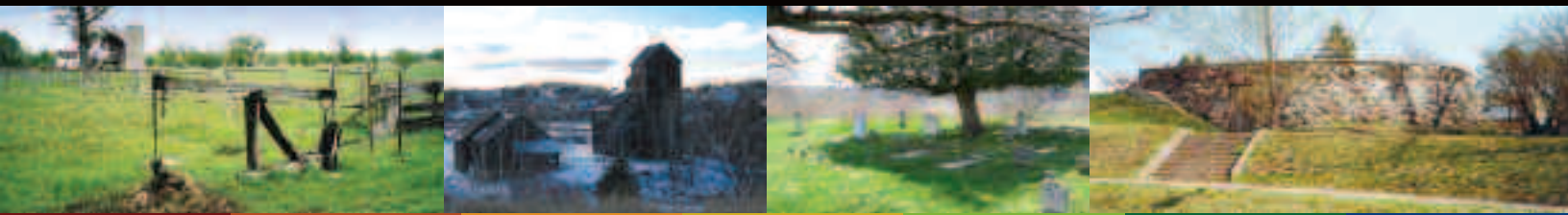
web page:

<http://www.culture.gov.on.ca>

Additional information on the Provincial Policy Statement, 2005 is available on the Ministry of Municipal Affairs and Housing web page:

<http://www.mah.gov.on.ca>

*Note: This InfoSheet was developed to assist participants in the land use planning process and to understand the PPS, 2005 policies related to the conservation planning of cultural heritage and *archaeological resources*. The information in the InfoSheet should not be relied upon as a substitute for specialized legal or professional advice in connection with any particular matter.



InfoSheet #2

Winter 2006

Cultural Heritage Landscapes

WHAT IS THE PROVINCIAL POLICY STATEMENT 2005 DIRECTION FOR THE CONSERVATION OF SIGNIFICANT CULTURAL HERITAGE LANDSCAPES?

2.6.1 *Significant built heritage resources and significant cultural heritage landscapes shall be conserved.*

A policy for the conservation of significant cultural heritage landscapes

The Provincial Policy Statement (PPS, 2005) policy 2.6.1 for the conservation of *significant cultural heritage landscapes* is not new, but it is strengthened by the direction under Section 3 of the Planning Act that land use planning decisions by municipalities and approval authorities “shall be consistent with” the PPS, 2005.

Municipalities and approval authorities can incorporate more detailed *cultural heritage landscape* conservation objectives and policies reflecting local heritage places, landscapes and districts into Official Plans, land use planning documents, and related *development* approval procedures or decisions.

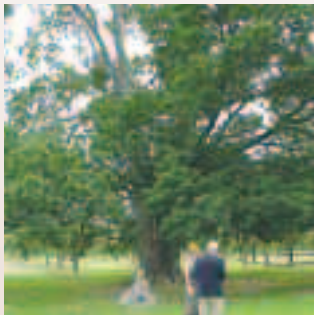
The PPS, 2005 expands the definition of *cultural heritage landscape* as “a defined geographical area of heritage significance which has been modified by human activities and is valued by a community. A landscape involves a grouping(s) of individual heritage features such as structures, spaces, archaeological sites and natural elements, which together form a *significant* type of heritage form, distinctive from that of its constituent elements or parts. Examples may include, but are not limited to, heritage conservation districts designated under the Ontario Heritage Act; and villages, parks, gardens, battlefields, mainstreets and neighbourhoods, cemeteries, railways and industrial complexes of cultural heritage value.”

Types of cultural heritage landscapes

There are generally three main types of *cultural heritage landscapes*. The following are taken from the Operational Guidelines adopted by the United Nations Educational, Scientific and Cultural Organization (UNESCO) World Heritage Committee in 1992, and are widely accepted as the three primary landscape types:

- **Designed landscapes:** those which have been intentionally designed e.g. a planned garden or in a more urban setting, a downtown square.

A natural feature with cultural association, such as specimen trees or plantings being part of a larger *cultural heritage landscape*.



(Ministry of Culture)

- **Evolved landscapes:** those which have evolved through the use by people and whose activities have directly shaped the landscape or area. This can include a ‘continuing’ landscape where human activities and uses are still on-going or evolving e.g. residential neighbourhood or mainstreet; or in a ‘relict’ landscape, where even though an evolutionary process may have come to an end, the landscape remains historically *significant* e.g. an abandoned mine site or settlement area.
- **Associative landscapes:** those with powerful religious, artistic or cultural associations of the natural element, as well as with material cultural evidence e.g. a sacred site within a natural environment or a historic battlefield.

Identifying cultural heritage landscapes

Cultural heritage landscapes are identified through:

- **Historical Research**

Consulting maps, land records, photographs, publications, primary and other sources

- **Site Survey and Analysis**

Windshield surveys, intensive surveys, site surveys and analysis of the various features and characteristics which make up the *cultural heritage landscape* as well as delineation of landscape boundaries

- **Evaluation**

Applying criteria for evaluating design, history, and context of the entire subject area

An inventory or map of properties or geographic areas that contain *significant cultural heritage landscapes* can be compiled by local, provincial or federal jurisdiction(s).

Some of these properties and geographic areas may become a *protected heritage property* under the Ontario Heritage Act.

A municipal heritage committee can be appointed under the Ontario Heritage Act by a municipal Council to identify heritage resources, including both heritage conservation districts and *cultural heritage landscapes* within their community. For more information on identifying *cultural heritage landscapes*, see the “Heritage Property Evaluation: A Guide to Identifying, Researching and Evaluating Cultural Heritage Property in Ontario Communities” (Ministry of Culture).

Defining significance

The PPS defines “*cultural heritage landscapes*” and it defines “*significant*”. For *cultural heritage landscapes* to be *significant*, they must be “valued for the important contribution they make to our understanding of the history of a place, an event, or a people.”

Typically, the significance of a *cultural heritage landscape* is identified by evaluation criteria that define the characteristics that have cultural heritage value or interest to local, provincial or federal jurisdictions. Criteria to define local cultural heritage significance is prescribed in a regulation made pursuant to section 29(1) (a) of the Ontario Heritage Act.

For a *protected heritage property* under the Ontario Heritage Act, the designation bylaw and/or heritage conservation easement agreement should state the significance of the *cultural heritage landscape*, and identify its *heritage attributes*. These are known as statements of cultural heritage value or interest.

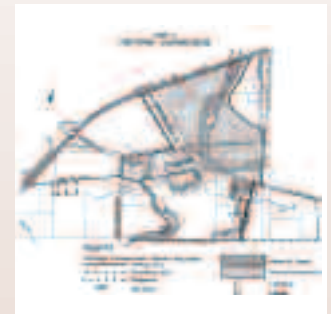
The PPS, 2005 defines *heritage attributes* as “the principal features, characteristics, context, and appearance that contribute to the cultural heritage significance of a *protected heritage property*.” *Significant cultural heritage landscapes* are often protected as, or are part of, a heritage conservation district that is described in a heritage conservation district plan under the Ontario Heritage Act.

Cultural heritage landscapes

The identification, listing, evaluation and protection of *cultural heritage landscapes* is an ongoing process. The PPS, 2005 policies and land use planning processes are applicable to *cultural heritage landscapes* that have significance to the jurisdiction. *Cultural heritage landscapes* include:

- a property with a *significant cultural heritage landscape* listed by local, provincial or federal jurisdictions using evaluation criteria;
- a *protected heritage property*, which means:
 - real property designated under Part IV (individual property), Part V (heritage conservation districts), or Part VI (archaeology) of the Ontario Heritage Act
 - a heritage conservation easement property under Parts II or IV of the Ontario Heritage Act
 - property that is the subject of a covenant or agreement between the owner of a property and a conservation body or level of government, registered on title and executed with the primary purpose of preserving, conserving and maintaining a cultural heritage feature or resource, or preventing its destruction, demolition or loss
(Municipal jurisdiction(s) or the Ontario Heritage Trust can also confirm if a property is a *protected heritage property*)
- a *significant cultural heritage landscape* that is newly identified, as part of a proposal for *development* or *site alteration*

An example where boundaries were delineated and landscape elements were identified is the Blair heritage conservation district in the City of Cambridge.



(City of Cambridge)

An example of a more traditional Part V OHA designated heritage conservation district containing landscape attributes is the Town “Square” in Goderich.



(Town of Goderich)

EXAMPLES OF CULTURAL HERITAGE LANDSCAPES:

A former industrial site where main and secondary buildings, technological artifacts, infrastructure, transport networks and open spaces are in an arrangement that depicts the working of the site.

A unique grouping of a building and formal garden within a larger heritage conservation district.

A riverscape with bridges and trails.



(Ministry of Culture)

A farmscape.



(City of Waterloo)

Other geographic areas or special places of cultural heritage value or interest such as main streets.



(Su Murdoch)

Defining cultural heritage landscape boundaries

Within a *cultural heritage landscape*, there are often heritage buildings, structures, ruins, trees, plantings, *archaeological resources* and other features or attributes that collectively illustrate a historical theme or activity. There is usually evidence of change over time, through site evolution and/or natural regeneration. There are also historic and/or visual qualities that can include viewsheds or site lines from within the landscape area, as well as specific observation points from outside its boundaries. Defining the *cultural heritage landscape* boundaries can involve a range of considerations, including but not limited to the use of: roadways; rights-of-way; river corridors; fences; edges of tree lines and hedge rows; property lines; landforms; and lakeshores. It is therefore important for boundaries of a *cultural heritage landscape* to be clearly defined for conservation purposes within a land use planning context.

What is meant by “conserved”?

In the PPS, 2005 *conserved* “means the identification, protection, use and/or management of cultural heritage and *archaeological resources* in such a way that their heritage values, attributes and integrity are retained. This may be addressed through a conservation plan or heritage impact assessment.”

The conservation of a *significant cultural heritage landscape* considers not only the preservation of specific features which make up the landscape, but also the relationships of such features inside and outside its boundaries. Consideration should also be given to the surrounding context within which a *cultural heritage landscape* is located and the need for conservation strategies such as buffer zones.

The Ontario Heritage Act enables municipalities to identify, list and protect properties with cultural heritage value or interest. It also gives municipalities and the Ontario Heritage Trust the ability to hold heritage conservation easements on real property. The Ontario Heritage Trust, an agency of the Ministry of Culture, is dedicated to identifying, preserving, protecting and promoting Ontario’s rich and varied heritage resources.

Conserving cultural heritage landscapes in land use planning

The Planning Act allows municipalities and approval authorities to adopt Official Plan objectives and cultural heritage policies and approval procedures. For the conservation of *significant cultural heritage landscapes*, planning tools include, but are not limited to:

- Heritage conservation district policies, guidelines, & studies
- Area design guidelines
- Height and setback restrictions / site plan control
- Landscape impact assessments
- Secondary plan policies for special areas
- Special zoning by-laws with heritage criteria overlay
- Subdivision development agreements
- Community improvement plans
- Stewardship
- Financial incentives
- Landscape conservation plans
- Park area / corridor area management plans

In light of the above planning tools, municipalities and/or planning approval authorities, through their Official Plan and other planning policy documents, can further identify, protect and manage *significant cultural heritage landscapes* within their jurisdiction.

To conserve a *significant cultural heritage landscape*, a municipality or approval authority may require a heritage impact assessment (or equivalent study) to evaluate proposed *development* or *site alteration* to demonstrate that a *significant cultural heritage landscape* will be *conserved*. Mitigative (avoidance) measures or alternative *development* or *site alteration* approaches may be required.

A conservation plan (or equivalent study) may be required as a long term strategy for conserving the *significant cultural heritage landscape*. (See InfoSheet #5 on heritage impact assessments and conservation plans.)

A *cultural heritage landscape* may be scenic and contain notable natural features, but is primarily important for its *significant* historical associations.



(Ministry of Culture)



(Ministry of Culture)

For more information on *cultural heritage landscapes* contact:

Ontario Ministry of Culture

400 University Avenue, 4th Floor
Toronto, ON M7A 2R9

General_Info@mcl.gov.on.ca

(416) 212-0644

1 (866) 454-0049

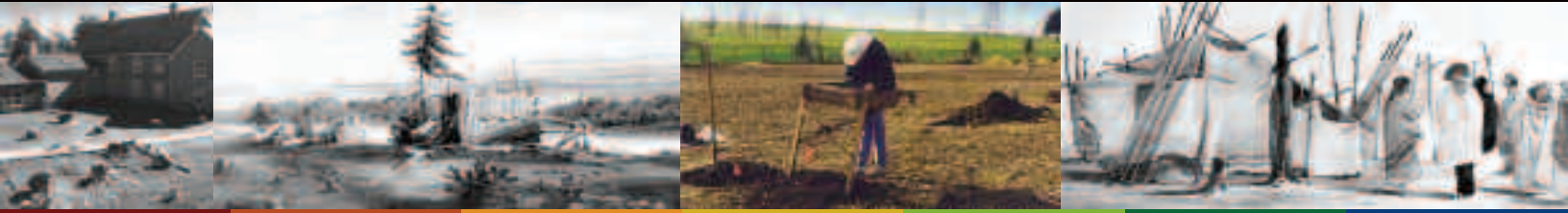
web page:

<http://www.culture.gov.on.ca>

Additional information on the Provincial Policy Statement, 2005 is available on the Ministry of Municipal Affairs and Housing web page:

<http://www.mah.gov.on.ca>

*Note: This InfoSheet was developed to assist participants in the land use planning process and to understand the PPS, 2005 policies related to the conservation planning of cultural heritage and *archaeological resources*. The information in the InfoSheet should not be relied upon as a substitute for specialized legal or professional advice in connection with any particular matter.



InfoSheet #3

Archaeological Resources and Areas of Archaeological Potential

Winter 2006

WHAT IS THE PROVINCIAL POLICY STATEMENT 2005 POLICY FOR THE CONSERVATION OF ARCHAEOLOGICAL RESOURCES AND AREAS OF ARCHAEOLOGICAL POTENTIAL?

2.6.2 *Development and site alteration* shall only be permitted on lands containing *archaeological resources* or *areas of archaeological potential* if the *significant archaeological resources* have been *conserved* by removal and documentation, or by 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 may be permitted.

A policy for the conservation of archaeological resources and areas of archaeological potential

Provincial Policy Statement (PPS, 2005) 2.6.2 for the conservation of *archaeological resources* and *areas of archaeological potential* is not new, but it is strengthened by changes to the Planning Act requiring that planning decisions by municipalities and approval authorities “shall be consistent with” provincial policy statements.

Municipalities and approval authorities are to incorporate more detailed archaeological conservation objectives and policies reflecting local *archaeological resources* and *areas of archaeological potential* into their official plans, land use planning documents and related *development* approval processes.

The PPS, 2005 defines *archaeological resources* as including “artifacts, archaeological sites, and marine archaeological sites. The identification and evaluation of such resources are based upon archaeological fieldwork undertaken in accordance with the Ontario Heritage Act.”

Identifying archaeological resources and areas of archaeological potential

The identification of *archaeological resources* is based on archaeological assessment by a licensed professional archaeologist. Archaeological licensing and reporting are governed by the Ontario Heritage Act and its regulations. Licensed archaeologists must comply with Ministry of Culture standards and guidelines when carrying out and reporting on archaeological fieldwork. The Ontario Heritage Act prohibits anyone from disturbing an archaeological site without a licence.

The Ministry of Culture maintains a database of archaeological site locations and a register of archaeological fieldwork reports. A municipality or approval authority may obtain site locations and mapping for land use planning purposes, after a data sharing agreement with the province is ratified.

WHAT ARE ARCHAEOLOGICAL RESOURCES?

Archaeological resources include artifacts, archaeological sites, and marine archaeological sites. The identification and evaluation of such resources are based upon archaeological fieldwork undertaken in accordance with the Ontario Heritage Act. (PPS, 2005)

Archaeological site means any property that contains an artifact or any other physical evidence of past human use or activity that is of cultural heritage value or interest. Artifact means any object, material or substance that is made, modified, used, deposited or affected by human action and is of cultural heritage value or interest. Marine archaeological site means an archaeological site that is fully or partially submerged or that lies below or partially below the high-water mark of any body of water. (Ontario Heritage Act Regulation 170/04)

The identification of *areas of archaeological potential* is based on provincial criteria (refer to page 4). An archaeological master plan containing geographical information system (GIS) mapping of known *archaeological resource* locations and *areas of archaeological potential*, can define these areas even more precisely within municipal boundaries. Municipalities or planning authorities often develop archaeological master plans as an important planning tool for staff, and the mapping generated is used to trigger archaeological assessments of *areas of archaeological potential*.

What is involved in archaeological assessments?

As a condition of approval for *development* or *site alteration* of *areas of archaeological potential*, a municipality or approval authority will require a proponent to undertake an archaeological assessment. There are four stages of archaeological fieldwork, moving from identification of *areas of archaeological potential* and *archaeological resources* to assessment of their significance. The final stage is mitigation of *significant archaeological resources*. Further information about the assessment process will be available in technical guides and manuals developed by the Ministry of Culture.

Defining significance

While all *archaeological resources* contribute to the record of Ontario's past, to be "*significant*" they must be "valued for the important contribution they make to our understanding of the history of a place, an event, or a people" (PPS, 2005). The Ministry of Culture's Standards and Guidelines for Consultant Archaeologists uses the term "heritage value", as found in the Ontario Heritage Act, to express similar concepts. The level of significance of an *archaeological resource* may influence how it is to be mitigated from *development* and *site alteration*, either by removal and documentation or preservation on site.

What is meant by "conserved"?

Archaeological resources are often on or below ground, or form part of a cultural landscape. Their integrity can be compromised by any land use activity, including, but not limited to, grading, soil removal, construction, shoreline stabilization, alteration to watercourses, extraction of aggregates and the clearing of woodlots or forested areas.

In the PPS, 2005 “*conserved*” means “the identification, protection, use and/or management of cultural heritage and *archaeological resources* in such a way that their heritage values, attributes and integrity are retained.”

As stated in Policy 2.6.2, a *significant archaeological resource* can be *conserved* by removal and documentation, or by preservation on site. Only a licensed professional archaeologist may remove and document *archaeological resources* through controlled excavation.

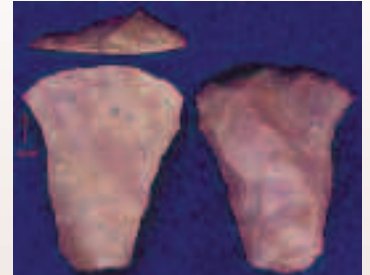
If preserved on site, only *development* and *site alteration* that maintains the integrity of the *archaeological resource* may be permitted. This may occur, for example, when an aboriginal village site extending over a large area is preserved by designating the area as green space.

A *significant archaeological resource* can become a *protected heritage property* under the Ontario Heritage Act, Parts IV (individual property), V (heritage conservation districts), VI (archaeology), or protected by an archaeological zoning by-law or heritage conservation easement agreement.

A licensed professional archaeologist can advise a *development* proponent or approval authority on the appropriate measures needed to conserve an *archaeological resource*.

Conserving archaeological resources in land use planning

The conservation of *significant archaeological resources* will involve using appropriate protection tools within the land use planning process. A municipality or approval authority, through its Official Plan objectives, archaeological conservation policies and approval procedures, can identify and manage *areas of archaeological potential* and *archaeological resources* within its jurisdiction. An archaeological master plan containing detailed mapping of all *areas of archaeological potential* is an efficient and effective way of ensuring *significant archaeological resources* are *conserved* during land use planning and *development* activities.

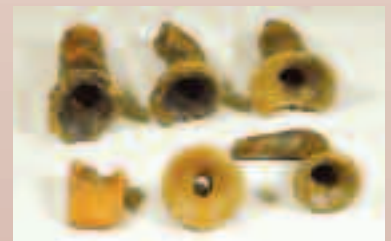


(Ministry of Culture)



(Jones Consulting Group Ltd.)

Examples of *significant archaeological resources* can include, but are not limited to, aboriginal villages, seasonal camps, spiritual sites and landscapes, lithic scatters, ossuaries, shipwrecks, military site(s), European settlement(s) and other evidence of occupation.



(Huronia Museum)



(Ministry of Culture)

WHAT ARE AREAS OF ARCHAEOLOGICAL POTENTIAL?

Areas of archaeological potential means areas with the likelihood to contain *archaeological resources*. Criteria for determining archaeological potential are established by the Province, but municipal approaches which achieve the same objectives may also be used. Archaeological potential is confirmed through archaeological fieldwork undertaken in accordance with the Ontario Heritage Act. (PPS, 2005)

For more information on *archaeological resources* and *areas of archaeological potential* contact:

Ontario Ministry of Culture
 400 University Avenue, 4th Floor
 Toronto, ON M7A 2R9
 General_Info@mcl.gov.on.ca
 (416) 212-0644
 1 (866) 454-0049
 web page:
<http://www.culture.gov.on.ca>

Additional information on the Provincial Policy Statement, 2005 is available on the Ministry of Municipal Affairs and Housing web page:
<http://www.mah.gov.on.ca>

Provincial criteria for determining archaeological potential:

- Known archaeological sites within 250 metres
- Water source (primary, secondary, ancient) within 300 metres
- Elevated topography (e.g., knolls, drumlins, eskers, plateaux)
- Pockets of sandy soil in a clay or rocky area
- Unusual land formations (e.g., mounds, caverns, waterfalls)
- Resource-rich area (concentrations of animal, vegetable or mineral resources)
- Non-aboriginal settlement (e.g., monuments, cemeteries)
- Historic transportation (e.g., road, rail, portage)
- Property protected under Ontario Heritage Act
- Local knowledge
- Recent disturbance (extensive and intensive)

Further information on tools for identifying and managing *archaeological resources* will be available in technical guides and manuals developed by the Ministry of Culture.

*Note: This Info Sheet was developed to help participants in the land use planning process to understand the PPS, 2005 policies related to the conservation of cultural heritage and *archaeological resources*. The information in the Info Sheet should not be relied upon as a substitute for specialized legal or professional advice in connection with any particular matter.

Header images: *Archaeological site* (Ministry of Culture database), "At Barrie on Lake Simcoe, Upper Canada 1841", George Russell Dartnell (National Archives of Canada), *Archaeological site* (Ministry of Culture database), "Indian Wigwams, Upper Canada 1832", Henry Byam Martin (National Archives of Canada).



InfoSheet #4

Adjacent Lands and Protected Heritage Property

Winter 2006

WHAT IS THE PROVINCIAL POLICY STATEMENT, 2005 FOR ADJACENT LANDS AND CONSERVING THE HERITAGE ATTRIBUTES OF A PROTECTED HERITAGE PROPERTY?

2.6.3 *Development* and site alteration may be permitted on *adjacent lands* to protected heritage property where the proposed *development* and *site alteration* has been evaluated and it has been demonstrated that the *heritage attributes* of the *protected heritage property* will be *conserved*.

Mitigative measures and/or alternative *development* approaches may be required in order to conserve the *heritage attributes* of the *protected heritage property* affected by the adjacent *development* or *site alteration*.

A policy for development and site alteration on adjacent lands to a protected heritage property

The Provincial Policy Statement (PPS, 2005) policy 2.6.3 for *development* and *site alteration* on *adjacent lands* to a *protected heritage property* is new. The policy provides that mitigative measures or alternative *development* approaches may be required to conserve the *heritage attributes* of a *protected heritage property*.

Municipalities and approval authorities can now incorporate more detailed conservation objectives and policies reflecting local heritage resources, *heritage attributes*, and any limitations on *development* for lands adjacent to *protected heritage property* into their Official Plans, land use planning documents, and their related *development* approval procedures or processes.

What is meant by adjacent lands?

For purpose of policy 2.6.3, the PPS, 2005 defines **adjacent lands** “as those lands contiguous to a *protected heritage property* or as otherwise defined in the municipal Official Plan.”

The Official Plan can define the extent of *adjacent lands* and distances from *development* areas required to minimize or mitigate or avoid an impact on the *heritage attributes* of an Ontario Heritage Act designated heritage building, archaeological site, and/or heritage conservation district. Buffer areas can be defined based on the specific *heritage attributes* identified for the *protected heritage property*.

What is a protected heritage property?

The Ontario Heritage Act enables municipalities, planning authorities, and the province to identify and protect real property with cultural heritage value or interest.

HERITAGE ATTRIBUTES EXAMPLES:

- A protected heritage house that is *significant* for its architectural style. The significance may be embodied in the physical elements designed in a particular style. Elements such as facade details, windows, building heights involving massing and orientation may be all considered to be the *heritage attributes*.
- A designated heritage building or heritage conservation district may contain *significant cultural heritage landscape* features such as gardens, narrow streetscape patterns, prominent structures. These features and views to and from them can support the significance of the property, and may be considered to be *heritage attributes*.
- An important aspect of the history of a people may be represented by the physical layout of a *protected heritage property* containing ruins or an archaeological site.

A *protected heritage property* as defined in the PPS, 2005 means:

- Real property designated under Part IV (individual property), Part V (heritage conservation districts), or Part VI (archaeology) of the Ontario Heritage Act;
- A heritage conservation easement property under Parts II or IV of the Ontario Heritage Act; and
- Property that is the subject of a covenant or agreement between the owner of a property and a conservation body or level of government, registered on title and executed with the primary purpose of preserving, conserving, and maintaining a cultural heritage feature or resource, or preventing its destruction, demolition or loss.

What are heritage attributes and how are these identified?

The PPS, 2005 defines *heritage attributes* as “the principal features, characteristics, context and appearance that contribute to the cultural heritage significance of a *protected heritage property*.”

For a *protected heritage property*, the designation by-law or heritage conservation easement agreement should identify the cultural heritage value or interest and describe the *heritage attributes* of the cultural heritage or *archaeological resource*. The municipality should ensure that *heritage attributes* of a *protected heritage property* are effectively identified and described in the designation by-law or heritage conservation easement agreement. The level of detail should be sufficient to guide the approval, modification, or denial of a proposed *development* or *site alteration* that affects a *protected heritage property*.

Designation by-laws and heritage conservation easement agreements that inadequately describe significance and the *heritage attributes* of a property may need to be improved. This can be done through historical research, site survey and analysis, and evaluation to clarify the intent of the by-law or easement agreement. The municipality or Ontario Heritage Trust can verify if a property or geographical area is a *protected heritage property*.

What does it mean to conserve the heritage attributes?

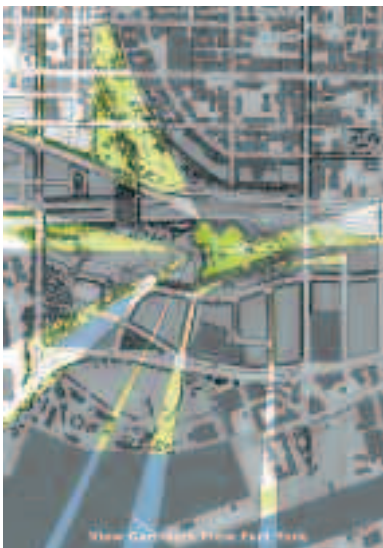
The PPS, 2005 defines “*conserved*” as “the identification, protection, use and/or management of cultural heritage and *archaeological resources* in such a way that their heritage values, attributes and integrity are retained. This may be addressed through a conservation plan or heritage impact assessment.” The term *conserved* is defined in the PPS, 2005 because of the importance of early identification, protection and

management of cultural heritage resources and its *heritage attributes* during the land use and *development* process.

PPS 2005 policy 2.6.3 provides that “mitigative measures and/or alternative *development* approaches may be required to conserve the *heritage attributes* of the *protected heritage property* affected by the adjacent *development* or *site alteration*.”

To conserve the *heritage attributes* of a *protected heritage property*, a municipality or approval authority may require a heritage impact assessment to evaluate the proposed *development* or *site alteration* on *adjacent lands*, and to demonstrate that the *heritage attributes* of the *protected heritage property* will be *conserved*. A conservation plan may be required as a long term strategy for conserving the *heritage attributes* of the *protected heritage property*.

The following graphics are sample illustrations of evaluations and impact assessments for the designated heritage conservation district of Fort York in Toronto. This district’s *heritage attributes* include views to and from the Fort. In addition, potential archaeological features and sites located on the adjacent properties are also considered to be *heritage attributes*.



(Ministry of Culture)

(Graphics courtesy of University of Toronto Centre for Landscape Research for the Friends of Fort York)

COMPONENTS OF A HERITAGE IMPACT ASSESSMENT FOR THE EVALUATION OF HERITAGE ATTRIBUTES MUST:

Address the significance and *heritage attributes* of a cultural heritage resource;

Identify any impact a proposed *development* or *site alteration* may have on the cultural heritage resources;

Evaluate and/or recommend alternative conservation methods to mitigate the impact of a proposed *development* or *site alteration* on cultural heritage resources.

Below is an example of a provincially and nationally *significant cultural heritage landscape* evaluated for its context and character. Views from the Brock Monument near Niagara-on-the-Lake are considered to be *heritage attributes*.



(Ministry of Culture)

Conserving heritage attributes in land use planning

Municipalities and approval authorities can adopt Official Plan policies, objectives and other heritage conservation policies and approval procedures for conserving *heritage attributes*. An impact on the *heritage attributes* of a *protected heritage property* can be minimized or avoided, for example, by mitigative measures and/or alternative *development* approaches, buffer zones, zoning, setback, design guidelines, regulation of density and height, and other site plan control mechanisms.

The graphic below is an example of a heritage design guideline image for heritage conservation districts. Similar municipal guidelines can be applied for other protected heritage sites and areas, as an effective tool for guiding *adjacent land development* proposals early in the land planning process. This will allow for mitigative measures and alternative *development* approaches to be considered for the conservation of *heritage attributes*, such as context and character.



(Ministry of Culture)

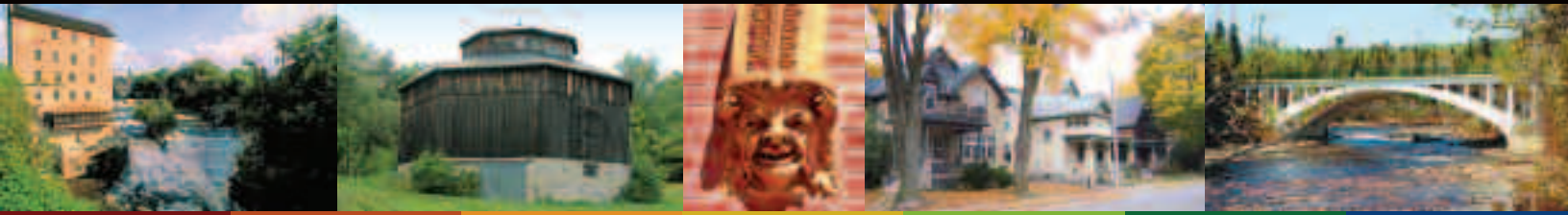
For more information on *adjacent lands* and *protected heritage property* contact:

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*Note: This InfoSheet was developed to assist participants in the land use planning process and to understand the PPS, 2005 policies related to the conservation planning of cultural heritage and *archaeological resources*. The information in the InfoSheet should not be relied upon as a substitute for specialized legal or professional advice in connection with any particular matter.

Header photos: Dunlop Street East, Barrie (Jones Consulting Group Ltd.), Ottawa (Ministry of Culture), Toronto (Ministry of Culture), Hedford Church Cemetery, Richmond Hill (Su Murdoch)



InfoSheet #5

Heritage Impact Assessments and Conservation Plans

Winter 2006

Preserved Goldie Mill Ruins located in the City of Guelph



(Leanne Piper)

Heritage impact assessments and conservation plans as conditions of development and site alteration

With regard to cultural heritage and *archaeological resources*, the Provincial Policy Statement, 2005 issued under the authority of the Planning Act defines “*conserved*” as “the identification, protection, use and/or management of cultural heritage and *archaeological resources* in such a way that their heritage values, attributes and integrity are retained. This may be addressed through a conservation plan or heritage impact assessment.”

To conserve a cultural heritage resource, a municipality or approval authority may require a heritage impact assessment and/or a conservation plan to guide the approval, modification, or denial of a proposed *development* or *site alteration* that affects a cultural heritage resource. To ensure implementation of a conservation plan, a municipality may require an owner to post a letter of credit, bond or certified cheque as part of the *development* approval process.

This applies to all properties or geographic areas containing cultural heritage resources that are *significant* or “valued for the important contribution they make to our understanding of the history of a place, an event, or a people.” (PPS, 2005). Properties and geographic areas include: all listed, inventoried, mapped heritage properties by local, provincial or federal jurisdiction(s); *protected heritage property(s)*; newly identified cultural heritage sites which may need further evaluation; and areas that can be identified as having known archaeological sites or archaeological potential.

Using tools such as heritage impact assessments and conservation plans, municipalities and approval authorities can further enhance their own heritage preservation objectives.

PRINCIPLES IN THE CONSERVATION OF HISTORIC PROPERTIES

Respect for Documentary Evidence

Do not base restoration on conjecture.

Respect for Original Location

Do not move buildings unless there is no other means to save them.

Respect for Historic Material

Repair/conservate rather than replace building materials and finishes, except where absolutely necessary.

Respect for Original Fabric

Repair with like materials.

Respect for the Building's History

Do not restore to one period at the expense of another period.

Reversibility

Alterations should allow a resource to return to its original conditions.

Legibility

New work to be distinguishable from old.

Maintenance

With continuous care, future restoration will not be necessary.

A **heritage impact assessment (or equivalent study)** is a study to determine if any cultural heritage resources (including those previously identified and those found as part of the site assessment) or in any *areas of archaeological potential*, are impacted by a specific proposed *development* or *site alteration*. It can also demonstrate how the cultural heritage resource will be *conserved* in the context of redevelopment or *site alteration*. Mitigative or avoidance measures or alternative *development* or *site alteration* approaches may be recommended. For archaeological assessments, fieldwork must be undertaken by licensed professional archaeologists in accordance with the Ontario Heritage Act and its regulations. (refer to InfoSheet #3 entitled *Archaeological Resources and Areas of Archaeological Potential*).

A **conservation plan (or equivalent study)** is a document that details how a cultural heritage resource can be *conserved*. The conservation plan may be supplemental to a heritage impact assessment, but it is typically a separate document. The recommendations of the plan should include descriptions of repairs, stabilization and preservation activities as well as long term conservation, monitoring and maintenance measures.

What is the content of a heritage impact assessment?

A heritage impact assessment generally contains, but is not limited to the following information:

1. Historical Research, Site Analysis and Evaluation

If the available identification and description of the significance and *heritage attributes* of the cultural heritage resource are inadequate for the purposes of the heritage impact assessment, or the cultural heritage resource is newly identified, research, site survey and analysis, and evaluation are required. An explanation of the methodology used must accompany a clear statement of the conclusions regarding the significance and *heritage attributes* of the cultural heritage resource.

2. Identification of the Significance and Heritage Attributes of the Cultural Heritage Resource

This is usually a summary of the cultural heritage value or interest and the *heritage attributes* contained in a heritage property municipal designation bylaw, heritage conservation easement agreement, or other listings. This summary should clearly articulate the cultural heritage value or interest and *heritage attributes* of the heritage resource. If the property is not a *protected heritage property* but is listed or is newly identified and may possess heritage significance, statements of cultural heritage value or interest and the *heritage attributes* should still be developed.

3. Description of the Proposed Development or Site Alteration

This description details the rationale and purpose for the *development* or *site alteration*, the proposed works and graphical layout, and how the *development* or *site alteration* fits with the objectives of the municipality or approval authority.

4. Measurement of Development or Site Alteration Impact

Any impact (direct or indirect, physical or aesthetic) of the proposed *development* or *site alteration* on a cultural heritage resource must be identified. The effectiveness of any proposed conservation or mitigative or avoidance measures must be evaluated on the basis of established principles, standards and guidelines for heritage conservation.

5. Consideration of Alternatives, Mitigation and Conservation Methods

Where an impact on a cultural heritage resource is identified, and the proposed conservation or mitigative measures including avoidance, are considered ineffective, other conservation or mitigative measures, or alternative *development* or *site alteration* approaches must be recommended.

6. Implementation and Monitoring

This is a schedule and reporting structure for implementing the recommended conservation or mitigative or avoidance measures, and monitoring the cultural heritage resource as the *development* or *site alteration* progresses.

7. Summary Statement and Conservation Recommendations

This is a description of:

- the significance and *heritage attributes* of the cultural heritage resource;
- the identification of any impact that the proposed *development* will have on the cultural heritage resource;
- an explanation of what conservation or mitigative measures, or alternative *development* or *site alteration* approaches are recommended to minimize or avoid any impact on the cultural heritage resource;
- if applicable, clarification of why some conservation or mitigative measures, or alternative *development* or *site alteration* approaches are not appropriate.

NEGATIVE IMPACTS

Negative impact on a cultural heritage resource include, but are not limited to:

Destruction of any, or part of any, *significant heritage attributes* or features;

Alteration that is not sympathetic, or is incompatible, with the historic fabric and appearance;

Shadows created that alter the appearance of a *heritage attribute* or change the viability of a natural feature or plantings, such as a garden;

Isolation of a *heritage attribute* from its surrounding environment, context or a *significant* relationship;

Direct or indirect obstruction of *significant* views or vistas within, from, or of built and natural features;

A change in land use such as rezoning a battlefield from open space to residential use, allowing new *development* or *site alteration* to fill in the formerly open spaces;

Land disturbances such as a change in grade that alters soils, and drainage patterns that adversely affect an *archaeological resource*.



MITIGATION OR AVOIDANCE

Methods of minimizing or avoiding a negative impact on a cultural heritage resource **include, but are not limited to:**

- **Alternative development approaches**
- Isolating *development* and *site alteration* from *significant* built and natural features and vistas
- Design guidelines that harmonize mass, setback, setting, and materials
- Limiting height and density
- Allowing only compatible infill and additions
- **Reversible alterations**
- Buffer zones, site plan control, and other planning mechanisms

For more information contact:

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 (416) 212-0644
 1 (866) 454-0049
 web page:
<http://www.culture.gov.on.ca>

Additional information on the Provincial Policy Statement, 2005 is available on the Ministry of Municipal Affairs and Housing web page:
<http://www.mah.gov.on.ca>

What is the content of a conservation plan?

A Conservation Plan generally contains, but is not limited to the following information:

1. **Identification** of the conservation principles appropriate for the type of cultural heritage resource being *conserved*;
2. **Analysis** of the cultural heritage resource, including documentation of the resource, descriptions of cultural heritage value or interest, assessment of resource conditions and deficiencies, discussion of historical, current and proposed use;
3. **Recommendations** for conservation measures and interventions, short or long term maintenance programs, implementation, and the qualifications for anyone responsible for the conservation work;
4. **Schedule** for conservation work, inspection, maintenance, costing, and phases of rehabilitation or restoration work;
5. **Monitoring** of the cultural heritage resource and the *development* of a long term reporting structure.



Who is qualified to prepare a heritage impact assessment and conservation plan?

Heritage impact assessments and conservation plans for *built heritage resources* and *cultural heritage landscapes* must be prepared by **qualified individuals**, such as architectural and landscape consultants **with knowledge of** accepted standards of historical research, identification, evaluation, and **methods of conservation and mitigation**.

For properties containing *archaeological resources* or *areas of archaeological potential*, only licensed professional archaeologists can carry out technical assessments and alter known archaeological sites.

Further information on heritage impact assessments and conservation plans will be available in future technical guides and manuals developed by the Ministry of Culture.

*Note: This InfoSheet was developed to assist participants in the land use planning process and to understand the PPS, 2005 policies related to the conservation planning of cultural heritage and *archaeological resources*. The information in the InfoSheet should not be relied upon as a substitute for specialized legal or professional advice in connection with any particular matter.

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EDWIN JOHN ROWSE

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**MINISTRY OF ENVIRONMENT
CONSERVATION AND PARKS and
MINISTRY OF HERITAGE, SPORT,
TOURISM AND CULTURE
INDUSTRIES**

Divisional Court File No.

Applicant

Respondents

**ONTARIO
SUPERIOR COURT OF JUSTICE
(DIVISIONAL COURT)**

Proceeding Commenced at Toronto

**AFFIDAVIT OF EDWIN JOHN ROWSE
(affirmed March 4, 2021)**

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