



COUNTY OF SIMCOE  
**ARCHAEOLOGICAL**  
MANAGEMENT PLAN

Submitted to County of Simcoe Planning Department



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## Project Personnel

Project Manager:	Ronald F. Williamson, PhD Senior Associate, ASI
GIS Technician and Graphics:	Blake Williams, MSc Archaeologist   Geomatics Specialist - Operations Division, ASI  Eric Beales, MA Archaeologist   Project Manager - Planning Assessment Division, ASI
Project Historian:	Brian Narhi, MA, Project Historian, ASI
Environmental Archaeologists:	Robert I. MacDonald, PhD Managing Partner, ASI  Eric Beales
Report Preparation:	Ronald F. Williamson Rob MacDonald Brian Narhi Eric Beales  Marcus Letourneau, PhD, MCIP, RPP Letourneau Heritage Consulting Inc.
Report review:	Ronald F. Williamson Eric Beales  Andrea Carnevale, BSc (Hon), NEW, RT-Level 1 Senior Archaeologist   Assistant Manager - Special Projects, ASI

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## Executive Summary

The archaeological sites that are the physical remains of the County of Simcoe's 13,000-year settlement history represent a fragile and non-renewable cultural heritage resource that must be conserved and protected. This document presents an Archaeological Management Plan (AMP), which presents best practices in archaeological resource management. With this AMP in hand, the County and local municipalities can more easily identify where archaeological assessments should be required and manage archaeological resources within its jurisdiction.

Once the AMP is in place, the risk of unfortunate surprises occurring (such as disturbing an Indigenous burial site or a 19<sup>th</sup> century building foundation) is further reduced, and public awareness of archaeological resources is considerably enhanced. County of Simcoe and local municipal planners, along with property owners, developers, and prospective land buyers, know now whether archaeological investigations are necessary prior to land disturbing activities. Citizens will know their community's history better; careful planning for the conservation and interpretation of archaeological resources offer opportunities for improving local quality of life through knowledge mobilisation.

More specifically, the County of Simcoe's AMP has three major objectives:

- the compilation of detailed, reliable inventories of registered and unregistered archaeological sites within the County;
- the development of an archaeological site potential model, based on known site locations, past and present land uses, environmental and cultural-historical data, and assessment of the likelihood for survival of archaeological resources in various contexts; and,
- the provision of recommendations concerning the preparation of archaeological resource conservation and management guidelines for the County of Simcoe.

The development of an archaeological site potential model was undertaken based on both an inductive and deductive approach to predicting where additional pre-contact Indigenous sites are most likely situated and detailed historical research to map historical archaeological potential. It was determined that the new pre-contact Indigenous archaeological site potential layer captures all previously identified non-findspot pre-contact Indigenous sites.

The identification of areas in the historical archaeological site potential involved the digitization of residential, commercial and industrial features and transportation routes from historical mapping and cemeteries. The new historic archaeological potential layer captures all the historical archaeological sites previously discovered in the County.

The role of the County of Simcoe and local municipalities in the conservation of cultural heritage resources is crucial. Although a matter of provincial interest, planning and land use control are predominantly municipal responsibilities and the impact of municipal land use decisions on archaeological resources is substantial. This is particularly the case since municipally-approved developments constitute most land disturbing activities in the Province. The primary means by which these resources may be protected is through the planning and development approvals process. In recognition of these facts, the final task was to update, in accordance with the provincial legislative mandate, a series of policies within the planning and development approvals process that will ensure the conservation of these valuable cultural heritage resources within the overall process of change and growth in the County. The AMP policies are consistent with the *Provincial Policy Statement* (2014) and the revised *Ontario Heritage Act* (2005).

The AMP also benefitted from engagement with First Nations and Métis communities with whom the County met during the preparation of this plan. The plan recommends engagement with First Nations and Métis communities in the County's archaeological review and planning application processes.

In summary, in having developed this Archaeological Management Plan, the County of Simcoe joins with other major municipalities in Ontario in adopting the best approach available to ensuring archaeological site conservation within its jurisdiction.

## **1.0 County of Simcoe Archaeological Management Plan – Introduction**

The County of Simcoe Archaeological Management Plan (AMP) represents a comprehensive approach to the conservation of archaeological resources. The most effective means of protecting archaeological sites is through adoption of planning and management guidelines that are informed by both the known distribution and character of archaeological sites and by assessment of the potential location of additional sites that have yet to be discovered.

The archaeological potential model was developed using an ArcGIS® Geographic Information System to summarize and map various data sets as separate, but complementary layers. Modelling criteria were then derived through analysis of these layers, and these criteria were applied to produce a final archaeological potential planning layer, which will be used by County and local municipal staff to evaluate planning applications for the necessity of carrying out archaeological resource assessments.

This report presents the archaeological potential model and planning and management guidelines that are consistent with provincial legislation. The report is divided into two main parts following this introduction in which archaeological resources are also defined. Part I presents the archaeological potential model for both Indigenous and historical sites while Part II includes outlines of the threats to archaeological resources and the legislative framework at the provincial and municipal levels to address those threats. This is followed by how the County and local municipalities will apply the archaeological potential model along with an explanation of the various roles that various agencies play in the process. The report also addresses contingency planning for unexpected archaeological emergency finds, ownership and curation of artifacts, and periodic review of the model.

## 1.1 Defining Archaeological Resources

Archaeological resources are scarce, fragile, and non-renewable and therefore must be managed in a prudent manner if they are to be conserved. Effectiveness in incorporating archaeological resources within the overall planning and development process requires a clear understanding of their physical nature, the variety of forms they may assume, and their overall significance and value to society.

The *Provincial Policy Statement* (PPS 2014), which is issued under the authority of Section 3 of the *Planning Act*, defines archaeological resources (Section 6.0, Definitions) as including “artifacts, archaeological sites, and marine archaeological sites.”

Individual archaeological sites are distributed in a variety of locational settings across the landscape, being locations or places that are associated with past human activities, endeavours, or events. These sites may occur on or below the modern land surface or may be submerged under water. The physical forms that these archaeological sites may take include: surface scatters of artifacts; subsurface strata which are of human origin or incorporate cultural deposits; the remains of structural features; or a combination of these attributes.

The *Ontario Heritage Act* (Ontario Regulation 170/04) provides the following definitions:

- “archaeological site” is “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” is “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” is “an archeological site that is fully or partially submerged or that lies below or partially below the high-water mark of any body of water;” and
- Archaeological fieldwork is “any activity carried out on, above or under land or water for the purpose of obtaining and documenting data, recovering artifacts and remains or altering an archaeological site and includes monitoring, assessing, exploring, surveying, recovering, and excavating.”

## Part I: Archaeological Potential Model

### 2.0 Introduction

Archaeological potential is defined in the *Provincial Policy Statement* (PPS 2014) as:

*...areas with the likelihood to contain archaeological resources. Methods to identify archaeological potential are established by the Province, but municipal approaches which achieve the same objectives may also be used.*

For the past twenty-five years, municipalities across Ontario have been creating detailed archaeological potential models for their jurisdictions, usually within the context of developing archaeological management plans. Since the mid-1990s, these models have been undertaken on a Geographic Information Systems (GIS) platform in order to best manipulate and analyse site location attribute data. The result is a simple to use digital map of archaeological potential, which can be used by municipal staff to determine the need for archaeological assessment in advance of soil disturbance.

The model comprises the creation of six layers of geo-referenced data specific to the County of Simcoe that have been integrated into a single and final archaeological potential layer:

- Indigenous Archaeological Site Potential Layer;
- Historical Archaeological Site Potential Layer;
- Composite Archaeological Potential Layer;
- Previously Assessed Lands Layer;
- Composite Archaeological Potential with Integrity; and,
- Final Archaeological Potential Planning Layer.

A description of how the GIS layers were created for the County of Simcoe follows below.

## **3.0 Indigenous Archaeological Site Potential Layer**

### **3.1 Introduction**

Only limited locational data exist for Indigenous archaeological sites in the County of Simcoe. While access to distributional information for all sites would be a significant advantage to land-use planners and heritage resource managers, the undertaking of a comprehensive archaeological survey of the County to compile a complete inventory is clearly not feasible. As an alternative, therefore, planners and managers must depend on a model which predicts how sites are likely to be distributed throughout the municipality.

Archaeological site potential modelling can trace its origins to a variety of sources, including human geography, settlement archaeology, ecological archaeology, and paleoecology. The basic assumption is that Indigenous land use was constrained by ecological and socio-cultural parameters. If these parameters can be discovered, through archaeology and paleoecology, pre-contact Indigenous land-use patterns can be reconstructed.

Two basic approaches to predictive modelling can be described. The first is an empirical or inductive approach, sometimes referred to as correlative (Sebastian and Judge 1988) or empiric correlative modelling (Kohler and Parker 1986). This method employs known site locations, derived from either extant inventories or through sample surveys, as a guide for predicting additional site locations. The second is a theoretical or deductive approach, which predicts site locations based on expected behavioural patterns as identified from suitable ethnographic, historical, geographical, ecological, and archaeological analogues. While data requirements or availability tend to influence the orientation of the study, every modelling exercise will incorporate both inductive and deductive elements. Foremost is the need to employ all available data effectively and expeditiously.

As part of the development of a detailed model of Indigenous archaeological site potential for the County of Simcoe, ASI undertook a technical analysis of the environmental and archaeological history of Simcoe County (on file with the County of Simcoe). This analysis begins with a brief review of the method and theory associated with Indigenous site potential modelling and is followed by delineation of the modelling approach, which employs a descriptive reconstruction of pre-contact landscapes in the County together with a reconstruction of pre-contact and early contact period Indigenous land-use patterns informed by both known site locations as well as archaeological and ethnographic analogues. This information is brought together in a list of criteria, which are used to define a zone of Indigenous archaeological site potential on GIS-based mapping of the County (Figure 8).

### 3.2 Deductive Model

Throughout much of pre-contact Indigenous history, the inhabitants of Simcoe were hunter-gatherers who practiced an annual subsistence round to exploit a broad range of natural resources for food and raw materials for such needs as shelter construction and tool manufacture. Assuming that access to natural resources influenced and constrained the movement and settlement of Indigenous peoples, the goal was to understand what these resources were, how they may have been distributed, how their use and distribution may have changed over time, and how the landscape itself may have constrained movement and access to resources as well as settlement location. The investigation proceeded chronologically, since certain aspects of the County have changed dramatically through the period of human occupation.

#### 3.2.1 Paleo-Indian Period

Hunter-gatherer bands have occupied Simcoe County from as early as 13,000 years ago, as illustrated by the striking correlation of early Paleo-Indian campsites with strandlines of glacial Lake Algonquin. One site in particular, the Banting site, suggest the use of watercraft by Paleo-Indians as it is situated on a drumlin, surrounded by glacio-lacustrine deposits, that would have been a small island in Lake Algonquin. At this time, the open boreal woodlands likely offered a rather limited selection of floral resources, hence subsistence would have been primarily oriented towards hunting and fishing. Paleo-Indians with base camps situated in proximity to Lake

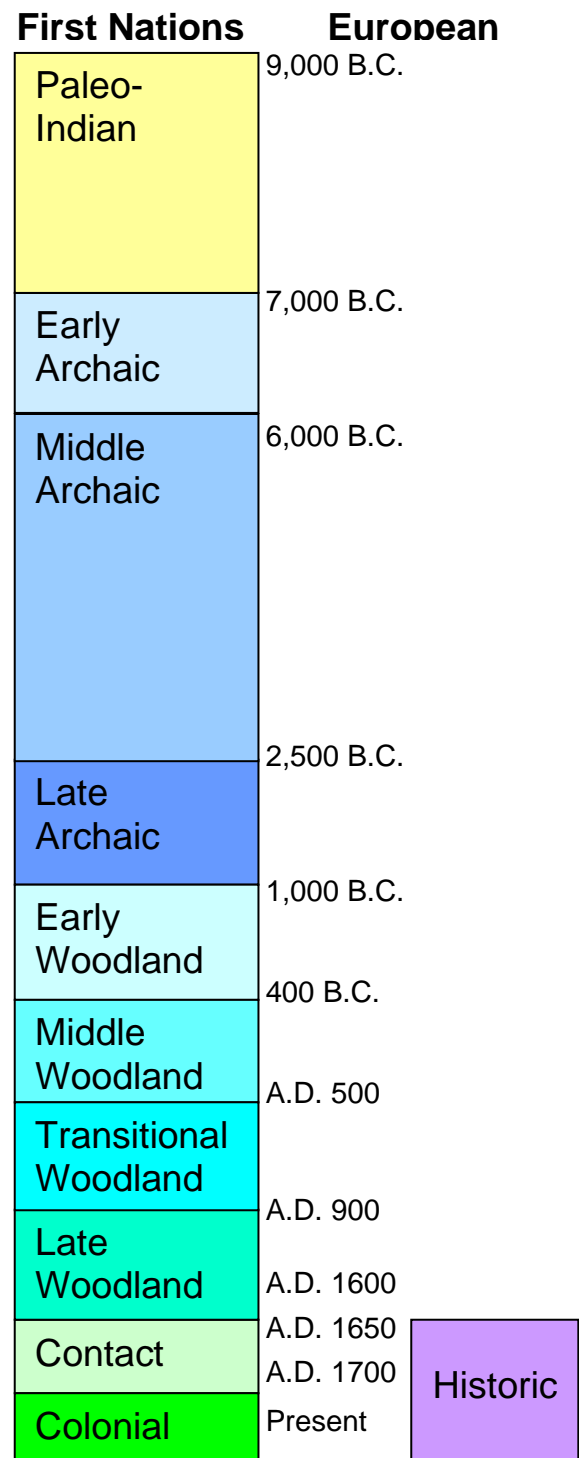


Figure 1 – Timeline of Human Habitation

Algonquin would have ranged throughout the interior hinterland in pursuit of game and perhaps riverine fish. Collingwood (Fossil Hill Formation) chert, a preferred toolstone of Paleo-Indians, was also available at quarries to the Niagara Escarpment uplands west of Simcoe County. It is expected that Paleo-Indian archaeological sites in Simcoe County will be like those already documented, ranging from isolated finds of flaked stone projectile points lost while hunting to small scatters of flaked stone debitage indicative of ephemeral campsites or the occasional larger campsite. Currently, there are eight Early Paleo-Indian period sites in Simcoe County. Four of these sites have been identified as campsites, three have been identified as large lithic scatters, and one site is identified as a findspot. One of the large lithic scatters—the Bear Creek Site (BcGw-72)—contained over 13,000 artifacts and was situated within metres of the glacial shoreline. All seven sites are situated near glacial strandlines.



**Figure 2 – Typical Paleo-Indian spear points of the Late Paleo-Indian period, circa 8,000 B.C.**



Through late Paleo-Indian (ca. 12,500 – 11,000 Cal BP) and early Archaic (ca. 11,000 – 9,000 Cal BP) times, the shorelines of Lake Huron and Lake Simcoe had receded significantly from their current locations and remained so until after 8,000 Cal BP. Hunter-gatherer bands likely established base camps at river mouths adjacent to these lakeshores where resources such as spawning fish could support small communities of perhaps 35 to 50 people. Such sites would now be submerged in Lake Huron and Lake Simcoe. Resources would have been quite limited in the boreal forest, although some forays into the interior in pursuit of large game may be evidenced by ephemeral campsites situated along watercourses. Currently there are six Late Paleo-Indian period sites and seven indeterminate Paleo-Indian period sites registered in Simcoe County. Of these, three are identified as campsites, five are identified as scatters, and one is identified as a stone tool processing locale. The remaining four Late or indeterminate Paleo-Indian period sites are identified as findspots.



**Figure 3 – The earliest Paleo-Indian occupants of the Simcoe area knew a very different landscape than that encountered 10,000 years later by the first European settlers.**

### 3.2.3 Archaic Period

There are five Early Archaic period sites registered in Simcoe County, consisting of one diffuse lithic scatter, one tool manufacturing site, and three findspots. By the beginning of the Middle Archaic period (ca. 9,000 – 5,000 Cal BP), adaptive patterns would have shifted in response to the establishment of the northern mixed hardwood forest and wetlands and the wider range of plant and animal resources that they offered. While warm season macroband camps would have still been situated at river mouths to intercept spawning fish, the major valleys would have increased in importance, particularly where camps could be situated on river terraces with well-drained soils and access to rich riparian habitat. In contrast, on the uplands, the sparse understory of the closed-canopy hardwood upland forests may not have attracted much interest through most of the year. However, in the autumn, stands of mast-producing trees (e.g., oak, beech) would have attracted both Indigenous foragers and game animals (e.g., deer, raccoons, squirrels, passenger pigeons) to the Simcoe Uplands, Nottawasaga Highlands, Schomberg Clay Plains, and Oak Ridges Moraine.

Although the ability of interior habitats to sustain hunter-gatherer bands through the warm season improved over time, reduced cold season carrying capacity would require bands to spread out their population over the winter. Accordingly, in the fall they would disperse into separate—probably nuclear family—interior hunting territories, much as Indigenous people of the boreal forest have done until recent generations. Such hunting territories would likely have been organized on a sub-watershed basis, with individual families occupying adjacent stream catchment areas. Winter occupations may have been more focussed within the larger valleys, encouraged by the protection they offered from winter storms and by access to any conifer grove deer yards. Riparian wetlands and swamps would have also provided fuel, building materials, roots and tubers, and small game. Archaeological evidence of such sites may be difficult to distinguish from warm season hunting camps, although the sustained occupation of a site over several months would likely leave a more substantial artifact assemblage.

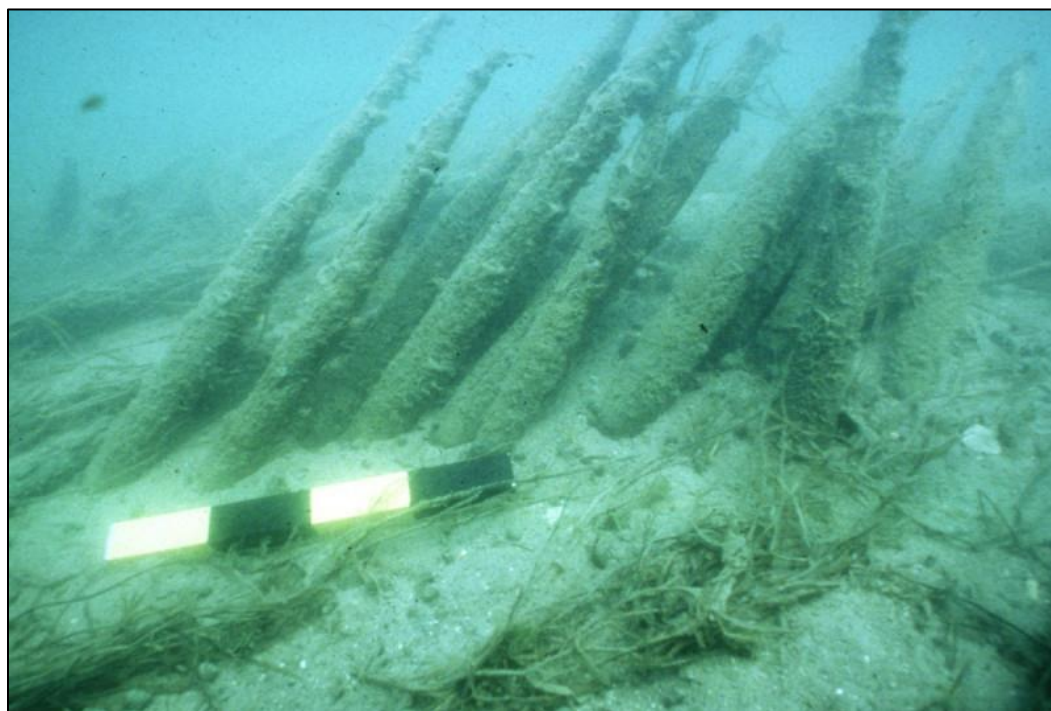
The refilling of Lake Huron and the contemporary rise of Lake Simcoe from ca. 8,000 to 6,000 Cal BP once again changed the major lakeshores of Simcoe County thus rendering potentially visible on the Nipissing strandline the archaeological record of Middle Archaic period macroband campsites. As noted above, the mouths of major watercourses where they meet these lakes represent significant environmental and transportation network nodes that would have attracted settlement. In Simcoe County at this time, the two most significant nodes were likely not river mouths as such, but rather constrictions in the two major drainage systems. Their significance lies in the fact that each is the nexus of one of the two largest drainage systems in Simcoe County. The first was the reach along the Trent/Severn waterway where the outlet of Lake Simcoe joins Lake Couchiching at the Atherley Narrows. The second was the short (~4 km) reach of the Nottawasaga River from the outlet of Lake Edenvale, where the river breached the Edenvale moraine, to its mouth on Lake Huron. Samples of wooden stakes from an Indigenous fish weir at Atherley Narrows have been radiocarbon dated to around 5,100 Cal BP, suggesting that this node has been attracting Indigenous fishers since Lake Couchiching refilled sometime around 6,000 Cal BP. It is possible that a similar fish weir once existed at the outlet of Lake Edenvale on the

Nottawasaga River, although the fluvial dynamics—and hence preservation conditions—of this reach are quite different than at the Atherley Narrows and no evidence has so far come to light. Nevertheless, several Archaic sites have been documented along this reach.

Currently, there are 11 Middle Archaic period sites in Simcoe County, consisting of six campsites, three findspots, and two diffuse scatters. These six campsites are all situated near major hydrological features such as large rivers, wetlands, or Atherley Narrows.

There are 20 Late Archaic period sites in Simcoe County, consisting of six campsites, three scatters, and 11 findspots or indeterminate sites.

Additionally, there are currently 55 indeterminate Archaic period sites in Simcoe County consisting of 30 campsites, 10 scatters, four findspots, two fishing sites, one tool manufacturing site, and eight sites with little information. Generally, these sites were attributed to the Archaic period based on the sole presence of lithic artifacts or their geographic location in proximity to hydrological features known to be present during the Archaic period. However, given the lack of information about many of these sites, it is difficult to attribute these sites to any larger cultural or temporal processes.



**Figure 4 – Mnjikaning Fish Weirs (at Atherley Narrows) is the largest and best-preserved wooden fish weirs known in eastern North America, in use from approximately 3300 B.C. “Mnjikaning” is an Ojibway word meaning “the place of the fish fence”, which is located at the narrows between Lake Simcoe and Lake Couchiching. Source: ERA**



**Figure 5 – A Late Archaic Genesee biface and projectile point. These points are medium to large in size and are known for their pine tree shape. They are named for the Genesee Valley located in New York State but are found in great numbers on Ontario archaeological sites from this period. This point type would have been used to tip a spear.**

### 3.2.4 Early to Late Woodland Period

The lifestyle of Woodland (ca. 3,000 - 300 Cal BP) period hunter-gatherers seems to have been relatively unchanged from that practised by their Archaic ancestors, although certain technological changes are noted, such as the advent of ceramic vessels during the Early Woodland period (ca. 3,000 to 2,300 Cal BP). Given the general continuity in environmental and cultural practices after about 5,000 Cal BP, it is suggested that the land-use patterns described above for the Archaic period, and based on ethnohistoric analogues, continued with only local variation up to the end of the Middle Woodland period (2,300 – 1,500 Cal BP). Representing the Early Woodland period are 13 sites, consisting of six Meadowood tradition campsites, one fishing site, and one lithic scatter, with the remaining five sites consisting of findspots or indeterminate sites. Lastly, the Middle Woodland period is represented by 59 sites in Simcoe County. This consists of 34 campsites or fishing sites, 11 scatters and one stone tool processing locale, six burials, and eight findspots.

The adoption of maize agriculture during the Late Woodland period introduced the need for suitable farmland into the suite of factors that influenced Indigenous land use. Initially, during the experimentation phase with agriculture, intensive gardening was simply an adjunct to

macroband camps, most of which were likely located outside of Simcoe County near the Lake Ontario shore in the lower reaches of the major sub-watersheds. As gardening evolved into full-scale farming, and community populations grew in response to better nutrition and a more secure food supply, settlements moved up-stream to expand their catchment areas for hunting, gathering, and fishing. Suitability of farmland became an important land-use criterion, including adequate drainage, adequate moisture and moisture-holding capacity, adequate natural fertility and low to moderate slope. Eventually, community populations grew beyond the capacity of their socio-political institutions, resulting in a period when communities were splitting and social groups were moving around between communities.

At this point, settlements moved farther upstream, spreading out into various sub-watersheds. This process of up-stream migration within Lake Ontario watersheds eventually led to the colonization of new lands north to the Oak Ridges Moraine and beyond in Simcoe County and ultimately the virtual abandonment of the lands south of the Oak Ridges Moraine around the beginning of the sixteenth century. This time-transgressive distribution of Late Woodland settlements can be seen throughout south-central Ontario. In Simcoe County, the distribution of Late Woodland sites presents nearly a mirror image of the distribution of sites from Middle Archaic through Middle Woodland times. Whereas the earlier hunter-gatherer sites tend to occur predominantly with the lower to middle reaches of the Nottawasaga watershed and at other major nodes such as Atherley Narrows or around the Holland Marsh, the settlements of the Late Woodland farmers predominantly occur around the perimeters of the various Simcoe Upland landforms.



**Figure 6 – Carbonized corn cobs recovered from an archaeological site dating back 500 years. The cobs were only five to six inches in length and most had eight rows of kernels.**

These locations provided Late Woodland farmers with access to good quality farmland with good cold air drainage to avoid early or late frosts along with proximity to ecological toposequences downslope to provide for their other resource needs. Currently, there are 433 Late Woodland sites in Simcoe County, including 46 burials or ossuaries, 201 villages, 109 campsites, four fishing sites, 18 scatter, 54 findspots or unknown sites, and one suspected quarrying site. Additionally, nine villages and three campsites have associated interments, but are not formally identified as burials or ossuaries. Of the major site categories, 100% of the burial sites are located on well drained soils and within 250 metres of water. Similarly, 100% of the villages and campsites are located within 200 metres of well-drained soil and within 250 metres of water. For the village sites, 100% of the sites (201) were within 100 metres of well-drained soil and 68 % (137) were within 100 metres of water. For the campsites, 87% (93) of the sites are within 100 metres of well-drained soil and 77% (72) were within 100 metres of water. This highlights the importance of these resources to the location of Late Woodland period sites.

As part of this research, the location of registered ossuaries was examined in relation to its proximity to key resources or sites. While 100% of the ossuaries in the dataset were within 250 metres of water, the distance to other sites including Late Woodland village sites was variable. While the distance to villages was clearly an important variable in the choice to locate ossuaries in a certain locale, the available data at present cannot provide a more concise model for ossuary potential beyond that already determined through the Indigenous Site Potential layer.



**Figure 7 – Large Iroquoian settlements, based on horticulture, were complex and dynamic communities.**

### 3.3 Inductive Model

From an inductive modelling perspective, the proximity of major waterways is considered to have always been a significant factor influencing land-use patterns in Simcoe County.

Entrenchment and floodplain evolution of regional watercourses notwithstanding, the fundamental layout of the major drainage systems in the study area has remained the same since the mid Holocene, and the waterways have likely acted as travel and settlement corridors ever since. The middle and upper reaches of the inland drainage systems may have comprised warm season hunting and fishing grounds and late fall and winter microband hunting and fishing territories analogous to those recorded historically throughout the Great Lakes-St. Lawrence region. Throughout these waterways, nodes such as stream confluences may have been routinely used as stop-over spots, leaving traces in the archaeological record. While wintertime land use would not have been constrained by access to well-drained campsites or the limits of navigable waterways, such routes would have still provided familiar, vegetation-free corridors for travel.

#### 3.3.1 Distance to Water

Having done so, it was determined that a buffer of 250 metres from a historic or current water source captures 100% of the sites, with 406 of the Indigenous modelling sites (75%) within 100 metres, 475 sites (87%) within 150 metres, and 507 sites (93%) within 200 metres. To evaluate the efficacy of this buffer against the background landscape, in terms of the presence of water, the GIS program was employed to generate 1,000 random points. Of these randomly-generated points, only 70.2% were captured by the 250-metre buffer, with 46.5% within 100 metres of any water source. This confirms the applicability of the model to the pre-contact data.

In light of these considerations, four criteria were used to create the pre-contact archaeological potential layer. First, all river and major stream segments—defined as those represented by two lines (i.e., banks) on the hydrographic layer—were buffered at 250 metres from the top of bank. Second, all subordinate streams—defined as those watercourses represented by a single line on the hydrographic layer—were buffered by 250 metres from the centre line. Third, all lakes, ponds, wetlands-including pre-settlement wetlands, were buffered at 250 metres. The 250-metre buffer was employed since it captures 100% of the sites employed for inductive modeling within Simcoe County.

#### 3.3.2 Soils

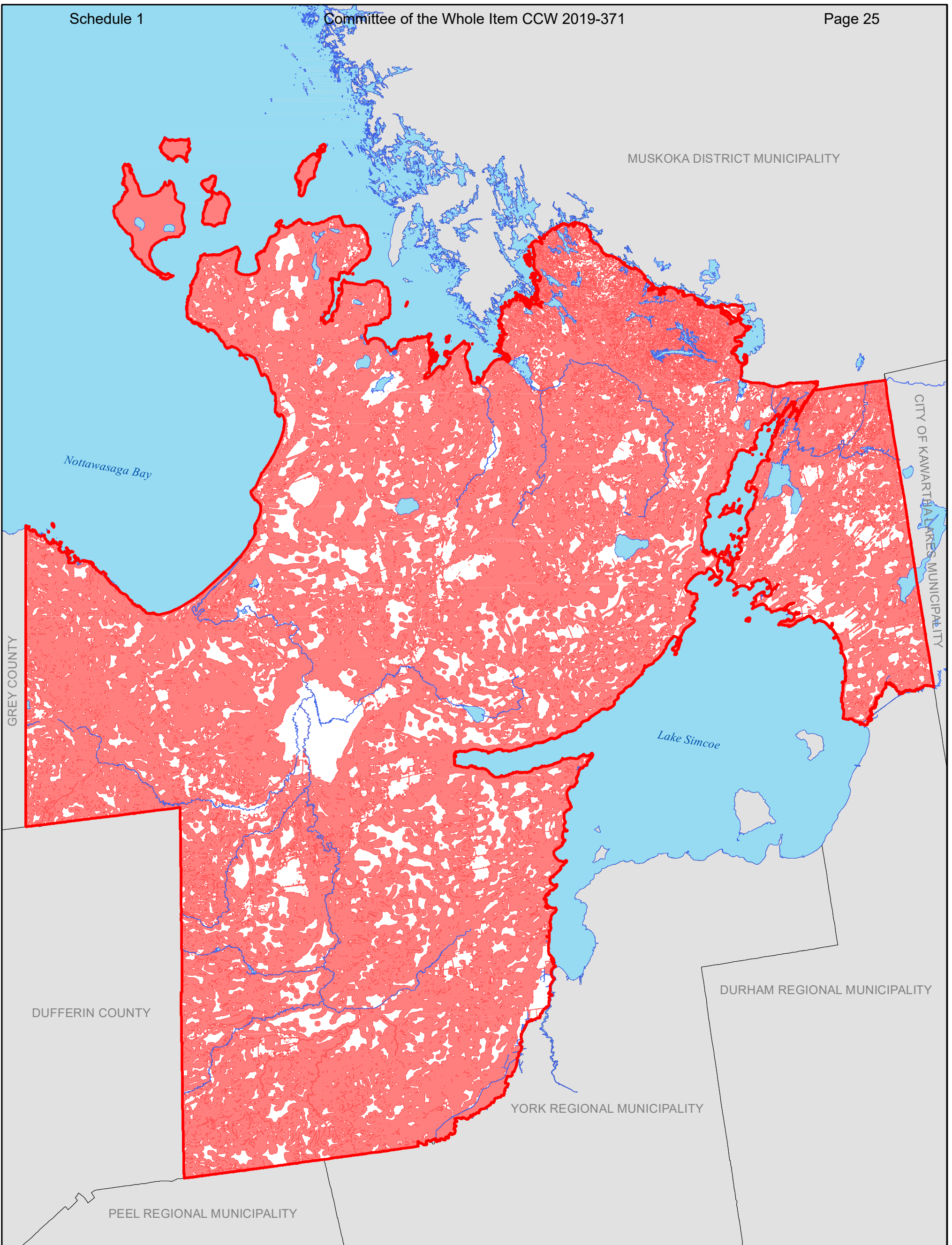
Further discrimination of the potential modeling was achieved using digital soils data acquired from the Geomatics Service Centre, Ontario Ministry of Agriculture, Food and Rural Affairs, dated to 2007. This layer is essentially a digital version of the soils mapping contained in the Ontario Soil Survey Reports. The soil information provides relatively high resolution of soil variability across the County. At the same time, however, this complex array of mapped soils made it difficult to interpret gross regional trends. Accordingly, the soil series were re-grouped

in order to provide mapped summaries of relevant attributes, including soil texture, drainage, and agricultural capability. This was accomplished by adding new texture, drainage, and capability fields to the attribute database from the digital soils map, and then using the GIS to produce maps based on these attribute sets. The soil texture layer discriminated between exposed rock, gravely sandy loam, fine sandy loam, sand, silt loam, loam, clay loam, clay, and organic. The soil drainage layer discriminated between well drained, imperfectly drained, and poorly drained. The soil capability for agriculture layer discriminated between: Class 1, having no significant limitations for agriculture; Class 2, having moderate limitations for agriculture; Class 3, having moderately severe limitations to agriculture; Class 4, having severe limitations to agriculture; Class 5, having very severe limitations to agriculture; Class 6, being only capable of producing perennial forage crops; and Class 7, having no capability for arable culture or permanent pasture. However, much of the County can be classified as having soils with few limitations for agriculture. The objective in aggregating the soils data in this manner was to identify those soils where pre-contact Indigenous settlement would have been unlikely to have occurred. Thus, the above water buffers were only applied where they crossed well- or imperfectly drained soils.

### 3.3.3 Slope

Finally, using a digital elevation model, areas of slope exceeding 20 degrees were similarly excluded from the pre-contact Indigenous archaeological potential zone since such areas are considered unsuitable for settlement. Furthermore, based on MTCS's 2011 *Standards and Guidelines for Consultant Archaeologists*, areas of slope greater than 20 degrees is not considered to contain archaeological potential and are not required to be tested except where pictographs or petroglyphs are present.





**LEGEND:**

- Simcoe County
- Surrounding Counties / Regions
- Indigenous Site Potential




**Archaeological & Cultural Heritage Services**  
 528 Bathurst Street Toronto, ONTARIO M5S 2P9  
 416-966-1069 | F416-966-9723 | asiheritage.ca

**BASE:**  
 Lands Information Ontario;  
 County of Simcoe, Information Technology Department

0 | 20

Kilometers

N



ASI PROJECT NO.: 17PL-204      DRAWN BY: EJB  
 DATE: Sept 2019                      FILE: 17PL204\_Potential.mxd

**Figure 8: Indigenous Archaeological Site Potential Layer**

## 4.0 Historical Archaeological Site Potential Layer

### 4.1 Introduction

This section will summarise the Métis and Black settlement histories of the County followed by the early European historical presence and how archaeological features associated with those occupations are represented in the archaeological potential model. As part of the development of a detailed model of Historical archaeological site potential for the County of Simcoe, ASI undertook an analysis of colonial period archaeological potential in Simcoe county including the development of a thorough thematic history of the county in order to identify the extant or formerly present historical features that might yield associated archaeological deposits (on file with the County of Simcoe).

### 4.2 Métis Settlement

The Georgian Bay Historic Métis community is one of seven provincially-recognized historic Métis communities in Ontario. The identification of these seven communities was brought about by the 2003 Supreme Court of Canada decision in *R v Powley* that the Historic Métis Community in the Sault Ste. Marie area has a distinct culture and tradition separate from First Nations or European communities in the province and are entitled to a communal right to hunt and harvest food in their traditional territory protected under Section 35 of the *Constitution Act, 1982*. The Georgian Bay Historic Métis community includes the interconnected historic Métis populations at Penetanguishene and Parry Sound and environs (Métis Nation of Ontario 2017).



**Figure 9 – Métis: The Métis Nation, a monument sculpted by Timothy P. Schmalz. reads: “Prior to Canada becoming a nation, a new Aboriginal people emerged out of the relations of Native women and European men. The initial offspring of these unions were individuals of mixed ancestry who resulted in the beginning of a new Aboriginal people with a distinct identity and culture in west central North America – the Métis Nation.”**

The Métis community of Penetanguishene traces its origins back to the 1700s in the area of Michilimackinac, Mackinac Island and Sault St. Marie. The following history derives from Marchand and Marchildon's (2006) history of the community. Four phases of settlement were involved leading to the establishment at Penetanguishene, as follows:

- Michilimackinac (1720-1780) and Mackinac Island (1780-1796)
- St. Joseph Island (1796-1812)
- Mackinac Island (1812-1815)
- Drummond Island (1815-1828)

The oldest known Métis line extending from Michilimackinac to Penetanguishene today is the Langlade line from which Charles Michel was born in 1690 at Fort Biade, Michilimackinac. Subsequent to the Seven Years War and the takeover of Fort Michilimackinac by the British in 1761, the fort was moved to Mackinac Island during the American Revolution. The British garrison then relocated to St. Joseph Island, about 60 km north of Mackinac Island, after the Jay Treaty in 1794 resulted in the handover of Mackinac Island to the Americans. Many fur traders and their families lived near the fort on St. Joseph Island.

The British then took back Fort Mackinac on Mackinac Island during the War of 1812. This attack and capture included participation by some Métis from St. Joseph Island, some of which represent family names who were later residents of Penetanguishene after 1828. The Treaty of Ghent in 1815 marked the return of Mackinac Island by the British to the Americans and the relocation of Métis to Drummond Island, accompanied by civilians, fur traders and their families, resulting in about 40 homes being built next to the fort. The population of Drummond Island followed a seasonal pattern of surge during the summer and reduction in the winter, as had been the case at Michilimackinac, Mackinac Island and St. Joseph Island.

By the late 1820s, there were 10,000 to 15,000 Métis residing in communities south and west of Lakes Superior and Huron, however, Penetanguishene had very few inhabitants. Some fur traders were present by the 1770s, and possibly as early as 1730s, in Matchedash Bay. In 1798, the British signed a treaty with Indigenous peoples to surrender a tract of land in the harbour on the Penetanguishene peninsula. Subsequently, when Drummond Island was ceded to the Americans in 1828, troops and civilians were moved from there to Penetanguishene. This group included approximately 300 Métis and voyageurs, men, women and children. Twenty acre lots at the SW end of Penetanguishene harbour were granted to 43 Métis families, representing just over half of the estimated 75 Métis families that moved from Drummond Island. The Métis proceeded to collectively organize by 1840 and claim rights based on their status as distinct from the First Nations people but entitled to "the advantage in presents issued to the Indians" in recognition for their proven loyalty to the Crown as members of the Militia and their current poor circumstances.

By 1850, the signing of the Robinson-Huron Treaties with First Nations, saw most of the territory between Sault St. Marie and Penetanguishene ceded. This included a large tract of land used and lived on by the Métis of Georgian Bay which forced them to be considered white or First Nations by the government and ultimately, resulted in the end of their ambivalent status as squatters in favour of becoming land owners. The Métis community in

Penetanguishene became established during this period and expanded to include Georgian Bay as their territory in addition to its homeland in the Upper Great Lakes. By 1901, there were 430 self-declared Métis in the Penetanguishene area, in three main centres:

- Baxter Township (Honey Harbour) - 94 (22%)
- Tay Township (Midland, Port McNicoll, Victoria Harbour) – 124 (29%)
- Tiny Township (including Penetanguishene) - 180 (42%).

The 2001 Census reported 4,230 declared Métis in Simcoe County, with 2,750 located in North Simcoe (Tiny Township, Penetanguishene, Midland and Tay Township). Currently, approximately 2000 Métis are situated in the area of the Georgian Bay Métis Council, of which the majority are descendants of the original Penetanguishene Métis community (Marchand & Marchildon 2006).

#### 4.2.1 Early Community Members

A founding member of the Penetanguishene Métis community was Jean-Baptiste Trudeau; he was in the area by 1817 but not yet settled there. He was listed as a Blacksmith at the Penetanguishene Naval Establishment from 1817 to 1820.

Another early settler, a French Canadian by the name of Beausoleil, came from Drummond Island and settled on St. Ignace Island (later called Beausoleil) in 1819 and died at Beausoleil Point, near Penetanguishene. There were several Hudson Bay Company employees who moved from Drummond Island to Penetanguishene and married Métis women. These names included: Louis Baril Lajoie, Godroy Boyer, Simon Champagne, Charles Cote, Louis Chevrette, Michel Frechette, Louis Faille, Regis Loranger, Jacques Parisian, and Michel Restoule.

The first permanent settlement at Penetanguishene was established by George Gordon, a Scotch trader and father of Métis children. He came from Drummond Island and established a settlement on the east side of the harbour just beyond Barracks Point, becoming known as “Place of Penetanguishene.” He was first married to the daughter of a French- Ojibway woman, Mrs. Agnes Landry and he later married the daughter of Charles Langlade, another member of a very early Métis line in the area. Gordon’s was the first house in the future town. In 1827, four more families settled at Gordon’s Point - Donovan, Prior, Desmaison and Modeste Lemaire. Gordon moved his house and business in 1825, to the location of the future town of Penetanguishene, on Water Street.

The Surveyor General Office map shows that by June 1830, there were 43 land grants along the reserve on the west side of Penetanguishene Bay, many of which were given to these early Métis or people married to Métis or Indigenous women. These included Pierre Giroux, George Gordon, Charles Langlade senior, Charles Langlade junior, William Soloman, Henry Soloman, Jean-Baptiste Trudeau, Andre Vasseur and Charles Vasseur. Others in the same category of Métis or men married to Métis or Indigenous women, received free land grants elsewhere in Tiny Township, such as Louis George Labatte and James Farling. Not all those

with Métis connections received land grants as borne out by the Ontario Lands Records Index of ca. 1780- 1920, which does not list all the names with Métis connections. Some of the Drummond Island Métis and voyageurs settled elsewhere than around Penetanguishene Bay, such as near the old fort on Wye River. An early 1860s map (Crown Lands Office 1861) shows 31 of an original 43 landowners, several Métis, who still possessed their lots.

Gaetan Gervais, an Ontario historian, reported that the settlement at Penetanguishene was the only case of a significant number of voyageurs accepting land grants and attempting to form a settlement. This settlement was situated at the Military Reserve, comprising a strip of land along the western shore of Penetanguishene Bay where land lots were granted to voyageurs by the military. It became associated with a French-Canadian voyageur/Métis community in social, cultural, linguistic and occupational terms. Besides fishing and building boats and canoes, the settlement supplied trappers, guides, canoe-men for tourists and surveyors who were opening the back country. Other areas of Penetanguishene were also settled - in 1830, Louis Descheneaux built the first house on a lot on the 16<sup>th</sup> concession, Tiny Township at the site of the future village of Lafontaine. Additional houses were built here by Joseph Messier, Jean Lacroix, Cyril Pombert and Jean Thibeault.

On the west side of Penetanguishene harbour, there are topographical features whose names refer to the presence of Métis and voyageurs - Lavallee's Point (now Davidson), Trudeau's point, Giroux Point and formerly called Beausoleil Point (now called "Wait a Bit"); Mischeau's Point, and Corbiere's Point, all named after Drummond Islanders.

In 1840, a listing of names on a petition, representing Métis residing in Penetanguishene included: St. Onge, Langlade, Frechette, Labatte, Payette, Lalonde, Beausoleil, Vasseur, Geroux, Payette, Trudeau, Toms, Laval, Thibeau, Blette. Close family connections and relations are suggested between Métis of Penetanguishene, Sagingue, Sault St. Marie and places on Lake Huron and west to the Red River colony. There also appeared to be strong continuity of residence within the Métis community, following from the Drummond Island migration. Gwen Patterson, a family historian, has apparently traced current Penetanguishene families back eight generations to the voyageur group (Praxis 2000: 96). The Praxis report lists Métis names - Louis Beausoleil's children, Brissette, Cloutier, Corbière, Joseph Craddock, Dusseume, Farling, Fleury, Giroux, George Gordon, Louis G. Labatte, Charles Lamorandière, Charles Langlade, Laramée, Laronde, Andrew Mitchell, Rousseau, William Simpson's children, William Solomon's children, Trudeau, Vasseur.

The 1901 census indicated three centres of Métis population in the Penetanguishene area – of ca 430 Métis, 22% (94) lived in Baxter (Honey Harbour), 29% (124) lived in Tay (Midland, Port McNicoll and Victoria Harbour) and 42% (180) lived in Tiny, including Penetanguishene and the Military Reserve. From their first arrival in the late 1820s to the 1920s, the Métis in this area continued to engage in traditional occupations, including fur, buffalo and timber trades plus commercial fishing and acting as interpreters for the Indian department and facilitators between the Government and First Nations people (Marchand & Marchildon 2006).

Early Métis settlement lots were included as a caution in the Archaeological Potential Planning Layer to ensure that any archaeological resources recovered from these lots were

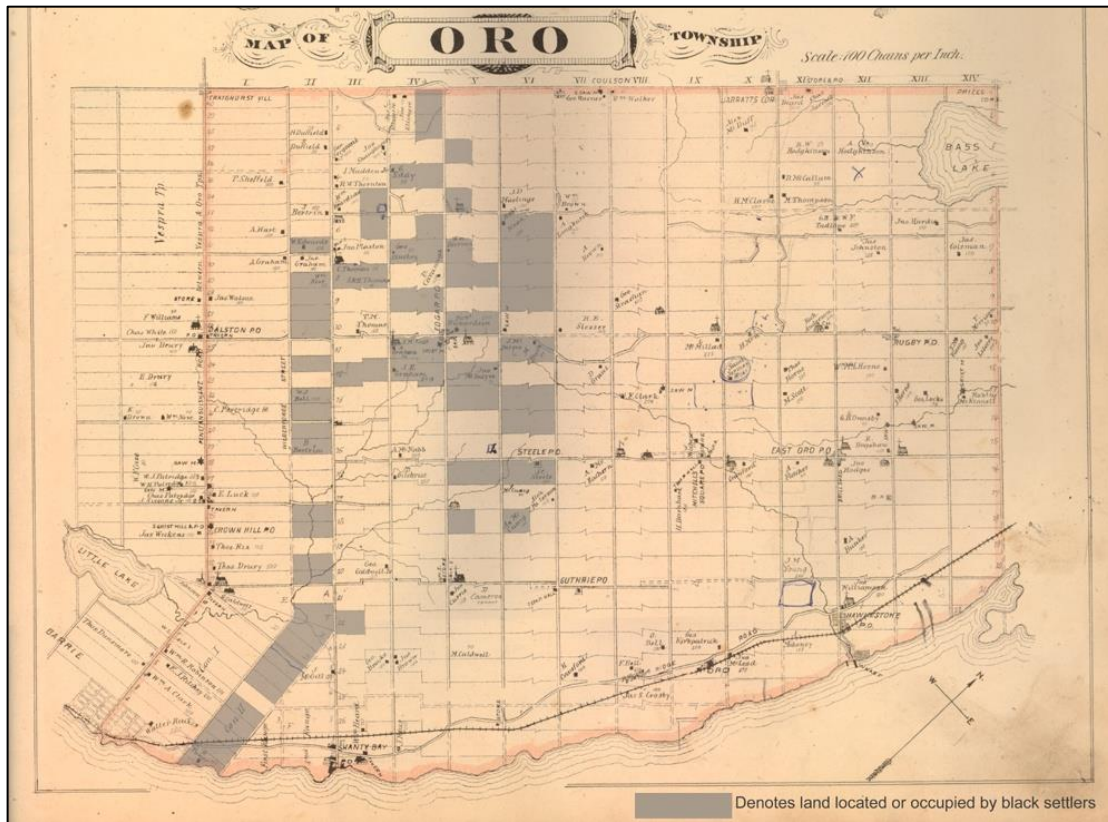
contextualized against the potential Métis occupation of the lot. These lots were identified through historical documentation, summary research (Marchand & Marchildon 2006), or were provided through conversations with the Métis Nation of Ontario.

### 4.3 Black Settlement

An important constituency of the early settlers of the County was people who were of African origin. The Upper Canadian government intended to create an area in the province for the settlement of black loyalists as early as 1819 and lands were made available in Simcoe for men who had served in the Coloured Corps during the War of 1812 and were therefore entitled to a land grant of 100 acres. Other black settlers were either natives of Upper Canada, and who were “freed” upon attaining the age of 21, or were American fugitive slaves, many of whom settled in Canada following the passage of the Fugitive Slave legislation in the United States in 1850.

Many of the black settlers took up their land in Oro, on the west side of the 2nd Line, which became known as Wilberforce Street and named after William Wilberforce (1759-1833) the British politician, abolitionist and philanthropist. The Wilberforce Street lots, as well as some in Concessions III to VI, became home to about 60 black settlers and their families, with a maximum population of approximately 100 people. Settlement occurred in two waves, from 1819-1826 and from 1828-1831 (French 1978).

While not all these lots were eventually settled by grantees, they were mapped and described by Gary E. French in his 1978 book *Men of Colour: An historical account of the Black settlement on Wilberforce Street and in Oro Township, Simcoe County, Ontario, 1819-1949* (French 1978). These lots were mapped as a caution in the Archaeological Potential Planning Layer to allow County planners to assess whether the early black settlement history was considered in archaeological assessments on any of these lots which were identified as having potential for the recovery of archaeological resources.



**Figure 10 – Oro Township showing lots located or occupied by black settlers.**

LOT	ACRES	NAME	DATE
<i>Wilberforce Street</i>			
2	100	William Davonport	Apr 5, 1828
3	100	John Jackson	Dec 4, 1825
4	100	John Jackson (2)	Nov 8, 1825
5	200	James Thomas	Nov 21, 1820
6	100	Wm. Geo. S. Goodwin	Jan 5, 1825
7	100	Robert Oliver	Nov 18, 1825
8	200	Tom. Cairns	Nov 16, 1826
9	200	Michael Bailey	Nov 9, 1835
A	100	Canada Company	Feb 15, 1834
D	100	Edward Sumner	Nov 20, 1824
E	140	John Deloy	Dec 3, 1820
F	100	John Hales	July 3, 1823
G	100		
11	100	John Chappell	Aug 19, 1825
12	100	George Caldwell	Nov 19, 1824
13		Wm. H. Sherrington	1870
14	100	David Campbell	Nov 7, 1837
15	100	George S. Dickman	Aug 1, 1835
* The grant which I have seen is in the name of David Campbell Dec 7 1837			
16	100	Canada Company	Oct 15, 1841
17	100	Wm. H. Sherrington	Aug 21, 1866
18	100	Wm. H. Sherrington	1866
19	100	John Caldwell	Dec 2, 1844
20	100	William Hacking	July 25, 1843
21	100	John Call	Nov 14, 1851
22	100	William Gadsden	Dec 4, 1848
23	100	William Gadsden	Nov 21, 1844
24	100	Thomas Cole	July 3, 1852
25	100	Canada Company	Nov 2, 1835
26	100	Henry St. Denis	Nov 10, 1840
27	100	Benjamin Johnson	Nov 20, 1840
28	100	William Leonard	Nov 8, 1840
29	100	Henry Amory	Aug 24, 1839
30	100	John Jackson	Aug 26, 1846
31		John Jackson	
32	200	Richard Dury	Dec 21, 1850
33	200	Canada Company	Oct 15, 1841
34	100		1870
35	100		1870

Figure 11 – Simcoe County patent book showing Wilberforce Street entries.

#### 4.4 Early European Settlement

The inception of a European presence in Simcoe County can be traced to 1615. Indeed, the first half of the seventeenth century in Simcoe County is characterized by increasingly intensive contact with French explorers and missionaries, and the relocation of Huron-Wendat and Tionontaté settlements into the northern part of Simcoe County in Tay, Tiny, and Medonte townships, as well as the Collingwood area (and further west). The establishment of European communities, such as the Jesuit mission of Sainte Marie among the Hurons in 1639 marks the height of the French Colonial period in Simcoe County, and ultimately heralds the end of the Huron-Wendat occupation of Simcoe County. With the dispersal of the Wendat and their Algonquian allies in 1651, it was not until the late eighteenth century that more permanent use of Simcoe County by Europeans began by men who were employed by the various fur trading companies. The County was well-positioned to carry on in this trade, being located close to Georgian Bay and Lake Huron, but also close to the Humber River (via the portage) and connected by other waterways (Trent-Severn) to Ottawa and eastern Ontario. It was once thought that Simcoe might become the transportation centre for goods



and produce to and from the “fur countries.” As a result, several trading posts have been documented in the County.

The military importance of various locales in the County was also noted as early as 1793 by Lieutenant-Governor John Graves Simcoe who recognized the importance of Penetanguishene as a military and naval stronghold.

The civil organisation of the County saw its inception at about the same time. Simcoe County originally comprised land within the limits of the “Nassau” and “Hesse” Districts in the Province of Quebec in 1788. These names were changed by John Graves Simcoe to the “Home” and “Western” Districts of Upper Canada in 1792. The district boundaries were amended in 1798, and in January 1800 all of Simcoe County fell within the jurisdiction of the Home District. Legislation was passed by the Upper Canada government in April 1821 (2 Geo. IV ch. 3), which provided that the creation of Simcoe County could be proclaimed by the Lieutenant Governor of the province “when he saw fit.” In March 1837, legislation (7 William IV ch. 32) provided that Simcoe would be proclaimed a separate district when a court house and gaol (jail) were constructed at Barrie. In April 1838, the district boundaries were adjusted when four townships were transferred to the Wellington District. Loans amounting to £7,000 were provided by the government in March 1838 and September 1841, to be expended upon the construction of the court house and gaol. In January 1843, Simcoe was proclaimed to be a separate District. This was succeeded by the County of Simcoe in May 1849 under the provisions of statute 12 Vic. ch. 78, which abolished the old Districts of Upper Canada. Further municipal reforms were introduced at that time under 12 Vic. ch. 80, and 12 Vic. ch. 81, better known as the “Baldwin” or “Municipal Act” (Armstrong 1985:138-140, 172, 191-192; Jonasson 2006:191-209).

Simcoe was originally a much larger County, and until 1851 it also included the Townships of Artemisia, Collingwood, Euphrasia, Osprey and St. Vincent. These Townships were transferred to Grey County when it was created by an act of parliament (14 & 15 Vic. ch. 5).

Adjala Township was included within the boundaries of “Cardwell County,” an historical, electoral district that was used both federally and provincially from 1867 until 1904-1907, when that district was abolished and succeeded by Simcoe South.

Two Townships—Mono and Mulmur—were originally included within the limits of Simcoe County, but these were transferred to Dufferin County in 1874. All that part of West Gwillimbury Township situated to the east side of the Holland River was transferred to York County and annexed to East Gwillimbury. Two Townships—Mara and Rama—were originally included within the limits of York County, but were transferred to Ontario County in 1849. They were subsequently severed and transferred to Simcoe in 1974. In 1994, they were united to form the Township of Ramara.

Early Euro-Canadian settlement was made by the sons or daughters of United Empire Loyalists, who were entitled to 100 acres of land as the children of loyalists. Prime land in their home districts had often been previously granted to other families during the 1790s-1810s and following the War of 1812 available land was only found in newly surveyed areas such as Simcoe. Some examples are those of the Clement and Emmett families, as well as

Bessey and Sargeant, who were natives of Niagara and Grantham Townships, but were granted land, as sons and daughters of United Empire Loyalists, in Simcoe.

Many of the other early settlers were from Great Britain and Ireland. Among the earliest of them were the Scottish “Selkirk” settlers of 1815. Several early settlers during the 1820s and 1830s were military pensioners who had served during the Napoleonic Wars, while others simply sought a better life in Canada or immigrated for other reasons.

## 4.5 Recording Location of Features Present on Historical Maps

The Historical Archaeological Site Potential Layer was created primarily from historical mapping, historical thematic research, and the application of buffers to some features of historical interest rather than from the kind of deductive and inductive modelling employed to create the Indigenous Archaeological Site Potential Layer.

While early nineteenth century maps were also consulted, three principal sources of historical mapping were used to identify the location of historical features of interest as well as settlement centres within the County of Simcoe: the *Map of the County of Simcoe, Revised and Improved by W Gibbard* (Gibbard 1853), *Hogg’s Map of the County of Simcoe* (Hogg 1871) and the *Illustrated Historical Atlas of the County of Simcoe, Ontario* (Belden 1881). Digital versions of these maps were imported into GIS software and georeferenced using present lot boundaries as well as modern landmarks. The locations of historical features of interest identified on these maps were then digitized into geographic space in order to be included in the historical site potential layer.

The boundaries of the settlement centres were plotted based on the above maps, as well as specific plans of select centres, and serve to indicate those areas where most of the building activity was concentrated at the time the source maps were produced. Individual public buildings and homes outside of these centres were also mapped based on their location on historical maps, including military structures, farmsteads, meeting halls, school houses, blacksmith shops, stores, grain warehouses, hotels, taverns, and other commercial service buildings, places of worship and cemeteries.

While every effort was made to reduce potential errors, there are numerous potential sources of error inherent in such a process. These include the vagaries of map production (both past and present), the need to resolve differences of scale and resolution, and distortions introduced by reproduction of the sources. To a large degree, the significance of such margins of error is dependent on the size of the feature being plotted, the constancy of reference points, the distances between them, and the consistency with which both they and the target feature are depicted on the period mapping.

## 4.6 Recording Location of Features Identified through Thematic History

A thematic history of the County of Simcoe was compiled to identify additional existing or former historical features that might yield associated archaeological deposits. This resulted in the identification of several features of historical interest (e.g., commercial, public, and industrial structures) as well as 175 settlement centres and 246 cemeteries. Each of these features was checked against the historical site archaeological potential layer and historical mapping to ensure that they were included in the mapping. For those sites that were not represented by either the 1853, 1871 or 1881 maps, further research was conducted to ascertain the true location of the features so that they could be included in the historical site potential layer. All cemeteries on the historical mapping and the Ontario Genealogical Society and County databases were added to the historical archaeological site potential layer.

## 4.7 Summary of Historical Archaeological Potential

All sites of historical archaeological potential have been now digitised. All properties designated under the *Ontario Heritage Act* within the County that predate 1900 fall within the historical archaeological site potential layer (Figure 12).

# 5.0 Creating the Archaeological Potential Planning Layer

## 5.1 Archaeologically Sensitive Areas

Several of the Late Woodland Period villages and ossuaries as well as settlement centres have been defined as “Archaeologically Sensitive Areas” (ASAs). In general, ASAs represent concentrations of interrelated features of considerable scale and complexity, some of which are related to single particularly significant occupations or a long-term continuity of use. Some, such as settlement centres, may have an array of overlapping but potentially discrete deposits. For the Wendat sites, many are known or are likely to include human burials.

The ASA layer has been formed for internal use only and will not be shared with the public. It is incorporated into the Archaeological Potential Planning Layer (Figure 15) so that planners will know the proximity of these areas to the subject lands of planning applications.

It is the intention of the County that ultimately, any jurisdiction that is involved in soil disturbance activities associated with project work in or immediately adjacent to an Archaeologically Sensitive Area will complete that work in full compliance with the provisions of the Archaeological Management Plan.

## 5.2 Integrity Layer

An integrity layer was compiled based on a review of present land uses within the County. The objective of this task was to distinguish between those lands upon which modern development activities have likely destroyed any archaeological resources, and those lands, such as parking lots, schoolyards, parks and golf courses, where resources potentially remain wholly or primarily undisturbed.

This layer was compiled using an assessment of land integrity gained from information contained within the property parcel data provided by the County as well as from ortho imagery provided from the County of Simcoe for the years 1954, 1989, 2002, 2008, 2012, 2013, and 2016. This included any housing developments or subdivisions where bulk removal of soil was conducted prior to construction and is evident on ortho imagery. Current or former aggregate extraction sites were also included in this layer where the limits of disturbed land was determined through the analysis of ortho imagery to define the maximum extent. Lastly, 7.5 metres rights-of-way on both sides of the centre-lines of paved roads and 10 metres rights-of-way on both sides of the centre-lines of major roads (i.e. multi-lane highways) are considered to have been disturbed and do not retain integrity.

Areas deemed to have no remaining archaeological integrity as a result of compliant archaeological resource assessments were also excluded from the zone of archaeological potential (Figure 13).

The only exceptions to this were the settlement centres and registered archaeological sites (which have not been completely excavated). It should be noted, that in the future, alterations to the evaluation of integrity may result from a detailed Stage 1 archaeological assessment which demonstrates clearly that a study area has been severely disturbed thereby negating archaeological potential.

## 5.3 Composite Archaeological Potential Layer

The Composite Archaeological Potential Layer consolidates the Indigenous Archaeological Site Potential layer, the Historical Archaeological Site potential layer, and the Integrity Layer, as defined through application of the various modelling criteria (Table 1; Figure 14). Upon project completion, the Composite Archaeological Potential Layer will be made available to the public through the County's online mapping portal.

## 5.4 Archaeological Potential Planning Layer

The Archaeological Potential Planning Layer (Figure 15) will be the layer that the Approval Authority will use when assessing a planning application or municipal infrastructure project for archaeological potential. This layer is the Composite Archaeological Potential Planning Layer plus ASAs<sup>1</sup>, cemeteries, and Métis Settlement Lots and Early Black Settlement Lots. This layer should be updated annually.

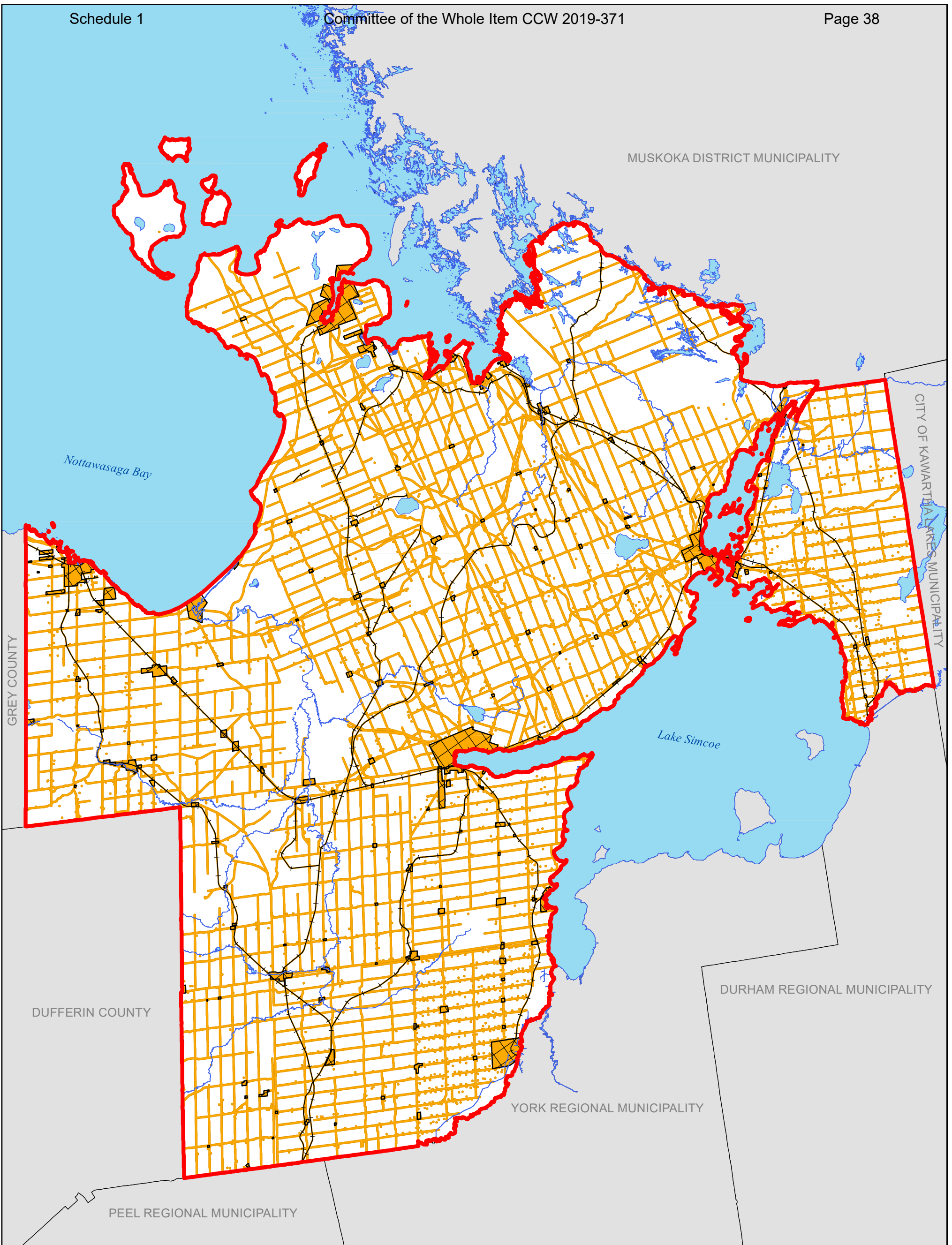
**Table 1: Summary of Archaeological Site Potential Modelling Criteria**

Environmental or Cultural Feature	Buffer Distance (metres)	Buffer Qualifier
<i>Pre-contact Indigenous Site Potential</i>		
rivers and streams	250	from top of bank for former; from centreline for latter; on well- or imperfectly drained soils only
lakes and ponds	250	on well or imperfectly drained soils only
Wetlands (including pre-settlement)	250	on well or imperfectly drained soils only
alluvial soils (former river courses)	250	on well or imperfectly drained soils only
registered archaeological sites	100	200 m for villages; if not completely excavated
slope > 20 degrees	0	removed from potential zone
<i>Historical Site Potential</i>		
historical settlement centres	polygon as mapped	no buffer, override integrity
domestic sites	100	None
breweries and distilleries	100	None
hotels/taverns	100	None
historical schools and churches	100	None
historic mills, forges, extraction industries	100	None
early settlement roads	100	both sides
early railways	50	both sides
cemeteries	100 for cemetery leads	10m around cemetery polygons
registered archaeological sites	100	if not completely excavated

## 5.5 Summary

The County has furthered the conservation of its archaeological resources by undertaking an archaeological potential model. The next section of the report will outline how this model will be used to conserve the archaeological record of the County.

<sup>1</sup> Due to the sensitive nature of archaeological site locational data, the ASA locations are not represented on Figure 15



LEGEND:

- Simcoe County
- Surrounding Counties/Regions
- Settlement Centre
- Historical Site Potential
- Historic Rail

**ASI**  
 Archaeological & Cultural Heritage Services  
 528 Bathurst Street Toronto, ONTARIO M5S 2P9  
 416-966-1069 | F416-966-9723 | asiheritage.ca

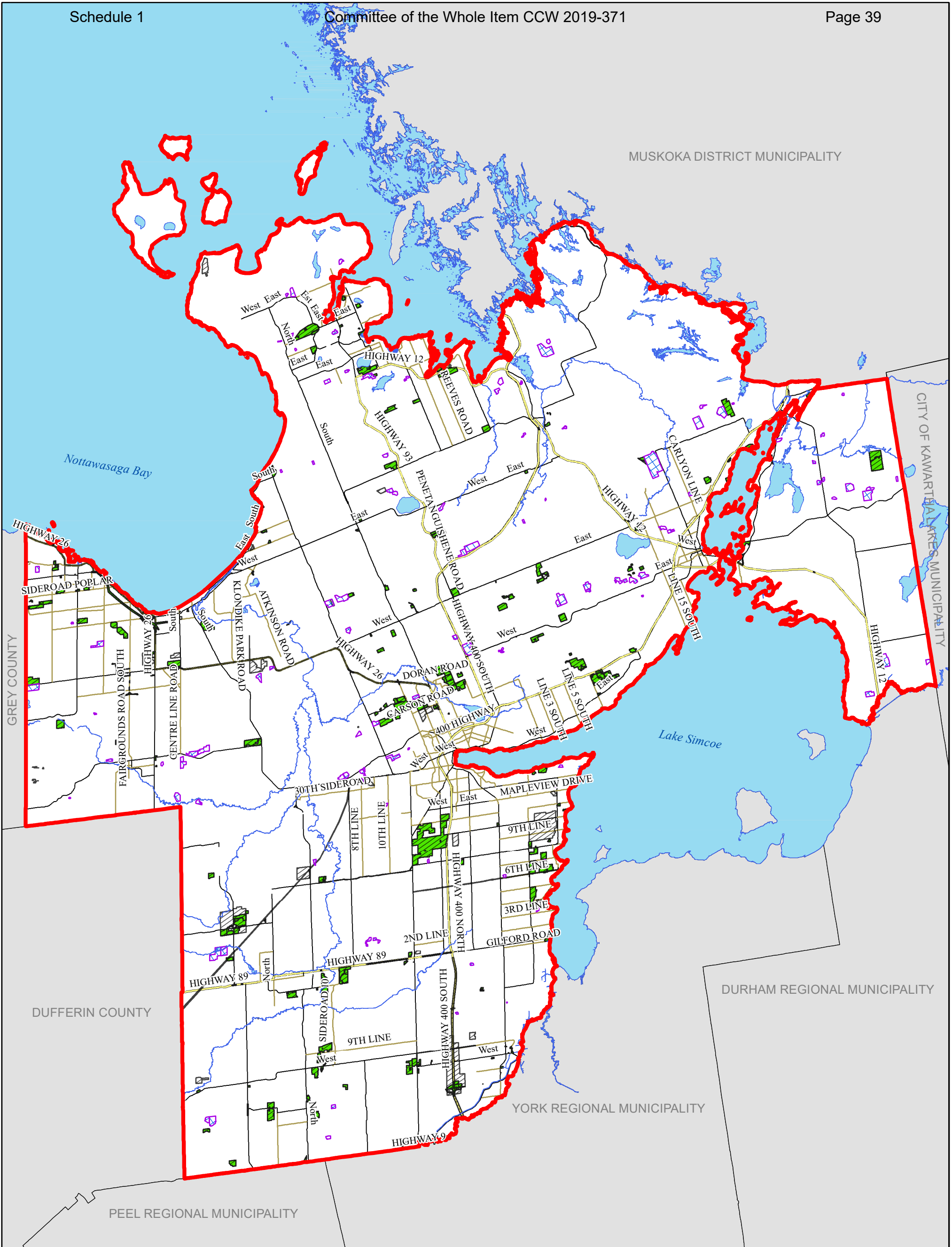
BASE:  
 Lands Information Ontario;  
 County of Simcoe, Information Technology Department

0  20  
 Kilometers N

ASI PROJECT NO.: 17PL-204  
 DATE: Mar 2019

DRAWN BY: EJB  
 FILE: 17PL204\_Potential.mxd

Figure 12: Historical Archaeological Site Potential Layer



- LEGEND:
- Simcoe County
  - Aggregate Quarry - Disturbed Lands
  - Cleared of Further Archaeological Concern
  - Surrounding Counties/Regions
  - Previous Archaeological Assessment (Stage 1-4)

 **Archaeological & Cultural Heritage Services**  
 528 Bathurst Street Toronto, ONTARIO M5S 2P9  
 416-966-1069 | F416-966-9723 | asiheritage.ca

BASE:  
 Lands Information Ontario;  
 County of Simcoe, Information Technology Department



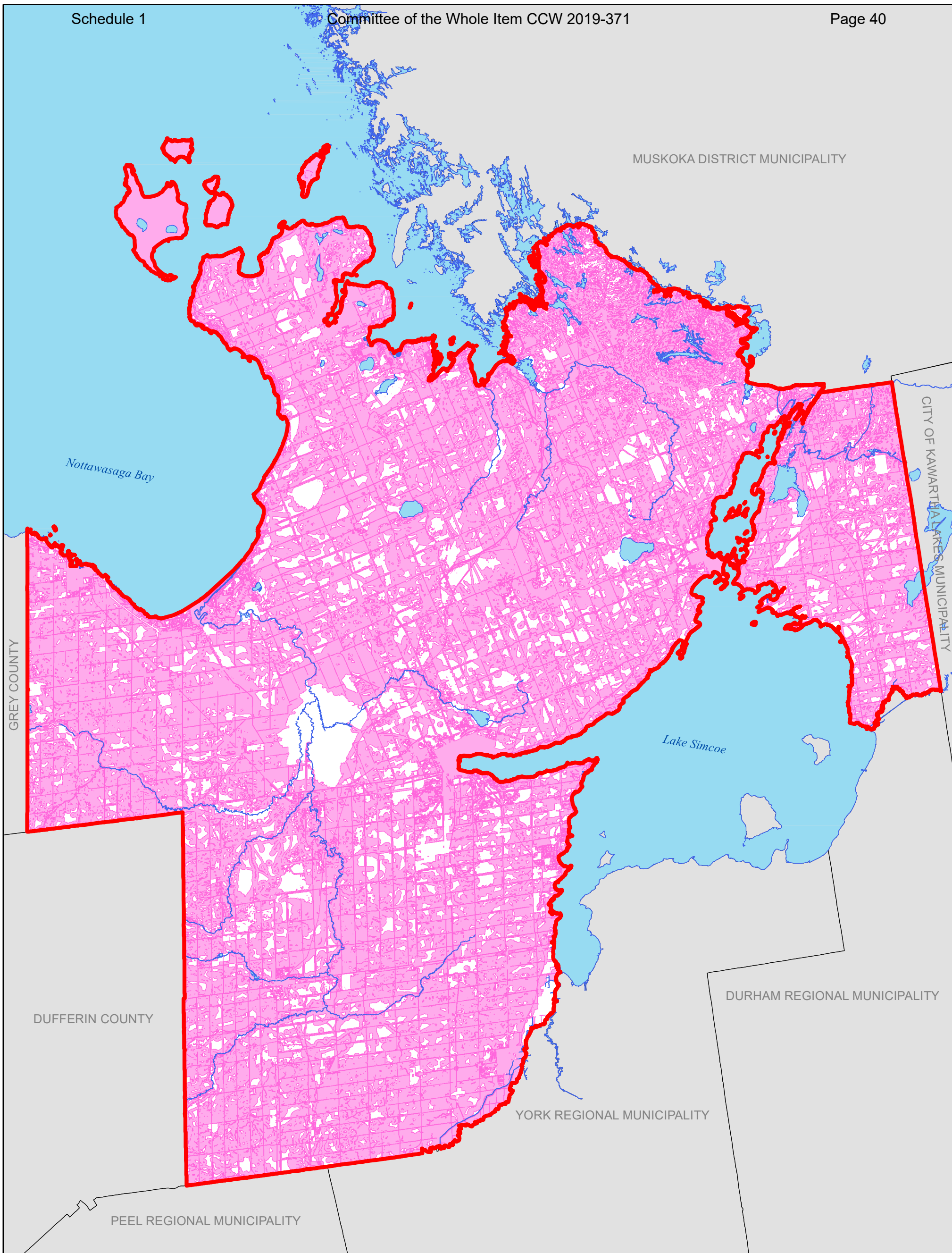
0  20  
 Kilometers   
 ASI PROJECT NO.: 17PL-204      DRAWN BY: EJB  
 DATE: Mar 2019                      FILE: 17PL204\_Potential.mxd

Figure 13: Previously Assessed Lands Layer



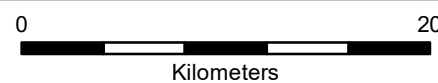
LEGEND:

- Simcoe County
- Surrounding Counties/Regions
- Archaeological Potential (Indigenous and Historical Archaeological Site Potential with Integrity Layer removed)



**Archaeological & Cultural Heritage Services**  
 528 Bathurst Street Toronto, ONTARIO M5S 2P9  
 416-966-1069 | F416-966-9723 | asiheritage.ca

BASE:  
 Lands Information Ontario;  
 County of Simcoe, Information Technology Department

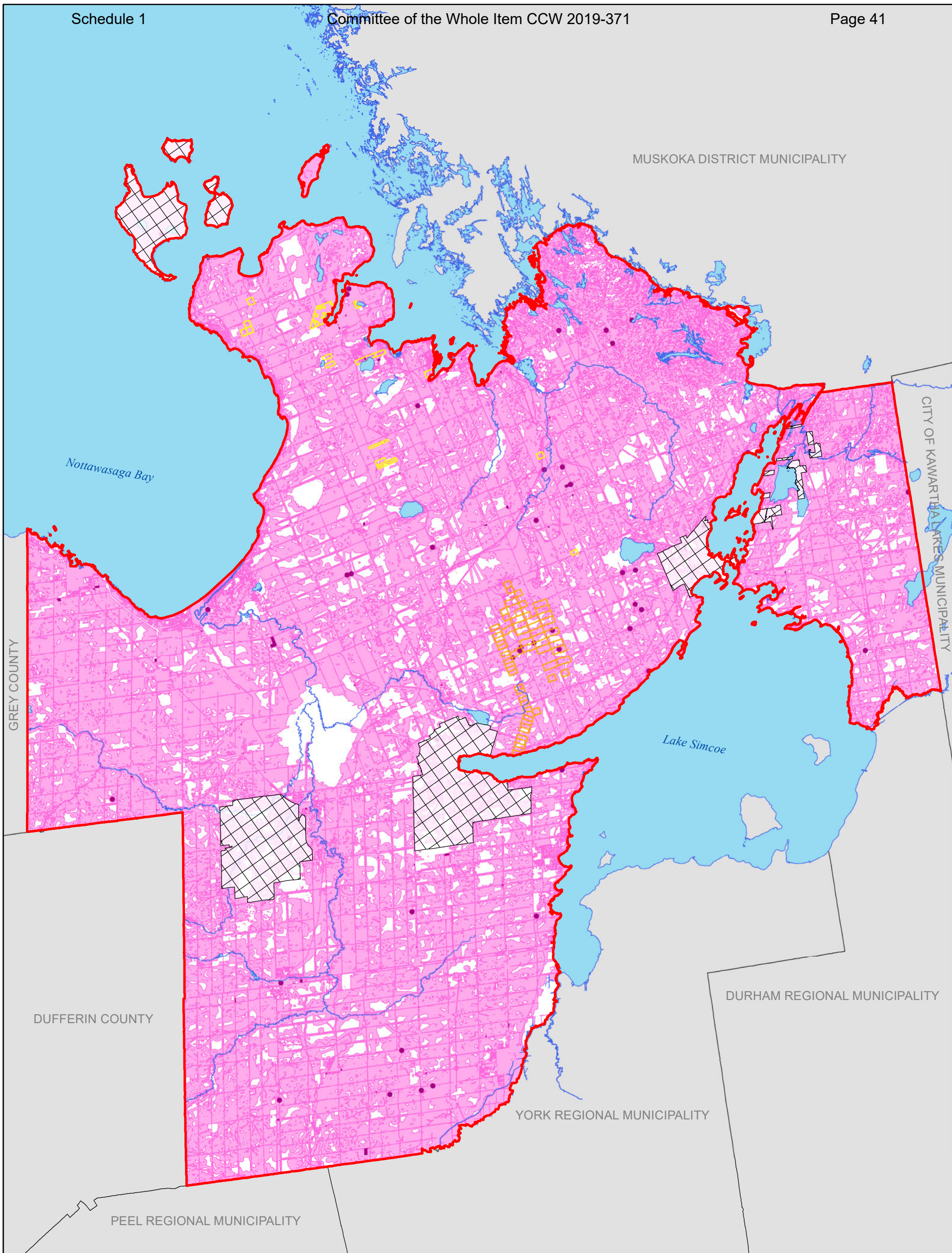


ASI PROJECT NO.: 17PL-204  
 DATE: Sept 2019

DRAWN BY: EJB  
 FILE: 17PL204\_Potential.mxd

Figure 14: Composite Archaeological Potential Layer





**LEGEND:**

Simcoe County	Cemeteries and Cemetery Leads
Areas not in County of Simcoe Jurisdiction	Métis Settlement Lots
Surrounding Counties/Regions	Early Black Settlement Lots
Archaeological Potential (Indigenous and Historical Archaeological Site Potential with Integrity Layer removed)	



**Archaeological & Cultural Heritage Services**  
 528 Bathurst Street Toronto, ONTARIO M5S 2P9  
 416-966-1069 | F416-966-9723 | asiheritage.ca

**BASE:**  
 Lands Information Ontario;  
 County of Simcoe, Information Technology Department

0 20  
 Kilometers

ASI PROJECT NO.: 17PL-204  
 DATE: Sept 2019

DRAWN BY: EJB  
 FILE: 17PL204\_Potential.mxd

**Figure 15: Archaeological Potential Planning Layer**

## Part II: Archaeological Resource Management

### 6.0 Introduction

It is the principal objective of the County of Simcoe's AMP to judiciously and uniformly apply the archaeological potential model across the County. The archaeological resource review and management approaches presented in this part of the AMP are consistent with provincial legislation regulating archaeological resource conservation.

This part of the report also addresses site identification and mitigation through excavation, as well as wider issues of Indigenous community engagement in the planning process, artifact care and the encouragement of greater awareness on the part of citizens of the County's archaeological record.

### 7.0 Planning for Archaeological Site Conservation

In Ontario, the conservation of cultural heritage resources is an objective of planning activity, as it is in many other provinces and countries. As Section 2 of the *Ontario Planning Act* (1990) states, "the conservation of features of significant architectural, cultural, historical, archaeological, or scientific interest" is a matter of provincial interest. This is echoed in the PPS (2014):

The Province's natural heritage resources, water resources, including the Great Lakes, agricultural lands, mineral resources, and cultural heritage and archaeological resources provide important environmental, economic and social benefits. The wise use and management of these resources over the long term is a key provincial interest. The Province must ensure that its resources are managed in a sustainable way to conserve biodiversity, protect essential processes and public health and safety, provide for the production of food and fibre, minimize environmental and social impacts, and meet its long-term needs (PPS, Ministry of Municipal Affairs and Housing 2014:4).

This provincially mandated planning requirement provides a key mechanism for protecting archaeological resources in the County of Simcoe to ensure that future development (e.g., residential, industrial, recreational and infrastructure construction) clearly respects and follows provincial policy. In response to this provincial direction, the conservation of archaeological resources is addressed in the County of Simcoe's Official Plan, which sets the goals and priorities to shape the future growth, conservation, and evolution of the County and its local municipalities.

## 8.0 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 non-renewable archaeological resources.

The scale of the threats facing the finite and non-renewable archaeological record of southern Ontario was considered in a study in which rates of demographic and agricultural change were examined over the last century for south-central Ontario, and estimates generated of the number of archaeological sites that have been destroyed (Coleman and Williamson 1994). 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. During this period, disturbance typically resulted in only partial destruction of archaeological data as most subsurface deposits remained intact.

Unprecedented population growth in the post-World War I period, however, resulted in large amounts of cultivated land being consumed by urban growth, significantly threatening Ontario's archaeological resources. It is possible that more than 10,000 sites were destroyed in the period between 1951 and 1991. Of these, 25% represented significant archaeological features that would have merited some degree of archaeological investigation since they could have contributed meaningfully to an understanding of the past (Coleman and Williamson 1994: Tables 2 and 3).

Archaeological sites also face a less direct, but equally serious form of threat from man-made changes to the landscape that inadvertently alter or intensify destructive natural processes. Increased run-off of surface water in the wake of forest clearance, for example, or hydrological fluctuations associated with industrial and transportation development may result in intensified rates of erosion on certain archaeological sites due to natural processes such as inundation. The amount of land (and hence the potential number of archaeological sites) which has been subjected to these destructive forces is impossible to quantify but is likely considerable.

There has been a marked reduction in the rate of archaeological site destruction since provincial planning regulations were strengthened in the 1990s and many municipalities in the Greater Toronto Area had carried out archaeological management plans and adopted progressive planning policies concerning archaeological site conservation. The potential for the loss of archaeological resources in the future remains great, however, due to continuing growth and development.

In the process of landscape change, archaeological resources may be affected in several ways. Change may result from some action that is purposefully induced in the environment, such as development activities (e.g., road construction, residential building). Change may

also be a gradual and natural process of aging and degeneration, independent of human action, which affects artifacts, building materials, human memories or landscapes. One objective of land use planning is to ensure that change, when it does result from human activity, is controlled. Any impacts upon archaeological resources must be either averted or minimized.

## 9.0 Provincial Legislation and Policy Framework

One of the objectives of the preparation of the AMP was to review and ensure the County of Simcoe is compliant with all current applicable provincial policy and legislation. This section outlines this legislation and policy and Section 12 of the AMP provides guidance on how the County will adhere to all provincial heritage resource conservation policy.

### 9.1 Provincial Legislation - Introduction

The specific provincial legislation governing planning decisions is complex but provides for several opportunities for the integration of archaeological conservation at the municipal level. The two principal pieces of legislation pertaining to archaeological resource assessment are the *Planning Act* (1990) and the *Environmental Assessment Act* (1997), while the *Ontario Heritage Act* (1990) regulates archaeological practice and conservation and protection of cultural heritage resources. However, many other pieces of legislation, such as the Greenbelt Plan, address archaeology either directly or indirectly. Further, municipalities also have the opportunity for establishing their own tailor-made cultural heritage conservation policies within their official plans, the tools for which are provided in the *Planning Act* and the PPS (2014). Approximately 500 to 800 archaeological sites have been documented annually in southern Ontario since 1990 because of municipalities implementing this provincial legislation.

### 9.2 Planning Act & Provincial Policy Statement (2014)

Archaeology is identified as a matter of provincial interest under Section 2 of the *Planning Act*. This is reinforced through the PPS (2014), which is issued under Section 3 of the *Planning Act*. Section 3(1) of the *Planning Act* also lays out municipal responsibilities in regard to the PPS:

a decision of 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, in respect of the exercise of any authority that affects a planning matter, “shall be consistent” with this policy statement.

Thus, all decisions made during the land development process, regardless of the nature of the proposed development or site alteration should address known or potential impacts to archaeological resources. The statements in the *Planning Act* make it clear that archaeological resources must be conserved on public or private lands prior to the approval of a planning or development application.

Section 51 (17) of the *Planning Act*, Part VI (Subdivision of Land), delineates under Schedule 1 the information and material to be provided by an applicant for approval of a plan of subdivision (O. Reg. 544/06, s. 2). This section states the applicant shall provide the Approval Authority with the following prescribed information and material:

23. Whether the subject land contains any areas of archaeological potential.

24. If the plan would permit development on land that contains known archaeological resources or areas of archaeological potential,

- a) an archaeological assessment prepared by a person who holds a license that is effective with respect to the subject land, issued under Part VI (Conservation of Resources of Archaeological Value) of the *Ontario Heritage Act*; and
- b) a conservation plan for any archaeological resources identified in the assessment.

The PPS (2014) states that all development and site alteration must be consistent with the PPS. The PPS (2014) defines “archaeological resources” as “includes artifacts, archaeological sites, and marine archaeological sites.”

This vision and policy statement now guide all provincial and local planning authorities in their decisions. With respect to archaeological resources, the PPS (2014) states that:

Development and site alteration shall not be permitted on lands containing archaeological resources or areas of archaeological potential unless significant archaeological resources have been conserved....  
[Conservation] “means the identification, protection, management and use of built heritage resources, cultural heritage landscapes and archaeological resources in a manner that ensures their cultural heritage value or interest is retained under the Ontario Heritage Act. This may be achieved by the implementation of recommendations set out in a conservation plan, archaeological assessment, and/or heritage impact assessment. Mitigative measures and/or alternative development approaches can be included in these plans and assessments (PPS, Ontario Ministry of Municipal Affairs and Housing, 2014:29, 40).

For this policy statement, significant archaeological resources are defined as those “that have been determined to have cultural heritage value or interest for the important contribution they make to our understanding of the history of a place, an event, or a people.” The identification

and evaluation of such resources are based on archaeological fieldwork and determined by a consultant archaeologist.

The PPS (2014) also includes policy additions to recognize Indigenous interests in the land use planning and development process. This recognition acknowledges the importance of Indigenous peoples' history and cultural heritage when planning decisions are made that "may affect their rights and interests" (PPS 2014:4) and the need to consult with "Aboriginal communities on planning matters that may affect their rights and interests" (PPS 2014:4) (See Section 11 below).

### 9.3 Environmental Assessment Act

The *Environmental Assessment Act* (1997) applies to public sector projects and designated private sector projects. Private sector projects that are designated by the Province as subject to the *Environmental Assessment Act* are usually major projects such as landfills. The purpose of the *Environmental Assessment 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 man or a community" [Section 1(c) (iii)] and "any building, structure, machine or other device or thing made by humans" [Section 1(d) (iv)]. Within this definition, archaeological artifacts are included in the "things" made by humans, and archaeological remains of residential structures, for example, fall within the "buildings" and "structures" made by humans.

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. In Section 6.1 (2), it is noted that "the environmental assessment must consist of," among other things, "(i) a description of the environment that will be affected or that might reasonably be expected to be affected, directly or indirectly; (ii) the effects that will be caused or that might reasonably be expected to be caused to the environment, and (iii) the actions necessary or that may reasonably be expected to be necessary to prevent, change, mitigate or remedy the effects upon or the effects that might reasonably be expected upon the environment." Studies of archaeological resources, as well as built heritage resources and cultural landscapes, are therefore necessary to address the requirements of the *Environmental Assessment Act*. 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.

The Municipal Class EA process is a streamlined environmental assessment used for proposed municipal infrastructure projects like water supply, sanitary sewage and road/transportation projects. These projects are categorized under four schedules according to their impacts on the environment; Schedule A and A+ projects are anticipated to have

negligible to minimal effect on the environment and do not often require cultural heritage or archaeological assessments. Archaeological assessments are more commonly undertaken as part of Schedule B and Schedule C Municipal Class EA projects, where environmental impacts range from adverse to significant. Impacts to the Cultural Environment (archaeological resources and built heritage) must be inventoried to adequately consider the effects of a project on the environment. Archaeological assessments are a critical piece in the suite of considerations that inform the Municipal Class EA process, as it reviews existing conditions and develops and assesses alternatives for the proposed infrastructure project.

Various provincial ministries are establishing protocols related to activities subject to the environmental assessment process in order to ensure that cultural heritage resource conservation in their respective jurisdictions is addressed. The Ontario Ministry of Transportation's *Environmental Reference for Highway Design* (2006), for example, ensures that archaeological assessments are undertaken in advance of all new road construction to ensure that no archaeological sites will be unknowingly damaged or destroyed. Similarly, the Ontario Ministry of Natural Resources and Forestry prepared the *Forest Management Guide for Cultural Heritage Values* (2014) to help protect archaeological sites, archaeological potential areas, cultural heritage landscapes, historical Indigenous values and cemeteries during forest operations.

## 9.4 Ontario Heritage Act

The *Ontario Heritage Act* governs the general practice of archaeology in the province to maintain a professional standard of archaeological research and consultation.

The Ministry of Tourism, Culture and Sport (MTCS)<sup>2</sup> is charged under Section 2 of the *Ontario Heritage Act* with the responsibility to “determine policies, priorities and programs for the conservation, protection and preservation of the heritage of Ontario” and so fills the lead provincial government role in terms of directing the conservation and protection of cultural heritage resources. The Minister is responsible for determining policies, priorities, and programs for the conservation, protection, and preservation of the cultural heritage of Ontario. These goals are generally accomplished through other legislated processes, such as those required by the *Planning Act* and *Environmental Assessment Act*, rather than directly through the *Ontario Heritage Act* itself, which is enabling legislation and not prescriptive.

The Program and Services Branch, Culture Division of the MTCS has the primary administrative responsibility under the *Planning Act* and *Ontario Heritage Act* for matters relating to cultural heritage resource conservation. The Archaeology Programs Unit is responsible for archaeological resource identification and mitigation in advance of land development.

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<sup>2</sup> Provincial management of cultural heritage resources has been carried out by operations units attached variously to the Ministry of Citizenship, Culture and Recreation (1993-1998), the Ministry of Tourism, Culture and Recreation (1998-2002) and the Ministry of Culture (2002-2010); and Ministry of Tourism, Culture and Sport (2011 to present).

The Minister is responsible for issuing licenses to qualified individuals. All consultant archaeologists who undertake Stage 1 to 4 archaeological assessments must be licensed by MTCS. All work conducted by the consultant archaeologist must conform to the standards set forth in the most current *Standards and Guidelines for Consultant Archaeologists* (2011) authorized by the MTCS and the accompanying bulletins, such as, but not limited to:

- *Engaging Aboriginal Communities in Archaeology: A Draft Technical Bulletin for Consultant Archaeologists in Ontario* (2011);
- *Land-Based Archaeological Licensing: A Bulletin for Archaeologists in Ontario* (2017);
- *Archaeological Reports: An Administrative Bulletin for Archaeologists in Ontario* (2017);
- *The Archaeology of Rural Historical Farmsteads: A Draft Technical Bulletin for Consultant Archaeologists in Ontario* (2014);
- *Project Information Forms: Protocols and Support for Licensed Archaeologists using Ontario's Past Portal* (2013);
- *Winter Archaeology: A Technical Bulletin for Consultant Archaeologists in Ontario* (2013); and
- *Forest Operations on Crown land: A Draft Technical Bulletin for Consultant Archaeologists in Ontario* (2009).

MTCS also has numerous fact sheets and memoranda on its website for explaining the process of consulting archaeology in the Province including *Criteria for Evaluating Marine Archaeological Potential: A Checklist for Non-Marine Archaeologists* (<http://www.mtc.gov.on.ca/en/archaeology/archaeology.shtml>).

Under Section 48 (1) of the *Ontario Heritage Act*, no person shall carry out archaeological fieldwork or knowing that a site is a marine or other archaeological site, within the meaning of the regulations, alter the site or remove an artifact or any other physical evidence of past human use or activity from the site unless the person applies to the Minister and is issued a licence that allows the person to carry out the activity in question.

In changes to the *Ontario Heritage Act*, outlined in the *Government Efficiency Act* (2002), it became illegal for any person or agency to alter<sup>3</sup> an archaeological site (see Section 1.1 for definition) without a license. This, in effect, offers automatic protection to all archaeological sites. Accordingly, the County should exercise due diligence in all planning contexts to ensure that archaeological features are protected from disturbance of any nature.

The Act also contains significant penalties for altering an archaeological site without a permit. Under Section 69 (1) of the *Ontario Heritage Act*, anyone who disturbs or alters an archaeological site or removes an artifact from a site without a licence can be fined or imprisoned. A person or a director of a corporation found in violation of the act or its

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<sup>3</sup> The term "alteration" covers unsanctioned disturbance or destruction of archaeological resources brought about by any means (i.e., either archaeological excavation, site looting, or development). More generally, it should be noted that in recent changes to the *Ontario Heritage Act* (Bill 179, 2002), it is now an offence to knowingly alter an archaeological site without a license.



regulations can face a fine of up to \$50,000 or imprisonment for up to one year or both. A corporation found in violation of the act or the regulations can face a fine of up to \$250,000. While the filing of charges is at the discretion of the Ontario Provincial Police, Section 62 (1) of the *Ontario Heritage Act*, empowers the Minister, should they and the Ontario Heritage Trust be of the opinion that property is of archaeological or historical significance and is likely to be altered, damaged, or destroyed by reason of commercial, industrial, agricultural, residential or other development, to issue a stop order directed to the person responsible for such commercial, industrial, agricultural, residential or other development and prohibit any work on the property for a period of no longer than 180 days. Within that period the Minister or any person authorized by the Minister in writing may examine the property and remove or salvage artifacts from the property.

All archaeological assessment reports are submitted to the MTCS as a condition of an archaeological license and are reviewed by MTCS staff to ensure that the activities conducted under a license meet current technical guidelines, resource conservation standards, and the regulations of the *Ontario Heritage Act*.

It should be noted that in October 2017, MTCS posted a proposed new guidance document to the Environmental Registry, entitled *A Guide to Cultural Heritage Resources in the Land Use Planning Process, Review Draft*. This new guide is intended to assist municipalities and other partners when considering cultural heritage resources and land use planning. It will replace an older ministry infosheet series that provided advice and best practices in managing heritage resources under the land use planning process. The new guide takes into account updates made to the PPS (2014) and provides additional advice and best practices to help explain the policy changes in the new PPS, many of which added references to Indigenous peoples. The content of this AMP is entirely consistent with MTCS's draft guide.

#### 9.4.1 Inundated Archaeological Sites in Simcoe County

Marine archaeological sites (both registered and unregistered) are protected under Section 48 of the *Ontario Heritage Act* and can only be altered by a licenced archaeologist. Marine archaeological sites (OHA O.Reg 170/04) are defined as “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”. There are registered marine archaeological sites in Simcoe County from both the Pre-Contact and Post-Contact period, as well as a high potential for marine sites that have not yet been discovered. A Stage 1 background marine assessment will capture registered marine sites and make appropriate recommendations for their protection, as well as identify the potential for unregistered and undiscovered marine sites in a given area. It is important to consider fluctuating water levels and the effect this has on terrestrial and marine sites – high water levels can result in terrestrial sites extending into the water, and low water levels will expose sites previously underwater. An archaeologist with a marine background will be best positioned to identify these inundated sites.

## 9.5 Renewable Energy Approvals Regulation

The Renewable Energy Approvals (REA) regulation (O. Reg. 359/09), issued under the *Environmental Protection Act* (2009), sets out the cultural heritage resource identification and mitigation requirements for obtaining approval to proceed with a renewable energy project. The regulation provides a streamlined approvals process, while simultaneously ensuring that the proposed project considers and avoids or mitigates impacts to the environment, including the cultural environment. O. Reg. 359/09 separates cultural heritage resources into “archaeological resources” and “heritage resources” (including both built heritage and cultural heritage landscapes) and addresses each separately (Sections 19 through 23 of O. Reg. 359/09). MTCS has also issued a bulletin entitled *Cultural Heritage Resources: An Information Bulletin for Projects Subject to Ontario Regulation 359/09 – Renewable Energy Approvals* (2013).

The REA regulation requires the development proponent to conduct archaeological and heritage assessments that identify and consider potential impacts to cultural heritage resources and propose strategies for mitigation of those impacts. Applicants may choose to undertake a self-assessment if there is reason to believe that there is low likelihood for archaeological and heritage resources to be present at the project location. The “self-assessment” is undertaken using MTCS checklists to determine if there is potential for archaeological resources present although use of the County’s Archaeological Management Plan is now suggested.

## 9.6 Aggregate Resources Act

The Ministry of Natural Resources and Forestry, which administers the *Aggregate Resources Act*, recognizes the potential impact quarrying activities may have on cultural heritage resources such as archaeological sites. Furthermore, the development of a pit or quarry will often require an Official Plan Amendment (OPA) or Zoning By-law Amendment (ZBA), and thus would require involvement by the municipality. Under the *Aggregate Resources Act*, the process for addressing archaeological concerns is like 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*.

## 9.7 Funeral, Burial and Cremation Services Act

*The Funeral, Burials and Cremation Services Act* (formerly the *Cemeteries Act*, which was repealed in 2012) addresses the need to protect human burials, both marked and unmarked, which are yet another valuable link to the past. Burial locations uncovered on archaeological sites constitute “unregistered cemeteries” that are, in essence, in violation of the *Funeral, Burial and Cremation Services Act*. The discovery of such burials 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 pre-contact Indigenous or historical (Euro-Canadian). In all cases, the success of the process is dependent upon the co-operation of the property owner, the next of kin (whether biological or prescribed), and the Registrar of Burial Sites, War Graves, Abandoned Cemeteries and Cemetery Closures in the Ministry of Government and Consumer Services. The role of the MTCS 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.

## 9.8 Greenbelt Act and Greenbelt Plan

While the *Greenbelt Act*, 2005 does not specifically mention the protection or conservation of archaeological resources, one of the objectives of the Act is to provide opportunities and open spaces for the recognition of cultural heritage.

However, the Greenbelt Plan (2017) provides further clarification on the protection and conservation of cultural heritage resources including archaeological resources. Under the goals of the Protected Countryside, the plan encourages municipalities to consider the Greenbelt's vision and goals in preparing archaeological management plans and municipal cultural plans and consider them in their decision-making.

For lands within the Protected Countryside, the Greenbelt Plan stipulates that cultural heritage resources shall be conserved in order to foster a sense of place and benefit communities. This plan also stipulates that Municipalities shall work with stakeholders, as well as First Nations and Métis communities, in developing and implementing official plan policies and strategies for the identification, wise use and management of cultural heritage resources.

Under this plan, cultural heritage resources are identified as built heritage resources, cultural heritage landscapes, and archaeological resources. Conservation is defined as the identification, protection, management and use of built heritage resources, cultural heritage landscapes and archaeological resources in a manner that ensures their cultural heritage value or interest is retained. This may be achieved by the implementation of recommendations set out in a conservation plan, archaeological assessment, and/or heritage impact assessment, including mitigation plans.

## 9.9 Niagara Escarpment Planning and Development Act and Niagara Escarpment Plan

While the *Niagara Escarpment Planning and Development Act*, 1990 does not specifically mention the protection or conservation of archaeological resources, one of the objectives of the Niagara Escarpment Plan is to conserve cultural heritage resources in the natural areas

of the escarpment, including significant built heritage resources, cultural heritage landscapes, and archaeological resources.

The Niagara Escarpment Plan stipulates that development shall not be permitted on lands containing archaeological resources or areas of archaeological potential unless significant archaeological resources are conserved. Furthermore, the Plan stipulates that where proposed development is likely to impact cultural heritage resources or areas of archaeological potential, the proponent shall undertake a heritage impact assessment and/or archaeological assessment. The proponent must demonstrate that heritage attributes will be conserved through implementation of proposed mitigative measures and/or alternative development approaches.

## 9.10 Places to Grow Act and Growth Plan for the Greater Golden Horseshoe

While there is no specific mention of cultural heritage resources in the *Places to Grow Act*, 2005, Section 4.2.7 of the Growth Plan for the Greater Golden Horseshoe (2019) deals specifically with Cultural Heritage Resources. In particular, the Plan notes that cultural heritage resources will be conserved in order to foster a sense of place and benefit communities. Furthermore, the Plan recommends that municipalities work with stakeholders and First Nations and Métis communities in developing and implementing official plan policies for the identification and management of cultural heritage resources. Finally, the Plan recommends that municipalities prepare an archaeological management plan and consider these plans for decision-making.

Under the Plan, cultural heritage resources are identified as built heritage resources, cultural heritage landscapes, and archaeological resources. Conserved is defined as the identification, protection, management and use of built heritage resources, cultural heritage landscapes and archaeological resources in a manner that ensures their cultural heritage value or interest is retained under the *Ontario Heritage Act*. This may be achieved by the implementation of recommendations set out in a conservation plan, archaeological assessment, and/or heritage impact assessment, including mitigation plans.

## 9.11 Oak Ridges Moraine Conservation Act and Oak Ridges Moraine Conservation Plan

The primary purpose of the Act is to protect the ecological and hydrological integrity of the Oak Ridges Moraine, and as such does not identify the protection of cultural heritage resources as part of the legislation. However, the most recent version of the Oak Ridges Moraine Conservation Plan (2017) addresses the conservation of cultural heritage resources. In particular, the Plan supports “the identification, conservation, use and wise management of cultural heritage resources, including archaeological resources to support the social, economic and cultural well-being of all communities, including First Nations and Métis communities.”

Furthermore, the Plan refers the reader to other provincial legislation and Plans, such as those listed above, when enacting portions of the Plan.

## 9.12 Lake Simcoe Protection Act and Lake Simcoe Protection Plan

In addition to the legislation and Plans listed above, the Lake Simcoe Protection Act (2008) and the Lake Simcoe Protection Plan (2009) were reviewed for policies regarding the protection or conservation of archaeological resources.

There is no specific mention of the protection or conservation of archaeological resources in either the Act or Plan. However, the Plan refers the reader to other provincial legislation when enacting portions of the Plan.

## 9.13 Simcoe Region Conservation Authorities

The Toronto and Region Conservation Authority (TRCA) has developed its own pre-contact Indigenous archaeological potential model for use by TRCA planners prior to approving any land alteration activities or projects undertaken by TRCA on lands within its jurisdiction (Burgar 1990, 2003). Similar to Simcoe's and other regional pre-contact Indigenous archaeological potential models (e.g., Toronto, York Region), the TRCA pre-contact Indigenous archaeological potential model uses a variety of environmental and cultural data to determine potential, including: all known pre-contact Indigenous archaeological sites within one kilometre of TRCA's jurisdictional boundaries; hydrographic data representing distance to water by order; various edaphic variables related to soil texture, type, and drainage; and topographic variables such as slope and terrain relief. The resulting model classifies all Authority-owned lands into three nominal categories representing high, medium, and low archaeological potential. This differs from Simcoe's and almost all other models, which define lands as either having or not having archaeological potential. TRCA lands only extend into the extreme southwestern portion of Simcoe County in the Township of Adjala-Tosorontio which contain the headwaters of the Humber River watershed.

The Grey Sauble Conservation Authority (GSCA), which has jurisdiction in a small portion of the Town of Collingwood and the Township of Clearview, stipulates in its *Forest Management Policy* (revised September 27, 2017) that the GSCA shall seek to "identify, acquire and manage properties containing environmentally significant areas, special/rare features, natural and cultural heritage sites."

Neither the Lake Simcoe Region Conservation Authority (LSRCA) nor the Nottawasaga Valley Conservation Authority (NVCA) have any policies in place regarding the identification or protection of lands with archaeological resources. However, the NVCA manages the lands where the historic Fort Willow site is located and actively conduct archaeological fieldwork, restorations, and public education to maintain the character of the site and increase public awareness of its context within the County's history.

## 10.0 Municipal Policy

### 10.1 County of Simcoe Official Plan (Approved by the Ontario Municipal Board December 29, 2016)

The County of Simcoe Official Plan (SCOP) enables the implementation of the Archaeological Management Plan (AMP). To do so, the SCOP will need to include new and revised policies for identifying and conserving archaeological resources and to recognize the roles of First Nations and Métis communities in the archaeological assessment process.

The County of Simcoe is an upper-tier municipality that consists of 16 lower-tier municipalities. Upper-tier and lower-tier municipalities are defined by the *Municipal Act* as follows:

“lower-tier municipality” means a municipality that forms part of an upper-tier municipality for municipal purposes;

“upper-tier municipality” means a municipality of which two or more lower-tier municipalities form part for municipal purposes.

The current structure of the County of Simcoe dates to 1994 when it was restructured into its current form. The Official Plan for Simcoe County applies to all lower-tier municipalities. As the County Official Plan in Section 1.2 states:

The Plan applies to the sixteen Towns and Townships, also referred to collectively as local municipalities, which constitute the County of Simcoe. As stated in the Planning Act, where an official plan is in effect, no public work shall be undertaken, and no bylaw shall be passed for any purpose that does not conform therewith. The Act further states that local official plans and zoning bylaws shall be brought into conformity with the County Official Plan.

The Plan is a broad policy document which is implemented through local municipal official plans and amendments, zoning bylaws, and subdivision approvals, together with long-term transportation, sewer, water, and waste management plans, environmental studies, watershed management plans, financial programs, capital budgets, economic development initiatives, and human services plans.

It should be noted that all *Planning Act* applications within the County are also subject to the Growth Plan for the Greater Golden Horseshoe, 2017 and the Provincial Policy Statement (PPS), 2014. Furthermore, parts of the County fall under the jurisdiction of the Oak Ridges Moraine Conservation Plan, 2017; Lake Simcoe Protection Plan, 2009; the Niagara Escarpment Plan, 2017; and, the Greenbelt Plan, 2017. In the event of a conflict between a local Official Plan and a provincial plan, the provincial plan prevails to the extent of the conflict.

Also located within the geographical area of the County are two single-tier municipalities: The City of Barrie and the City of Orillia. As single-tier municipalities, neither forms part of the County and each City assumes all municipal responsibilities set out under the *Municipal Act* and other Provincial legislation.

In addition, there are three First Nations reserves located within the boundaries of Simcoe County:

- Christian Island 30
- Christian Island 30A
- Mnjikaning First Nation 32

In 2017, the Federal government announced the dissolution of Indigenous and Northern Affairs Canada (INAC) and created two new departments: Crown-Indigenous Relations and Northern Affairs Canada and Indigenous Services Canada overseen by two Cabinet Ministers: the Minister of Crown-Indigenous Relations and Northern Affairs and the Minister of Indigenous Services.

Reserves are governed by the Federal *Indian Act*, and as such, are under the authority of local band councils. Under the *Indian Act*, an “Indian Reserve” is land held by the Crown “for the use and benefit of the respective bands for which they were set apart” under treaties or other agreements.

## 10.2 County of Simcoe Official Plan – Cultural Heritage Policies

Several sections of the Official Plan have statements or policies that are relevant to archaeological resource conservation. They are outlined below and will be followed by suggested additional policies that will enable the process outlined in the AMP.

### Growth Management Policy

3.1.3 The rich cultural heritage of the *County* has been partially documented at the Provincial and local levels and is to be protected through the requirements for appropriate archaeological and cultural heritage assessments. The Plan also contains provisions for gathering additional cultural heritage resource information and maintaining a registry.

## Settlement Expansion

3.5.18 Where *settlement area* boundary expansion is needed to meet projected *development* needs as outlined in Section 3.5.17 above, the decision on direction or location of *settlement area* expansions shall be based on:

- an analysis of servicing and transportation facilities, ensuring the efficient use and expansion of servicing *infrastructure* including sidewalks, trails and transit;
- agricultural land quality, directing growth to areas of lower land quality where feasible;
- protecting natural features and *ecological functions* within the *natural heritage system*;
- avoiding *hazardous lands* and *hazardous sites*;
- expansion into *specialty crop lands* is not permitted;
- ensuring that aggregate and agricultural resource *development* potential is not compromised by the expansion; and
- conservation of significant *built heritage resources*, *significant heritage landscapes* and *significant archaeological resources*, all in keeping with the policies of this *Plan* and the Niagara Escarpment Plan, the Oak Ridges Moraine Conservation Plan and the Greenbelt Plan where applicable. Such factors shall be determinant in achieving the objectives of 3.5.17 and other sections of this *Plan*.

## Cultural Heritage Conservation

4.6.3 The *County* shall maintain available archaeological site data locations and relevant mapping from the provincial archaeological database of the Ministry of Culture (MCL) under the provisions of a municipal-*provincial* data sharing agreement, for the purpose of heritage conservation planning and *development* review. The mapping database will be updated regularly when appropriate, as new archaeological sites are identified.

4.6.4 The *County* may consider undertaking the preparation and completion of a cultural heritage and/or archaeological management plan to assist in identifying sensitive cultural and archaeological areas including cemeteries and burials within the County, which is to include but not limited to:

- a) comprehensive mapping and inventories of *significant built heritage resources*, *significant cultural heritage landscapes*, and *areas of archaeological potential*;
- b) identification and evaluation of cultural heritage and archaeological resources;
- c) strategies for conserving and enhancing these identified resources;
- d) programs to foster interpretation and promotion; and
- e) education and public participation in cultural heritage conservation.

4.6.5 *Development* and *site alteration* shall not be permitted on lands containing *archaeological resources* or *areas of archaeological potential* unless *significant archaeological resources* have been conserved.

4.6.7 The County of Simcoe shall determine and notify the *local municipality* of the need for archaeological assessment by an archaeologist licensed under the *Ontario Heritage Act*, for



applications for official plans and amendments, secondary plans, and plans of *subdivision*, where it is the Approval Authority, in accordance with the County's Cultural Heritage Guidelines. All archaeological assessment reports are to comply with current *Provincial* archaeological assessment standards and guidelines.

4.6.8 The *local municipality* shall determine the need for archaeological assessment for applications where they are the Approval Authority in accordance with the County's Cultural Heritage Guidelines and notify the *County* of any *significant archaeological resources*.

4.6.9 Applicants shall provide to the County of Simcoe a copy of the completed Archaeological Assessment reports for heritage resource register purposes.

4.6.12 When burial places are identified during the *development* process or are encountered during any excavation activity, the provisions of the *Funeral, Burial and Cremation Services Act, Ontario Heritage Act* and the relevant regulations must be followed. Licensed archaeologists may be involved in heritage burial assessments for delineation of boundaries and excavations if required. Appropriate *Provincial* Ministries and authorities will be notified.

4.6.13 Should aboriginal archaeological resources or burial places be found through assessment or during the *development* process, then the *County* and/or applicable local municipality shall provide notification to the appropriate aboriginal community(s).

The following definitions provided in the OP are also relevant to archaeological resource conservation:

**Adjacent Lands** - for purposes of cultural heritage and archaeology means those lands contiguous to a *protected heritage property* or as otherwise defined in the municipal official plan. For the purposes of natural heritage features and areas means those lands contiguous to a specific *natural heritage feature or area* where it is likely that *development* or *site alteration* would have a *negative impact* on the feature or area. In determining the general extent of the *adjacent lands*, the policies of 3.3.15 vi) shall apply.

**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*.

**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.

**Cultural Heritage Landscape** - means a defined geographical area that may have been modified by human activity and is identified as having cultural heritage value or interest by a community, including an Aboriginal community. The area may involve features such as structures, spaces, archaeological sites and natural elements that are valued together for

their interrelationship, meaning or association. Examples may include but are not limited to, heritage conservation districts designated under the *Ontario Heritage Act*, villages, parks, gardens, main streets and neighbourhoods, cemeteries, trailways, natural areas and industrial complexes of heritage significance; and areas recognized by federal or international designation authorities.

**Cultural Features** - refer to historical, architectural, archaeological, recreational, and aesthetic built and natural features of cultural significance including *significant built heritage resources*, *significant cultural heritage landscapes*, and *archaeological resources*.

**Significant Archaeological Resources** - means 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 people or place. The identification and evaluation of this resource is based upon an archaeological assessment.

**Significant** – in regard to cultural heritage and archaeology, resources that have been determined to have cultural heritage value or interest for the important contribution they make to our understanding of the history of a place, an event, or a people.

### 10.3 Suggested Revisions to Existing Policies in Section 4.6 Cultural Heritage Conservation

To replace 4.6.3 and 4.6.4:

The County will maintain an Archaeological Management Plan that identifies known *archaeological resources* and *areas of archaeological potential* and that provides direction and requirements for the identification, evaluation, conservation and management of *archaeological resources* in accordance with the *Ontario Heritage Act*. The Archaeological Management Plan may be subject to review and shall be updated in conjunction with a comprehensive review of the Official Plan.

To replace 4.6.5:

*Development* and *site alteration* shall not be permitted on lands containing *archaeological resources* or *areas of archaeological potential* unless *significant archaeological resources* have been conserved. Preservation of the *archaeological resources* on site is the preferred method, but in some cases, conservation can occur by removal and documentation by a licensed archaeologist. Where *significant archaeological resources* must be preserved in situ, only *development* and *site alteration* that maintains the heritage integrity of the site may be permitted.

### To replace 4.6.8:

If the Approval Authority determines that any portion of the lands subject to an application for Official Plan Amendment, Zoning By-law Amendment, Plan of Subdivision and/or Condominium, Site Plan Control, or Consent to create 2 or more new lots falls within the archaeological potential planning layer of the County's Archaeological Management Plan and where *development* and/or *site alteration* is proposed or expected, the Approval Authority will require that a supporting Archaeological Assessment be completed to determine potential impacts to *archaeological resources*. For Consents to create 2 or more new lots where the intent is to develop both the severed and retained lands, all lands shall be subject to a supporting archaeological assessment. Where the intent is to develop the severed lands and not the retained lands, only the severed lots need to be assessed.

### To replace 4.6.9:

Applicants or their licensed archaeological consultant shall provide to the County of Simcoe and the Approval Authority a copy of the completed Archaeological Assessment report(s) along with a copy of the Ministry of Tourism, Culture and Sport compliance letter. Archaeological Assessment report(s) and Ministry letters shall be provided in both hard copy and PDF formats. The County will maintain copies of all Archaeological Assessment reports and Ministry compliance letters for record keeping and information purposes.

### To replace 4.6.12 and 4.6.13:

When human remains or burial sites are identified during the development process or during any other activity, the relevant provisions of the *Coroner's Act*, *Funeral, Burial and Cremation Services Act* and *Ontario Heritage Act* shall apply. The police and the Registrar at the Ministry of Government and Consumer Services shall be notified immediately. If the Registrar orders an investigation, licensed archaeologists shall carry out burial site investigations under Ontario Regulation 30/11. Where there are Indigenous burials, they will be addressed in consultation with the relevant First Nations or Métis community(s).

## Suggested Additional Policies, Section 4.6 Cultural Heritage Conservation

- i. 4.6.X.Y: The County acknowledges that it is within the Treaty Lands of the seven Nations of the Williams Treaties Nations (Beausoleil First Nation, Chippewas of Rama First Nation, Curve Lake First Nation, Georgina Island First Nation; Hiawatha First Nation, Mississaugas of Alderville First Nation, and Mississaugas of Scugog Island First Nation). The County is also the traditional territory of the Mississaugas of the Credit First Nation (Humber Watershed), Saugeen Ojibway Nation (within and west of the Nottawasaga River), the Huron-Wendat Nation, and the traditional harvesting territory of the Georgian Bay Traditional Territory Métis. In addition, and based on

correspondence from the Wahta Mohawks, the County agrees to acknowledge the asserted rights of the Wahta Mohawks.

- ii. Where *archaeological resources* are documented and found to be Indigenous in origin, a copy of the Archaeological Assessment report shall be provided by the consultant to the Indigenous communities identified in 4.6.X.Y.
- iii. Where Stage 3 or Stage 4 Archaeological Assessments are being undertaken on *significant archaeological resources* of interest to First Nations and Métis communities, the consultant archaeologist shall notify the affiliated Indigenous community(s) or all of the Indigenous communities identified in 4.6.X.Y, in advance of on-site assessment work. Provision may also be made by the development proponent to include a monitor(s) for any stage of assessment work. Where *significant archaeological resources* of interest to First Nations and Métis communities are to be preserved on site, MTCS, the Approval Authority, the development proponent and the consultant archaeologist (in an advising role), shall engage with the affiliated Indigenous community(s) or all of the Indigenous communities identified in 4.6.X.Y, to identify approaches to access, landscaping and interpretation of the site.
- iv. Where *significant archaeological resources* of interest to First Nations and Métis communities are identified, preservation of the site is preferred and all potential options to preserve the site must be considered. When preservation on site is not possible, MTCS, the Approval Authority, the development proponent and the consultant archaeologist (in an advising role) shall engage with the affiliated First Nations or Métis community(s) or all of the Indigenous communities identified in 4.6.X.Y, to identify interpretive and commemorative opportunities relating to the resource.
- v. In order to ensure that archaeological sites are protected, the County or local municipality may consider zoning restrictions, density bonuses, site purchases, acceptance of archaeological sites under parkland dedication, and/or designation under Part IV of the *Ontario Heritage Act* by the local municipality.
- vi. Where appropriate, the County will encourage the communication of archaeological discoveries to residents through innovative architectural and/or landscape architectural design, public education, public art, or other public realm projects.
- vii. Where the Approval Authority determines that an Archaeological Assessment is required, the development proponent shall retain an archaeologist, licensed by the Ministry of Tourism, Culture and Sport under the provisions of *the Ontario Heritage Act* (R.S.O. 1990 as amended). The licensed archaeologist shall carry out a Stage 1 (or Stage 1-2) Archaeological Assessment of the entire property, and follow through on recommendations to mitigate, through preservation or resource removal and documentation, adverse impacts to any *significant archaeological resources* found through subsequent stages of assessment, as required. The Archaeological Assessment shall be undertaken to the applicable level of assessment recommended

by a consultant archaeologist in accordance with the most current Standards and Guidelines for Consulting Archaeologists, Ministry of Tourism, Culture and Sport.

No *site alteration*, soil disturbance, demolition, construction or any form of grading shall be carried out prior to:

- The completion of an Archaeological Assessment report recommending that no further archaeological assessment is required for the project area, and
- MTCS sending the County and Approval Authority a letter stating that the said Archaeological Assessment report has been entered into the Ontario Public Register of Archaeological Reports.

Updates to the County's Cultural Heritage and Archaeological policies will be proposed through a future County Official Plan Amendment for which the Ministry of Municipal Affairs and Housing is the Approval Authority. Further consultation on the suggested policies will occur with First Nations and Métis communities, provincial Ministries, local municipalities, and the public in accordance with the requirements of the Planning Act, prior to approval consideration.

## 10.4 Local Municipal Official Plans

Each of the 16 municipalities has its own Official Plan. In terms of planning approvals, the County of Simcoe is involved from two perspectives, as an Approval Authority for official plans and amendments (for all local municipalities), and subdivisions and condominiums for the Township of Severn, and Township of Tiny. New Official Plans for lower-tier municipalities must be approved by County Council. Amendments to the Official Plans of the lower-tier municipalities must be approved by County Council's Committee of the Whole. It also serves as a commenting agency to ensure County interests and by-laws are appropriately addressed. County planning interests include, but are not limited to:

- County Roads;
- County Waste Management Sites and Waste Collection Services;
- County Greenlands;
- County Forests;
- County Transit System;
- Paramedic Stations; and,
- Growth Management

Within the County, lower-tier municipalities are the Approval Authorities for zoning bylaws and amendments, site plan control applications, consents and minor variances, with the County as a commenting agency.

While most of the local municipal official plans have cultural heritage (archaeology) policies, these will need be brought into consistency and conformity with provincial and County policies.

## 11.0 Indigenous Engagement in the Archaeological Process

### 11.1 Legislative Context

Section 17 of the *Planning Act* requires that the Chief of every First Nation Council on a Reserve within one kilometer of proposed official plan or official plan amendments is circulated on notices for those applications, as part of the public notice process (O. Reg. 543/06, s. 3 (9); O. Reg. 467/09, ss. 2, 3). This currently applies to both Beausoleil First Nation and the Chippewas of Rama First Nation. Other planning authorities in the County are nevertheless encouraged to engage with the other First Nations and Métis communities with an interest and rights in Simcoe County in the planning approvals process. This is affirmed in the PPS (2014), which states that:

The Province recognizes the importance of consulting with Aboriginal communities on planning matters that may affect their rights and interests (Part IV, Vision for Ontario's Land Use Planning System, 4).

The PPS (2014) also states the following:

- Planning authorities are encouraged to coordinate planning matters with Aboriginal communities (Policy 1.2.2, Section 1.2, Coordination, 12);
- This *Provincial Policy Statement* shall be implemented in a manner that is consistent with the recognition and affirmation of existing Aboriginal and treaty rights in Section 35 of the *Constitution Act*, 1982 (Policy 4.3, Section 4.0, Implementation and Interpretation, 33).

The Indigenous consultation/engagement process should be distinct and separate from the general public engagement process. While First Nations and Métis communities may be invited to the public engagement meetings, they will expect to discuss these matters on a government-to-government basis.

With respect to archaeological resources, the PPS (2014) states that:

- Planning authorities shall consider the interests of Aboriginal communities in conserving cultural heritage and archaeological resources (Policy 2.6.5, Section 2.6, Cultural Heritage and Archaeology, 29).

It is therefore recommended that the County and its local municipalities adopt an administrative process for engagement with the First Nations and Métis communities listed in Section 11.3 for Official Plan reviews, local Official Plan Amendments including Secondary Plans, Plans of Subdivision and Condominium, Zoning By-law Amendment, Site Plan Control, and Consent applications undertaken in *greenfield* contexts, as well as any others where an Indigenous archaeological site is or has been identified and site mitigation is contemplated. These applications have the greatest potential for major effects on the eventual use of the

land and provide the potential for input to influence the development of plans which protect ecologically sensitive lands, significant archaeological sites, and other important areas, and to develop plans for interpretation opportunities.

Also, the MTCS's bulletin entitled *Engaging Aboriginal Communities in Archaeology: a Draft Technical Bulletin for Consultant Archaeologists* includes standards (Section 1.1) stating that "engagement" must take place:

- In Stage 3, when assessing the cultural heritage value or interest of an Indigenous archaeological site that is known to have or appears to have sacred or spiritual importance or is associated with traditional land uses or geographic features of cultural heritage interest or is the subject of Indigenous oral histories. [Section 3.4]
- At the end of Stage 3, when formulating a strategy to mitigate the impacts on the following types of Indigenous archaeological sites through avoidance and protection or excavation [Sections 3.4 and 3.5];
- When investigating rare Indigenous archaeological sites;
- When dealing with sites identified as sacred or known to contain human remains;
- When working with Woodland period Indigenous sites;
- When working with Indigenous archaeological sites where topsoil stripping is contemplated;
- When working with undisturbed Indigenous sites; and
- When working with sites previously identified as of interest to an Indigenous community.

It should be noted that many Indigenous communities would like to assign monitors to Stage 2 archaeological fieldwork as well; this practice has been included in the policies of the new City of London Plan as dictated by the Ministry of Municipal Affairs and Housing in response to a letter by a First Nation in their review of the plan.

## 11.2 Treaty History and Traditional Territories

The County of Simcoe is covered by several treaties related to the period of land cessions in Southern Ontario, beginning in the last half of the eighteenth century and ending with the 1923 Williams Treaties. These treaties describe the historical groups who with the Crown negotiated the transfer of land and in some cases the rights that are assured to these groups within the lands (Figure 16).

The advent and significance of historic treaties are rooted in the Royal Proclamation of 1763, issued by King George III. The Proclamation affirmed that Indigenous people lived under the protection of the Crown and that they were not to be "molested or disturbed in the Possession of such Parts of Our Dominions and Territories as, not having been ceded to, or purchased by Us, are reserved to them, or any of them, as their Hunting Grounds...". This statement recognized the existence of Aboriginal rights and title to vast areas within North America and beyond. In particular, the Royal Proclamation identified the lands west of the Appalachian Mountains, not including Rupert's Land in the north as being Indigenous land, and therefore

subject to land acquisition agreements between the Crown and the affected nations. Between 1764 and 1815, the government acquired the lands of the shoreline of the upper St. Lawrence as well as the lower Great Lakes. While the earliest treaties were related to the use of land for military and defensive purposes, following the American Revolutionary War many treaties were for the purposes of settling the roughly 30,000 United Empire Loyalists who refused to accept American rule. After the War of 1812, the colonial administration of Upper Canada focused on greater settlement of the colony, and land purchases were then concerned with those lands beyond this first range of settlement. These involved a swath of about 7 million acres from the Ottawa River to the eastern shores of Georgian Bay. After 1836, many portions of the northern and northwestern sections of the province were acquired, including the Saugeen Peninsula, Manitoulin Islands and the north shores of Lake Huron and Lake Superior (Department of Indigenous and Northern Affairs 2010; Hall 2018; Surtees 1983).

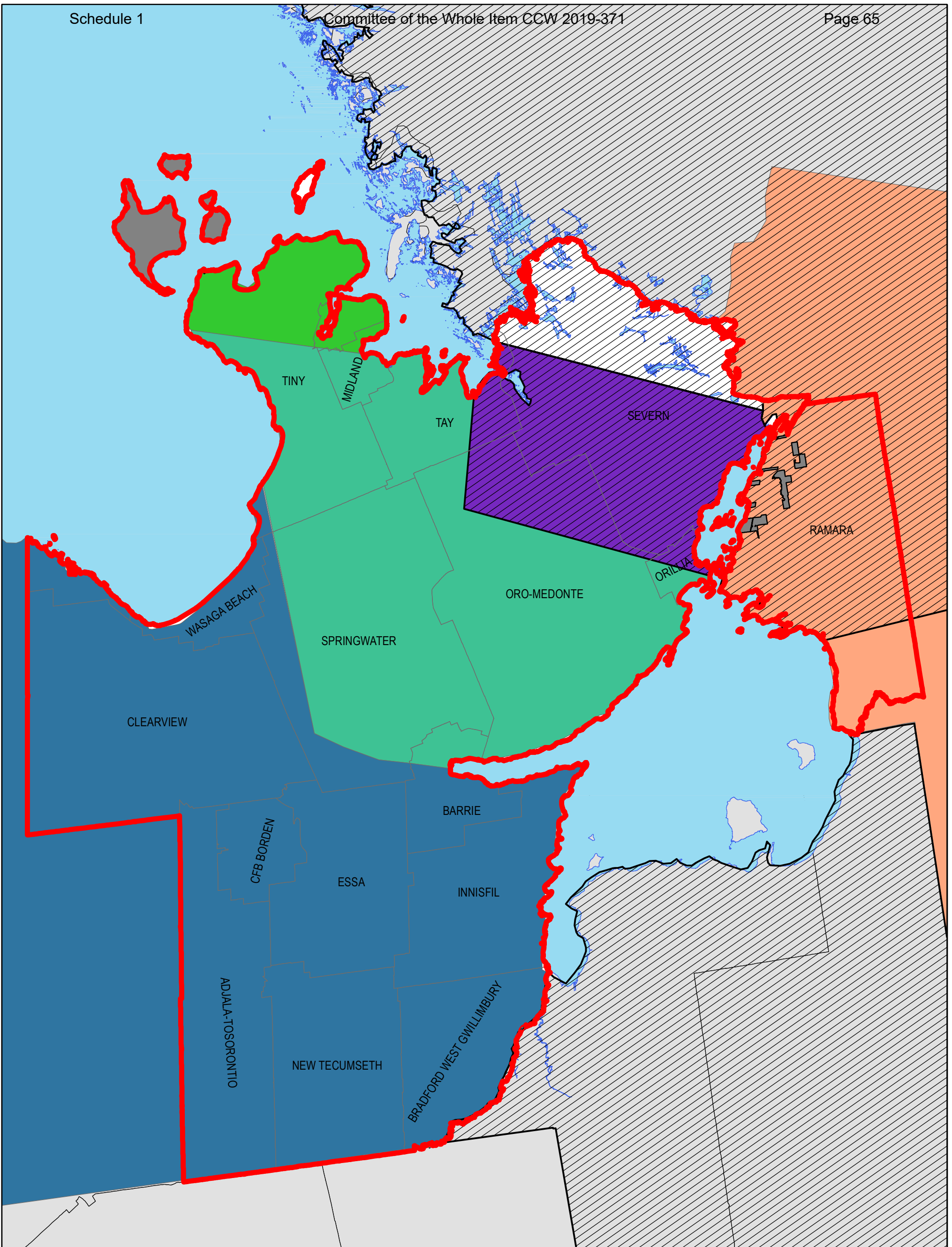
## The John Collins Purchase (1785)

At the end of the eighteenth century Governor Haldimand was concerned about western supply lines in Ontario and sought to establish an interior route within the Nassau and Hesse districts (later, the Home District). With that in mind, Haldimand dispatched a party of soldiers led by Captain William Crawford along with Deputy Surveyor General John Collins to investigate the “Toronto Carrying Place” route as an alternative passage between Niagara and Michilimackinac. While the intent of this expedition was in order to assess and survey potential routes and to report on what lands it might be necessary to purchase from Indigenous groups in the area, Collins apparently returned from this trip with a formal agreement.

While no transcripts of this agreement survived, the John Collins Purchase apparently concerned lands extending from the northwestern end of Lake Simcoe to Matchedash Bay and was described in 1795 as “One mile on each side of the foot path from the Narrows at Lake Simcoe to Matchidash [sic] Bay, with three Miles and a half Square, at each end of said Road or foot path . . . also one mile on each Side of the River which empties out of Lake Simcoe into Matchidash Bay.” A land cession of 1815, which abuts on this region, describes two sides of a parallelogram which was “said to have been made in the year one thousand seven hundred and eighty-five.” John Collins's memorandum of his trip also stated that this agreement permitted the Crown to make “roads through the Mississauga Country,” and it further noted that no payment had been made or even requested (Surtees 1984:36-37).

Due to these irregularities, this agreement was subject to a specific claim in 1986 by the Chippewas of Georgina Island First Nation, the Chippewas of Mnjikaning (Rama) First Nation and the Chippewas of Beausoleil Island First Nation. The terms of the claim were that the particulars of the “Collins Treaty” were unclear and that no remuneration ever occurred for the use of the land in question for a right of passage for the Crown between Lake Simcoe and Georgian Bay. Furthermore, the claimants allege that John Collins and Captain William Crawford ultimately entered into a treaty with the Chippewas without the proper authority to do so.





**LEGEND:**

John Collins' Purchase, 1785	Treaty No. 18, 1818	First Nations Land	Surrounding Counties/Regions
Treaty No. 5, 1798	Treaty No. 20, 1818	Local Municipalities	
Treaty No. 16, 1815	Williams Treaties, 1923	Simcoe County	

Figure 16: Location of Treaty Lands in Simcoe County

## Treaty No. 5 Penetanguishene (1798)

This is the first formal treaty in Simcoe County and was negotiated between the Crown and Chippewa nations.

The Penetanguishene Bay Purchase, registered as Crown Treaty No. 5, was signed May 22, 1798 between the Chippewa and the government of Upper Canada. It purchased the northern portion of the Penetang peninsula from Nottawasaga Bay to Penetanguishene, including the island in Penetanguishene harbour for the price of one hundred and one pounds in Quebec currency.

This treaty was important for the colonial government, because the land being purchased would be used as the site of the naval depot at Penetanguishene, which was an important military base on Lake Huron designed to counter a potential American invasion through that route.

The signees of the treaty on the side of the British included Provincial Commissioners William Willcocks and Alexander Burns, Major Samuel Smith, J.S. Rangers, Lieutenant Arthur Holden-Brooking of the 2nd regiment, Adjutant John McGill of the 2nd regiment, Indian Agent J. Givins, W. Johnson Chew and George Cown both of the Indian Department, and W. Claus Superintendent of Indian Affairs.

The signees of the treaty on the side of the Chippewa included Chabondashea, Aasance, Wabenenguan, Ningawson and Omassanahsqtawah (Department of Indigenous and Northern Affairs 2016; Surtees 1984).

## Treaty No. 16 Lake Simcoe (1815)

In 1811, representatives of the Crown approached the same Chippewa groups that agreed to the cession of land in the Penetanguishene purchase to acquire a large tract of land surrounding what would later become Penetanguishene Road in order to secure trade, bolster military communication and movement, and eventually encourage settlement in the region.

The Lake Simcoe-Lake Huron Purchase, registered as Crown Treaty No. 16, was signed November 18, 1815, between Chippewa representatives and the Government of Upper Canada. It purchased a large portion of the lands between Lake Simcoe and Lake Huron, including all of the territory upon which the Penetanguishene Road had recently been cut. The land is described as beginning at the western point of Kempenfelt Bay and travelling to a small bay called “O-pe-te-quoy-aw-sing” near present day Wasaga Beach. From this point, the treaty lands follow the Nottawasaga Bay to the southwestern boundary of the Penetanguishene purchase lands and follows the southern boundary to its southeastern corner and follows Georgian Bay to Matchedash Bay, where it intersects with the supposed Collins Purchase, continuing along this boundary until Lake Simcoe. The territory included a quantity of land that later became parts of the Townships of Oro, Vespra, Medonte, Flos, Tay

and Tiny in Simcoe County. The total area purchased was approximately 250,000 acres (101,200 ha). In payment for these lands, the Crown agreed to a single payment of the value of 4,000 pounds currency in goods to the three nations.

The signees of the treaty on the side of the British included Provincial Commissioners Elisha Beman and Henry Proctor, Captain W. M. Cochrane commander of light infantry, Lieutenant Alexander Ferguson of the Indian Department, interpreter William Gruet and J. Givins on behalf of the Crown.

The signees of the treaty on the side of the Chippewa included Kinaybicoinini, Aisance and Misquuckkey (Department of Indigenous and Northern Affairs 2016; Surtees 1984).

### Treaty No. 18 Lake Simcoe – Nottawasaga (1818)

The remainder of Simcoe County west of Lake Simcoe was formally obtained on October 17, 1818, when the “Lake Simcoe-Nottawasaga Purchase” was negotiated with Chippewa representatives. This purchase involved the acquisition of approximately 1.59 million acres (647,000 ha) of land to the west of Lake Simcoe.

The land subject to the purchase is described in the treaty as bounded by the District of London on the west, by Lake Huron on the north, by the Lake Simcoe purchase (Treaty 16, 1815) on the east, by the south shore of Kempenfelt Bay, the western shore of Lake Simcoe and Cook's Bay and the Holland River to the north-west angle of the Township of King to the south. In payment for these lands, the Crown agreed to pay the value of twelve hundred pounds currency in goods annually to the nations.

The signees of the treaty on the side of the British included J. Givens, Superintendent of Indian Affairs, Alex McDonnell, John Claus, and William Claus on behalf of the Crown.

The signees of the treaty on the side of the Chippewa included Musquakie [Misquuckkey], Kaqueticum, Muskigonce, and Manitonobe (Department of Indigenous and Northern Affairs 2016; Surtees 1984).

### Treaty No. 20 Rice Lake (1818)

A large portion of land east and south of Lake Simcoe was negotiated on November 5, 1818 in the interests of encouraging British settlement north of Lake Ontario and included all of Peterborough and Victoria Counties, two small parts of Northumberland, the north half of Durham, the northern tip of Ontario County, and those parts of Muskoka and Haliburton lying south of the 45th parallel.

The land in question encompassed some 1.95 million acres (789,500 ha) and was negotiated with Mississauga nations in the Rice Lake area, although the treaty describes them as “Chippewa” (Department of Indigenous and Northern Affairs 2016). In payment for these

lands, the Crown agreed to pay the value of £749.00 currency in goods annually to the nations.

The signees of the treaty on the side of the British included J. Givens, Superintendent of Indian Affairs, William Hands, William Gruet, and William Claus on behalf of the Crown.

The signees of the treaty on the side of the Mississauga included Buckquaquet, Pishikinse, Pahtosh, Caghahkishinse, and Cahagagewin, and Pininse (Department of Indigenous and Northern Affairs 2016; Surtees 1984).

This treaty was subsequently included as part of the Williams Treaties in October and November of 1923.

## The Williams Treaties (1923)

The Williams Treaties were signed on October 31 and November 15, 1923 by representatives of the Mississaugas of Alderville First Nation, Curve Lake First Nation, Hiawatha First Nation, Scugog Island First Nation and the Chippewas of Beausoleil First Nation, Georgina Island First Nation and the Rama First Nation. The purpose of the treaties was to address lands that had not been surrendered through previous treaties and no negotiations preceded the signing of the Williams Treaties in 1923, with a commission established by the Federal and Provincial governments led by Treaty Commissioner A. S. Williams.

Through the Williams Treaties, the Crown received three tracts of land occupying approximately 52,000 km<sup>2</sup> of land. The territory covered by the Williams Treaties stretched from the northern shore of Lake Ontario between Trent River and the Don River to Lake Simcoe and the eastern shore of Georgian Bay to the French River and Lake Nipissing and was bounded to the north and east by the Ottawa River. Specifically, the Williams Treaties includes lands originally covered by the John Collins Purchase (1785), the Johnson-Butler Purchase (1787), the Rice Lake Purchase (Treaty 20 – 1818), and the Robinson-Huron Treaty (Treaty 61 – 1850). In exchange, the signing nations received a one-time payment of \$25 for each band member as well as \$233,425.00 to be divided amongst the four Mississauga nations and \$233,375.00 to be divided amongst the three Chippewa nations.

However, the seven signatory nations claimed that the original terms of the treaty were not honoured when it was written by the Crown, which was to include the right to fish and hunt within the treaty lands (Surtees 1986; Williams Treaties First Nations 2017). In 1992, the seven Williams Treaties First Nations filed a lawsuit against the federal government — Alderville Indian Band et al v. Her Majesty the Queen et al — seeking compensation for the 1923 land surrenders and harvesting rights. This case went to trial in 2012 and in September 2018 the Federal and Provincial governments announced that they had successfully reached a settlement with the seven nations. The settlement includes financial compensation of \$1.11 billion to be divided amongst the nations as well as an entitlement for each First Nation to add up to 11,000 acres to their reserve lands and the recognition by the Crown of the First Nation's Treaty rights to harvest on Crown lands within the treaty territories (Government of Canada 2018).

### 11.3 Indigenous Communities with Rights and Interests in Simcoe County

There are currently 13 rights-bearing Indigenous nations or communities that have an expressed interest in Simcoe County. Determination of rights as it relates to development applications within the County can be based on existing Treaty rights within the County or based on historical interest and traditional territories identified by a specific community or nation. This is consistent with the affirmation of existing Aboriginal and Treaty rights in Section 35 of the *Constitution Act*, 1982. The 13 Indigenous communities or nations that have established or potential Aboriginal or Treaty rights within the Study Area, or who have an established interest in the County:

- Alderville First Nation;
- Beausoleil First Nation;
- Chippewas of Rama First Nation;
- Curve Lake First Nation;
- Georgina Island First Nation;
- Hiawatha First Nation;
- Huron-Wendat Nation;
- Métis Nation of Ontario;
- Mississaugas of Scugog Island First Nation;
- Mississaugas of the Credit First Nation;
- Moose Deer Point First Nation;
- Saugeen Ojibway Nation; and,
- Wahta Mohawks

Several nations have expressed interest in the entire County of Simcoe. This includes the seven member nations of the Williams Treaties Nations (Beausoleil First Nation, Chippewas of Rama First Nation, Curve Lake First Nation, Georgina Island First Nation; Hiawatha First Nation, Mississaugas of Alderville First Nation, and Mississaugas of Scugog Island First Nation) as well as the Huron-Wendat Nation, the Georgian Bay Council of the Métis Nation of Ontario, and in recent correspondence, the Wahta Mohawks. Other nations have expressed interest in specific areas or Townships within the County, namely the Mississaugas of the Credit First Nation and the Saugeen Ojibway Nation.

#### 11.3.1 Nations with Interest in all Townships within the County of Simcoe

As treaty-holders for Simcoe County, the Williams Treaties Nations have expressed interest in the entire County of Simcoe as it relates to development applications and potential impact to cultural heritage resources. This perspective was confirmed during meetings held with participating Williams Treaties nations throughout the archaeological management plan Indigenous engagement program.

The County of Simcoe is located within the ancestral homelands of the Huron-Wendat Nation and is the location of historic Huronia. Based on their cultural patrimony within the County, the Huron-Wendat Nation has expressed interest in all projects within the County where ground disturbance is contemplated, including archaeological assessments.

Simcoe County is the home of the historic Métis community in Penetanguishene and has been the home to Métis communities since at least the 18th century. Similarly, the Métis Nation of Ontario identifies all of Simcoe County as the traditional harvesting territory of the Georgian Bay Traditional Territory Métis (The Métis Nation of Ontario 2009, 2017).

In recent correspondence, Wahta Mohawks asserts that as part of the Iroquois Confederacy and signatories to the 1701 Albany Nanfan Treaty, the Nation hold rights and interest in all of Simcoe County.

### 11.3.2 Nations with Interests in Specific Townships within the County of Simcoe

The Mississaugas of the Credit First Nation identify their traditional territory across approximately 3.9 million acres in Southern Ontario. This is equivalent to a territory which extends from the Rouge River watershed westward to the headwaters of the Thames River and south to Long Point on Lake Erie and then following the shoreline until the Niagara River to Lake Ontario and back to the Rouge River watershed. These lands largely fall outside of the County of Simcoe, however, a small portion of the Humber River watershed extends into the southernmost portion of the Township of Adjala-Tosorontio. As the Humber River watershed is part of the Mississaugas of the Credit First Nation's traditional territory, it is assumed that the Nation is interested in any development projects that are within the Humber River Watershed within Simcoe County.

The Saugeen Ojibway Nation identify their traditional territory as including the Bruce Peninsula, including the waters and islands of Lake Huron and Georgian Bay surrounding the Peninsula, and extending south to include the Maitland River watershed and east to include the Nottawasaga River watershed. Based on mapping provided in the Saugeen Ojibway Nation's Archaeological Standards and Guidelines document (Saugeen Ojibway Nation 2011), this is equivalent to the Town of Collingwood and the Town of Wasaga Beach, as well as the Townships of Adjala-Tosorontio, Clearview, Essa, New Tecumseth, and Springwater. This perspective was confirmed during a meeting held with a representative of the Saugeen Ojibway Nation as part of the archaeological management planning program.

### 11.3.3 Existing Consultation Protocols in the County of Simcoe

Currently, there are five consultation protocols established by rights-bearing Nations with identified territory in Simcoe County. These are the Alderville First Nation Consultation Protocol, the Curve Lake First Nation Consultation and Accommodation Standards, the Hiawatha First Nation Consultation and Accommodation Standards, the Métis Nation of Ontario – Consultation Protocol for the Georgian Bay Traditional Territory, and the

Mississaugas of the Credit First Nation Consultation and Accommodation Protocol. These documents are produced by the individual nations and outline the Nation's expectations of the Crown and proponents regarding consultation and accommodation within its Traditional Territory or Treaty Territory for any project which might impact the Nation's rights. Furthermore, the documents outline guiding principles for meaningful consultation, the consultation process expected by the Nation, potential costs, and the process of dispute resolution.

Additionally, in May of 2018, the Town of Midland and Beausoleil First Nation officially signed a Protocol Agreement. The purpose of the new Protocol Agreement is to ensure there is transparent, open dialogue and engagement with regards to municipal and Indigenous matters, specifically relating to project and planning matters and shared efforts to advance each community's development. As part of this Agreement a new Joint Indigenous Relations Group will be established, focusing on economic development, heritage sharing and planning, land use planning, as well as potential communication with other levels of government in order to advance the collective interests of both governments.

Currently, there are three documents produced by rights-bearing First Nations with identified territory in Simcoe County that specifically relate to archaeological assessments. These are the Curve Lake First Nation Archaeological Protocol, the Mississaugas of the Credit First Nation Standards and Guidelines for Archaeology, and the Saugeen Ojibway Nation Archaeological Standards document. These documents identify the nation's expectations vis a vis archaeological assessment practices and how these expectations differ from relevant archaeological statutes and regulations of the *Ontario Heritage Act*, as well as the Ministry of Tourism, Culture and Sport's *Standards and Guidelines for Consultant Archaeologists and Engaging Aboriginal Communities in Archaeology* Technical Bulletin. In each of these documents, it is the expectation of the Nation that the proponent or approval authority begins with the Nation at the initial stage of archaeological assessment.

Often the archaeological sites that are to be the focus of the consultation are of such antiquity that no conclusive identification of cultural affiliation to modern communities is possible, for example, sites older than AD 1000. Under circumstances of this sort, there should be an effort to identify all groups that are appropriate (on cultural-historical grounds) to act as the designated descendants of those who occupied the project area in the past, and who are willing to participate and ensure that cultural heritage remains are treated in an appropriate manner. This identification process is best achieved through negotiation with all the communities named above in order that they may themselves arrive at the final decision. In this way, ancient sites are represented by all the First Nations together.

## 11.4 Summary of Engagement with Indigenous Communities

The Indigenous engagement program for the County of Simcoe Archaeological Management Plan project followed the approach of separate and direct engagement with rights-bearing First Nations and Métis communities. A list of First Nations and Métis communities or nations that have established or potential Aboriginal or Treaty rights within the Study Area, or who

have an established interest in the County, has been consolidated from several sources. These sources include contact lists maintained by the County of Simcoe and ASI. Additionally, the Ministry of Municipal Affairs and Housing and the Ministry of Indigenous Affairs (formerly Ministry of Indigenous Relations and Reconciliation) have been circulated the full contact list and summaries of Indigenous engagement activities throughout the project in order to provide any feedback or direction on the engagement activities that the County should take as it relates to the Archaeological Management Plan Project. Based on these criteria, 13 nations or communities were contacted about the project:

- Alderville First Nation;
- Beausoleil First Nation;
- Chippewas of Rama First Nation;
- Curve Lake First Nation;
- Georgina Island First Nation;
- Hiawatha First Nation;
- Huron-Wendat Nation;
- Métis Nation of Ontario;
- Mississaugas of Scugog Island First Nation;
- Mississaugas of the Credit First Nation;
- Moose Deer Point First Nation;
- Saugeen Ojibway Nation, and;
- Wahta Mohawks.

Engagement with rights-bearing First Nations and Métis communities or organizations as it relates to the Simcoe Archaeological Management Plan project began in November 2017 with the circulation of a project notice and draft Terms of Reference by mail and email to the 13 identified nations. The Notice describes the decision to undertake the project, its goals and timeline, as well as providing a contact for the County of Simcoe. Additionally, the notice invites recipients to contact the County if they have any preliminary comments on the project or the draft Terms of Reference or would like to organize a meeting to discuss the project further. Follow-up calls and emails were made on this notice in December 2017 in order to elicit preliminary comments from nations and to organize a meeting between County staff, ASI project staff, and representatives of the First Nations and Métis community or nation.

Several groups indicated interest in the project and meetings were held in February and March 2018 in order to introduce the project, document preliminary comments, and provide any preliminary data or mapping that may help the nation assess the potential impacts of the project on its Aboriginal and Treaty rights. These meetings were held with Beausoleil First Nation, Chippewas of Rama First Nation, Curve Lake First Nation, Hiawatha First Nation, the Huron-Wendat Nation, Mississaugas of Scugog Island First Nation, and Saugeen Ojibway Nation. A meeting was also requested by the Métis Nation of Ontario – Georgian Bay Council, however the County was unable to meet this request due to funding capacity issues.

Following these meetings, the County of Simcoe and ASI provided these nations with further data and information as requested, as well as five separate project updates to all recipients at key milestones. These updates included the establishment of a project website, the public



notice and notice of the first round of public consultation events, a summary of the comments and materials from the first round of public events, a detailed update in September 2018 with a presentation of model criteria, milestones to date, and draft policies and procedures for review and comment, and finally, a notice of the second round of public consultation events. A project completion notice will also be circulated to nations at a future date.

A second round of meetings with some First Nations communities and nations was organized in November and December, 2018. The goal of this meeting was to present the final draft modelling criteria and results of the Indigenous Site Potential and Historical Site Potential models and to elicit feedback on the criteria, the models, implementation, and policy and planning procedures. These meetings were held with Chippewas of Rama First Nation, Curve Lake First Nation, Hiawatha First Nation, Huron-Wendat Nation, and Mississaugas of Scugog Island First Nation. Both the Métis Nation of Ontario – Georgian Bay Council and Saugeen Ojibway Nation identified interest in meeting with the County to discuss this project further however due to funding capacity issues, a meeting could not be arranged.

A draft version of this report, all technical studies, and a draft version of the Composite Archaeological Potential Layer were provided to all 13 nations on July 8, 2019 in order to elicit feedback and comment. Nations were given a deadline of September 16, 2019 to provide comment on the documents and the consultant, as a representative of the County of Simcoe, followed up individually with designated contacts on several occasions prior to the deadline. Any comments made by Indigenous communities have been incorporated into this document.

In October 2019, the Georgian Bay Council of the Métis Nation of Ontario agreed to meet with the County of Simcoe as information sharing, recognizing the importance of this project to the broader Métis community in the County. This meeting was separate from any formal engagement process as outlined in the Métis Nation of Ontario Consultation Protocol for the Georgian Bay Traditional Territory and was provided in order for the Métis Nation of Ontario to better understand the project and its impacts on Métis rights.

## 11.5 Recommended Stage 4 Mitigations Based on Cultural Heritage Value of Indigenous Sites

In discussions with all the First Nations with an interest in the archaeological record of south-central Ontario during the preparation of archaeological policy and guidelines for York Region (2013), a discussion was held with thirteen First Nations and the Métis Nation that resulted in an outline of Stage 4 mitigative recommendations for sites of various time periods and types. Such a comprehensive discussion, carried out over several years, has not been undertaken with the First Nations with a stated interest in the County of Simcoe.

It should be noted that there is a presumption in favour of protection and preservation of any Indigenous site that has not been disturbed by ploughing or other modern land uses. It should also be noted that the indicators for cultural heritage value that Indigenous peoples communicated for sites were not based in any way on the provincial table in Section 12.3.2

(Table 2). In their view, any Indigenous site should be deemed to be of significant cultural heritage value. The archaeological policies for the County of Simcoe similarly encourage protection as the preferred option to mitigate the impacts of proposed development on any archaeological feature.

## **12.0 Integrating Archaeological Assessment and the Development Review Process**

### **12.1 Archaeological Review Process in Ontario – Roles and Responsibilities**

#### **12.1.1 Role of Province**

The Archaeology Programs Unit of the MTCS has the primary administrative responsibility under the *Planning Act* for matters relating to cultural heritage including archaeological resources.

While a checklist has been prepared by MTCS entitled *Criteria for Evaluating Archaeological Potential: A Checklist for the Non-Specialist (2015)*, which provides generic criteria for municipal planners to use to assess archaeological potential, those municipalities that have undertaken detailed archaeological potential studies or archaeological management plans, like the County of Simcoe, have access to much more detailed information specific to their jurisdictions. Such plans provide more effective and accurate means of determining archaeological potential and whether or not archaeological assessments should be required.

Most Approval Authorities also rely on MTCS review of archaeological assessment reports when deciding whether concerns for archaeological sites have been addressed by a development proponent. After reviewing an archaeological assessment report, MTCS staff will provide the consultant archaeologist who completed the assessment with a compliance letter. If the archaeological assessment report complies with the *Ontario Heritage Act*, specifically the terms and conditions for archaeological licences and MTCS requirements for archaeological fieldwork and reporting, the letter will inform the consultant archaeologist that the archaeological assessment report has been accepted and entered into the Ontario Public Register of Archaeology Reports. The letter, in conjunction with the archaeological assessment report, can be used by the Approval Authority to verify that concerns for archaeological sites have been addressed for the property that was assessed or that further work is required.

The MTCS have committed to copy the Approval Authority and development proponent of their review. MTCS is also ultimately responsible for 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 and development process.

### 12.1.2 Role of Consultant Archaeologists

As part of the land use planning and development process, development proponents rely on consultant archaeologists who hold a professional license issued by the MTCS. Consultant archaeologists carry out archaeological assessments to ensure that requirements for archaeological sites have been addressed and that previously unknown archaeological sites are identified. They also provide technical advice on appropriate measures for the conservation of archaeological sites.

Only consultant archaeologists may determine significance of archaeological sites or define the extent to which archaeological potential has been affected by land use on a parcel of land. **Only consultant archeologists have the skills to evaluate land disturbance and remaining integrity.**

### 12.1.3 Role of the Development Proponent

Conservation planning and management is generally concerned with ensuring that valued cultural heritage resources are conserved and protected in a sound and prudent manner in the continuing and unavoidable process of change in the environment. A key issue is that the role of custodian and steward of these resources generally falls to the private property owner, as it is neither possible nor desirable that all resources be brought into public ownership. Therefore, conservation management is undertaken by a variety of actors, and it is necessary, through legislation and education, to bring all of these actors together in pursuit of a common goal. In many instances, it is traditional planning mechanisms that seek to ensure that cultural heritage resources are conserved and/or maintained within the process of land use change.

When an archaeological assessment is required by the County or local municipality for planning or development applications, it is the responsibility of the development proponent to retain a consultant archaeologist to carry out the requisite archaeological work. In order to carry out Stage 1 and/or 2 assessments, the consultant archaeologist will require signed consent to enter the property and carry out the fieldwork along with a copy of the most recent development plan, if available, or plan of topographic survey. The study area limits must be clearly marked, and the map should show existing conditions including contour lines, trees and treelines, fence lines, property lines, structures, driveways, watercourses, etc., together with a bar scale and north arrow. For report purposes, a digital version of the development plan in AutoCAD or editable PDF format should also be provided to the consultant archaeologist.

Development proponents should note that consultant archaeologists must follow the MTCS *Standards and Guidelines for Consultant Archaeologists* when undertaking their work. Frequent issues that often arise between development proponents, their consultant archaeologists, and MTCS include whether consultant archaeologists are able to work when there is snow on the ground (including Stage 1), whether a consultant archaeologist can provide a letter alone rather than a Stage 1 report and is there built-in flexibility in the

*Standards and Guidelines for Consultant Archaeologists* for a consultant archaeologist to deviate from the provincial requirements.

The *Standards and Guidelines for Consultant Archaeologists* do not permit archaeological fieldwork in adverse weather conditions. There is a bulletin developed by the MTCS to aid consultant archaeologists in the development and implementation of appropriate measures to offset adverse weather conditions when winter fieldwork is unavoidable (*Winter Archaeology: A Technical Bulletin for Consultant Archaeologists in Ontario*). It should be noted that before proceeding with any winter fieldwork, consultant archaeologists must discuss and request confirmation of their proposed strategy with the Archaeology Programs Unit staff of the MTCS. It should also be noted that inspections of properties for Stage 1 archaeological assessments may only be conducted when weather conditions permit – when there is good visibility of land features. The *Standards and Guidelines for Consultant Archaeologists* specifically note that snow cover, frozen ground, excessive rain (or drought) may reduce the chances of observing features of archaeological potential.

There are standards in the *Standards and Guidelines for Consultant Archaeologists* for reporting and all licensed activity for which a Project Information Form (PIF) has been submitted necessitates the filing of an archaeological assessment report. Stage 1 archaeological assessments cannot be satisfied by the submission of a letter and the Approval Authority should refuse to issue clearance to a property until such archaeological assessment report has been submitted and reviewed by MTCS and a letter of compliance issued.

Consultant archaeologists are now required to obtain utility locates in advance of undertaking archaeological fieldwork. The consultant archaeologist will therefore have public utility underground locates for the work area for all public utilities from Ontario One Call and any other public utility companies that are not members of these call centers. On behalf of the development proponent, and with their consent, the consultant archaeologist should also retain a private utility locator to have the private utilities located on the property.

Some cables or pipes (water lines, drains, etc.) may not be detectable or located accurately due to depth, lack of tracer wires, material makeup, and inability to connect properly in utility and equipment congested or confined areas. This may be compounded by lack of access or access too far from the area to be traced.

Should an archaeological resource be found during the initial field assessment in Stage 2, it must be subject to Stage 3 investigations prior to its protection or mitigative excavation. If an archaeological resource is found during a Stage 2 archaeological assessment, a Stage 3 assessment of that resource is not required should the development proponent decide to not proceed with the development that triggered the Stage 2 assessment. The archaeological resource will be protected from disturbance by Section 48(1) of the *Ontario Heritage Act*.

#### 12.1.4 Role of Approval Authority

An Approval Authority “is any public body (municipality, conservation authority, provincial agency, and ministry) that has the authority to regulate and approve development projects

that fall under its mandate and jurisdiction (*Standards and Guidelines for Consultant Archaeologists*: 162).” It approves those applications where development proponents have met all local by-laws, other legislated requirements, and public concerns such as whether land to be developed may contain archaeological sites that merit an archaeological assessment.

When the Approval Authority in the County determines that there is potential for impacts to archaeological resources from planning or development applications, the development proponent is required to retain a consultant archaeologist to undertake an archaeological assessment, the results of which are subject to MTCS review to determine if the report is compliant with the archaeological licensing and reporting requirements of the *Ontario Heritage Act*.

The Approval Authority review of planning applications for determining if archaeological resources may be present or within areas of archaeological potential will be made by the planner using the Archaeological Potential Planning Layer. If it is determined that a property has archaeological potential, it will advise the development proponent to retain a consultant archaeologist to carry out an archaeological assessment before any soil disturbance, development, and/or site alteration occurs.

The Approval Authority and the County of Simcoe must receive copies of all archaeological assessment reports and MTCS letters of compliance prior to soil disturbance, development, and/or site alteration. This is best undertaken by the consultant archaeologist immediately upon their receipt of the MTCS letter(s) of compliance.

## 12.2 When Does the Archaeological Potential Planning Layer Apply?

An archaeological assessment may be required for the following application types if any portion of the property is within the archaeological potential planning layer:

- Official Plan Amendments (including Secondary Plans/ Secondary Plan Amendments);
- Zoning By-law Amendments;
- Site Plan Control;
- Plans of Subdivision and Condominium; and
- Consent applications that create 2 or more new lots and where development and/or site alteration is proposed or expected).

At a minimum, a Stage 1 archaeological assessment is required for the above. Only a consultant archaeologist, undertaking a Stage 1 archaeological assessment, can demonstrate that no archaeological potential survives within an area identified within the archaeological potential planning layer. In some cases where archaeological potential is clear, it is recommended that the development proponent has a consultant archaeologist undertake a Stage 1-2 archaeological assessment.

### 12.2.1 Official Plan Amendments

If a property owner or development proponent wishes to use, alter or develop a property in a way that does not conform to the Official Plan, they must apply for an Official Plan Amendment. Any change to the Official Plan requires an Official Plan Amendment application. These applications require archaeological assessments of the properties if any portion of the property falls within the archaeological potential planning layer identified in the AMP. The resultant report may recommend further archaeological assessment to be completed prior to soil disturbance, development, and/or site alteration.

Secondary Plans establish local development policies to guide growth and change in a defined area of a municipality. Secondary Plan policies adapt and implement the objectives, policies, land use designations and overall planning approach of the Official Plan to fit local contexts and are adopted as amendments to the Official Plan. Archaeological assessments undertaken at the Secondary Plan stage provide the best opportunity for protecting significant archaeological sites through development design.

### 12.2.2 Zoning By-Law Amendments

According to Section 34 of the *Planning Act*, Approval Authorities have the authority to implement land use controls through Zoning By-laws. The Zoning By-law is the legal document that implements policies and objectives described in the Official Plan and regulates the use and development of buildings and land by:

- 1) Stating what types of land uses are permitted in various areas. Examples of these uses are residential, commercial, mixed commercial-residential, institutional and industrial.
- 2) Outlining how the land can be developed by establishing precise standards for factors such as lot size and frontage, building setbacks, the height and built form of structures, the number and dimensions of parking and loading spaces and requirements for open space.

Such provisions could be used to manage a documented archaeological resource.

In order to protect archaeological resources, where an archaeological assessment cannot be undertaken immediately, a municipality can use its ability under Section 36 of the *Planning Act* (Holding provision by-law). As the Section states:

36. (1) The council of a local municipality may, in a by-law passed under section 34, by the use of the holding symbol "H" (or "h") in conjunction with any use designation, specify the use to which lands, buildings or structures may be put at such time in the future as the holding symbol is removed by amendment to the by-law. R.S.O. 1990, c. P.13, s. 36 (1).

The wording of the holding provision should be established or altered to be consistent with the objective to ensure known or potential archaeological resources are conserved in

accordance with the provision of the *Ontario Heritage Act*, the *Planning Act*, and/or the PPS (2014), that the development proponent shall complete required archaeological assessment(s), shall conserve significant archaeological resources identified through the completed archaeological assessments, and shall complete required engagement with First Nations. No soil disturbance, development, and/or site alteration shall take place on the subject property prior to the issuance of a letter of compliance by MTCS.

### 12.2.3 Plans of Subdivision and Plans of Condominium

When a property owner wants to divide a piece of land into two or more parcels and offer one or more for sale, the provisions of the *Planning Act* are applicable and therefore the archaeological assessment provisions are mandatory. These applications therefore require archaeological assessments of the entire property if any portion of the property falls within the archaeological potential planning layer in the AMP. The resultant report may recommend further archaeological assessment to be completed prior to any soil disturbance, development, and/or site alteration.

### 12.2.4 Consent Applications

Consents provide property owners with some flexibility within the subdivision control process. A consent application is required to sever land into new lots, add land to an abutting lot, establish easements or rights-of-way, and lease land or register a mortgage in excess of 21 years.

Where any portion of a consent application, which creates 2 or more new lots and where development and/or site alteration is proposed or expected, falls within the Archaeological Potential Planning Layer in the AMP, should be subject to a condition requiring that an archaeological assessment be completed that recommends no further archaeological assessment of the study area is warranted; the provincial interest in archaeological resources with respect to the proposed undertaking has been addressed; and the proposed undertaking is clear of any archaeological concern, prior to the municipality issuing the Certificate of Consent allowing the new lots to be created..

### 12.2.5 Public Works Projects (County and Local Municipalities)

All public works projects must be consistent with an Approval Authority's Official Plan; this includes its cultural heritage and archaeology policies. Works must also be consistent with the PPS (2014). It is understood that there are instances where public works may have an impact on known archaeological sites or lands identified within the archaeological potential planning layer in the AMP. These include the development or replacement of infrastructure (e.g., roads, bridges, sewage and water systems), the construction and maintenance of municipal assets (e.g., public service facilities), and public realm improvements including urban cores, as well as in all parks and open spaces within the Approval Authority's jurisdiction.

If any portion of the lands subject to a public works project falls within the Archaeological Potential Planning Layer of the County's Archaeological Management Plan as determined by the County or local municipality, the proponent will retain a licensed consultant archaeologist to complete a supporting Archaeological Assessment to determine potential impacts to archaeological resources.

No site alteration, soil disturbance, demolition, construction or any form of grading shall be carried out prior to:

- The completion of an Archaeological Assessment report (Stages 1, 2, 3 or 4, as required) prepared by a licensed archaeologist in accordance with provincial licensing requirements and the Ministry of Tourism, Culture and Sports *Standards and Guidelines for Consultant Archaeologists*, recommending that the Provincial interest in archaeological resources with respect to the proposed undertaking has been addressed and that no further archaeological assessment of the project area is required.

With specific reference to road construction or reconstruction and bridge replacement or rehabilitation, a Stage 1 Archaeological Assessment is required if the proposed work falls within an Archaeologically Sensitive Area (ASA) or if the proposed work is within 50 metres of a registered archaeological site, excluding isolated findspots and sites cleared of further Cultural Heritage Value or Interest. In the case of emergency repairs, these are typically not subject to archaeological assessment in either ASAs or areas of general archaeological potential. Emergency work must be limited to defined parameters and not impact ASAs beyond the emergency scope. Should any archaeological remains or features be discovered during this work, those undertaking the work must contact County or Town/Township Planning staff immediately.

If the project is subject to a Municipal Class A or A+ Environmental Assessment process, no Archaeological Assessment is required. For projects subject to a Municipal Class B or C Environmental Assessment, an Archaeological Assessment will be undertaken should the project be situated within the Archaeological Potential Planning Layer of the County's Archaeological Management Plan.

### 12.2.6 Process for Notifying Landowners of Archaeological Sensitive Areas (ASAs) for Consent and Minor Variance Applications or Building Permits

As outlined in Section 9.4, it is illegal for any person or agency to alter an archaeological site (see Section 1.1 for definition) without a license. This, in effect, offers automatic protection to all archaeological sites. Accordingly, the County and local municipalities should exercise due diligence in all planning contexts to ensure that archaeological features are protected from disturbance of any nature. There are also significant penalties for altering an archaeological site without a permit including fines and/or imprisonment.



Therefore, if in the review of a Consent or Minor Variance application, the Approval Authority determines that the lands subject to the application contain an Archaeological Sensitive Area (ASA) or an ASA is abutting the subject lands, the Approval Authority is encouraged to advise the applicant in writing of this fact. Note: A sample letter will be provided in the AMP for municipal use.

While Building Permits do not require archaeological assessments given that they are not subject to applicable law, local municipalities should advise the property owner of an ASA or a registered archaeological site of the provincial statute prohibiting such disturbance during the Building Permit process. It is in the best interest of the local municipality to inform such a property owner of this legal responsibility. This would protect the local municipality from any potential litigation should such a property owner having altered an archaeological site find themselves charged under the *Ontario Heritage Act*.

## 12.3 Archaeological Review Process

### 12.3.1 County of Simcoe Community Services – Implementation Process

Figure 17 outlines the basic decision flow recommended for use in the development review process for all land development applications within the County. This is followed by an outline of the archaeological assessment process and its stages and the standard condition that can be applied to all planning and development applications where a portion of the property falls within the Archaeological Potential Planning Layer defined in the AMP.

The general sequence of actions is as follows:

1. As part of the pre-application consultation process, the Approval Authority will determine if an archaeological assessment is required by means of review of the Archaeological Potential Planning Layer. Should any portion of the property fall within that layer, a Stage 1 or Stage 1-2 archaeological assessment of the entire property is required. The archaeological assessment would be undertaken by the consultant archaeologist for the development proponent and submitted as part of the complete planning application. If required, the Approval Authority will recommend that the completion of an archaeological assessment be made a condition of approval.
2. All work conducted by the consultant archaeologist must conform to the standards set forth in the most current *Standards and Guidelines for Consultant Archaeologists* and associated Bulletins issued by MTCS.
3. Once a Stage 1-2 archaeological assessment, consisting of background research and a field survey, has been completed, the consultant archaeologist will submit a report to the Archaeology Programs Unit of the MTCS. The staff of the Archaeology Programs Unit of the MTCS will review the report to determine if the assessment has met current

licensing and technical standards. If this is not the case, MTCS will require the consultant archaeologist to carry out additional field work, and/or provide more extensive documentation.

4. If the archaeological assessment complies with licensing and technical standards and did not result in the identification of any intact 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 staff of the Archaeology Programs Unit of the MTCS will provide a compliance letter to the consultant archaeologist, Approval Authority and the County of Simcoe, 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 MTCS approval and copies of the archaeological assessment report(s), the Approval Authority may then consider development approval of the subject lands.
5. If the Stage 1-2 assessment resulted in the documentation of one or more significant archaeological resources as determined by the consultant archaeologist, appropriate mitigation and/or preservation options must be recommended by the consultant archaeologist and approved by MTCS. Upon completion of the mitigation, the consultant archaeologist must provide a report detailing this work and its results to MTCS, which will review the work and provide the consultant archaeologist with a compliance letter that there are no further archaeological concerns, or that additional archaeological assessment is required.

Protection of archaeological sites is the preferred form of mitigation. Stage 3 Assessment follows from the initial identification of an archaeological site with further cultural heritage value or interest and provides the evidence and information upon which to base the formulation of the Stage 4 strategy. There are both short- and long-term components to the process of site protection, as outlined in the *Standards and Guidelines for Consultant Archaeologists*.

In cases in which the avoidance and protection option is pursued, the limits of the site must be fully defined through completion of Stage 3 archaeological assessment. The avoidance and protection area defined for the site must include the entire archaeological site and a minimum 20 metre buffer zone in the case of Late Woodland village sites or a minimum 10 metre buffer zone for all other site types. The buffer zone may be reduced in areas where pre-existing, permanent physical constraints to the extent of the site are present.

To ensure there are no impacts to the avoidance and protection area in the short term, during development of contiguous lands, the limits of the avoidance and protection area must be fenced (snow fencing or similar type) by the development proponent under the supervision of a consultant archaeologist prior to any soil disturbance, development, and/or site alteration. The protective fencing must remain in place for the duration of any development work resulting in land disturbance and instructions issued to all on-site contractors that there are to be no impacts of any sort within avoidance

and protection area. It is a “no go” area. The avoidance and protection area must also be identified on all project mapping. Written confirmation from the development proponent regarding their commitment to implement this strategy and confirmation that any ground alterations will avoid the avoidance and protection area must be submitted to MTCS prior to initiation of any such work and copied to the Approval Authority. The maintenance and efficacy of the fencing must be confirmed through monitoring on the part of a consultant archaeologist and a report documenting this process must be submitted to MTCS and the Approval Authority.

By following this process, development proponents will have sufficient time to plan for archaeological site protection, rather than salvage excavation, by considering alternative site plan designs.

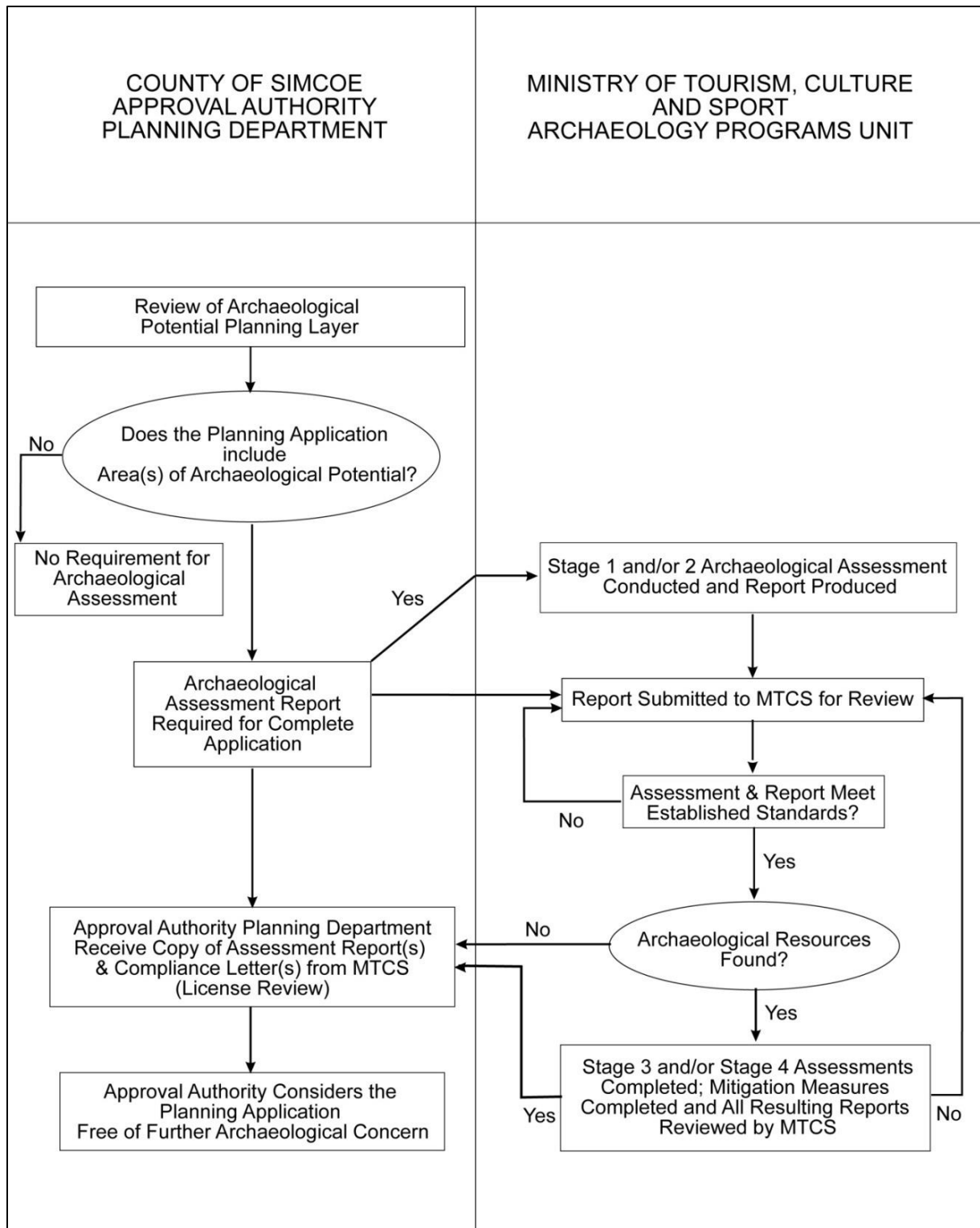
In terms of long-term protection, the most effective mechanisms are a restrictive covenant on title or a zoning by-law amendment, and preferably, transfer of ownership to the affiliated First Nation or a public land-holder. The allowable uses of the protected area, under the terms of the covenant or by-law amendment, must not include any activities that would result in even minor soil disturbances or alterations, such as tree removal, minor landscaping, and installation of utilities. Should transfer of ownership be part of the long-term protection strategy, the new property owner must provide documentation to MTCS demonstrating that they are aware of their obligations with respect to the archaeological site and its protection and their ability to fulfil those obligations. It is also often recommended that this documentation include a proviso acknowledging that any future alterations or soil disturbances that may ultimately be proposed within the protection zone must be preceded by further Stage 3 archaeological assessment and Stage 4 mitigation of impacts in accordance with the *MTCS Standards and Guidelines for Consultant Archaeologists*.

6. Upon receipt of the archaeological review compliance letter from the MTCS that archaeological conservation and licensing concerns have been addressed, and receipt of the necessary copies of archaeological assessment reports from the consultant archaeologist, the Approval Authority will clear the planning application of further archaeological concern.

Should the development proponent choose not to proceed with all necessary Stage 3 and Stage 4 assessments prior to submitting a planning and development application, the completion of these activities to the satisfaction of MTCS must be made a holding provision and/or a condition of approval (e.g., draft plan condition of approval for a Plan of Subdivision).

It should be noted that completion of an archaeological 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 natural processes, such as 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.

Therefore, every archaeological assessment report should contain the statement that should deeply buried archaeological remains be found on a property during construction activities, the MTCS should be notified immediately. It should further specify that if human remains are encountered during construction, the development proponent must immediately contact the police, MTCS, and the Registrar of Burial Sites, War Graves, Abandoned Cemeteries and Cemetery Closures, Ministry of Government and Consumer Services.



**Figure 17 – Review in the Planning and Development Application Process**

## THE ARCHAEOLOGICAL ASSESSMENT PROCESS

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.

## WORDING FOR THE ARCHAEOLOGICAL CONDITION

The development proponent shall retain an archaeologist, licensed by the Ministry of Tourism, Culture and Sport under the provisions of the *Ontario Heritage Act* (R.S.O 1990 as amended) to carry out a Stage 1 (or Stage 1-2) archaeological assessment of the entire property and follow through on recommendations to mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found (Stages 3-4). The archaeological assessment must be completed in accordance with the most current *Standards and Guidelines for Consulting Archaeologists*, Ministry of Tourism, Culture and Sport.

All archaeological assessment reports, in both hard copy format and as a PDF, will be submitted to the Approval Authority and the County of Simcoe once the Ministry of Tourism, Culture and Sport has accepted them into the Public Registry.

Significant archaeological resources will be incorporated into the proposed development through either in situ preservation or interpretation where feasible or may be commemorated and interpreted through exhibition development on site including, but not limited to, commemorative plaquing.

No demolition, construction, grading or other soil disturbances shall take place on the subject property prior to the Approval Authority receiving the Ministry of Tourism, Culture and Sport compliance letter indicating that all archaeological licensing and technical review requirements have been satisfied.

### 12.3.2 Determining the Cultural Heritage Value of Archaeological Resources

The *Standards and Guidelines for Consultant Archaeologists* sets out criteria for determining the cultural heritage value of archaeological resources, including information value, value to a community, and value as a public resource. They define a set of indicators based on these criteria, which helps to determine which archaeological resources are significant and therefore must be preserved or conserved. Engagement with First Nations may also identify Indigenous values not captured in this table.

**Table 2: Indicators Showing Cultural Heritage Value or Interest (reproduced from Standards and Guidelines for Consultant Archaeologists)**

<b>Information Value</b>	
The archaeological site contributes to local, regional, provincial or national archaeological history.	
<b>Criteria</b>	<b>Indicators</b>
Cultural Historical Value	Information from the archaeological site advances an understanding of: <ul style="list-style-type: none"> <li>• Cultural history – locally, regionally, provincially or nationally</li> <li>• Past human social organization at family, household or community level</li> <li>• Past material culture – manufacture, trade, use and disposal</li> </ul>
Historical Value	The archaeological site is associated with: <ul style="list-style-type: none"> <li>• Oral histories of a community, Indigenous community, or specific group or family</li> <li>• Early exploration, settlement, land use or other aspect of Ontario’s history</li> <li>• The life or activities of a significant historical figure, group, organization or institution</li> <li>• A significant historical event (cultural, economic, military, religious, social or political)</li> </ul>
Scientific Value	The archaeological site contains important evidence that contributes to: <ul style="list-style-type: none"> <li>• Paleo-environmental studies</li> <li>• Testing of experimental archaeological techniques</li> </ul>
Rarity or Frequency	The archaeological site is: <ul style="list-style-type: none"> <li>• Unique – locally, regionally, provincially or nationally</li> <li>• Useful for comparison with similar archaeological sites in other areas</li> <li>• A type that has not been studied or has rarely been studied, and is therefore under-represented in archaeological research</li> </ul>
Productivity	The archaeological site contains: <ul style="list-style-type: none"> <li>• Large quantities or artifacts, especially diagnostic artifacts</li> <li>• Exotic or rare artifacts demonstrating trade or other exchange patterns</li> </ul>

**Table 2: Indicators Showing Cultural Heritage Value or Interest  
 (reproduced from Standards and Guidelines for Consultant Archaeologists)**

Integrity	<ul style="list-style-type: none"> <li>The archaeological site is well preserved and retains a large degree of original material</li> </ul>
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**Value to a Community**

The archaeological site has intrinsic value to a particular community, Indigenous community or group.

Criteria	Indicators
The archaeological site has traditional, social or religious value.	The archaeological site: <ul style="list-style-type: none"> <li>Contains human remains</li> <li>Is identified as a sacred site</li> <li>Is associated with a traditional recurring event in the community, Indigenous community or group (e.g., an annual celebration)</li> <li>Is a known landmark</li> </ul>

**Value as a Public Resource**

The archaeological site contributes to enhancing the public’s understanding and appreciation of Ontario’s past.

Criteria	Indicators
The archaeological site has potential for public use for education, recreation or tourism.	The archaeological site: <ul style="list-style-type: none"> <li>Is or can be made accessible to tourists, local residents or school groups</li> <li>Is or can be incorporated into local education, recreation or tourism strategies and initiatives</li> </ul>

### 12.3.3 Assessing Archaeological Resource Impacts and Identifying Mitigation Strategies

If no adverse impacts to an archaeological resource will occur, then development may proceed as planned. 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 Stage 2 archaeological assessment.

Should a significant Indigenous archaeological resource be discovered during an archaeological assessment, provincial regulations require the development proponent, the consultant archaeologist, and the affiliated First Nations or Métis community(s) or those identified in Section 11.3, to assess the potential impact(s) to it and arrive at rational decisions regarding potential mitigative options. Those may involve protection and avoidance of the archaeological site within the context of the proposed development, its mitigation by salvage excavation (salvage and removal), or a combination of these approaches. These decisions are subject to review by MTCS and MTCS must concur with them.



The same First Nations or Métis community(s) must also be consulted throughout the site mitigation process. Under all circumstances there should be an effort to identify the most closely affiliated group (on cultural-historical grounds) to act as the designated descendants of those who occupied the project area in the past, and who are willing to participate and ensure that cultural heritage remains are treated in an appropriate and seemly manner. Section 11 outlines the processes by which First Nations and Métis communities can be identified. It should also be noted that the MTCS has *Standards and Guidelines for Consultant Archaeologists*, which includes a Bulletin entitled *Engaging Aboriginal Communities in Archaeology* that requires Indigenous consultation between Stages 3 and 4 archaeological investigations on significant Indigenous sites and recommended consultation before Stage 2 and 3. Section 11 identifies those First Nations that might be consulted. In the case of Euro-Canadian archaeological sites, the same process is involved, there is not necessarily any requirement beyond that which occurs between the development proponent and the consultant archaeologist.

In any situation, there are several mitigative options, including avoidance, modifications to construction techniques, long-term protection, and various degrees of documentation and/or excavation, as discussed below. Similarly, in all cases, appropriate options for addressing the interpretive and educational potential of the site should be documented. It should also be noted that detailed information regarding a site is frequently required 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.

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 (archaeological site protection) 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 in special circumstances, capping.

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) to be preserved 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 for the avoidance and protection area of the site. Consideration should be given for Site Management Plans for archaeological resources retained in situ, as well as funding for perpetual care of sites transferred into public ownership.

- **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 site content and contextual information; and production of an investigative report. This mitigation strategy ultimately results in the destruction of the archaeological site and the elimination of its archaeological potential.
- **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 consultant archaeologist during the construction phase of a project. This takes the form of scheduled site visits and on-call availability during a long-term project.

All decisions regarding mitigative options or preservation strategies are subject to MTCS review and approval. This is achieved through negotiations between staff of the Archaeology Programs Unit of the MTCS and the development proponent, which may be facilitated by the consultant archaeologist.

## 12.4 Archaeological Resource Management – Operational and Administrative Matters

### 12.4.1 Managing Geospatial Data

The layers used to create the Archaeological Potential Planning Layer will be stored in the County's geospatial database. Access to these individual layers is granted only by permission of the County. These individual layers should not be publicly accessible due to the sensitivity of the information related to archaeological sites. The Composite Archaeological Potential Layer should be posted and publicly accessible on the County's website. The Archaeological Potential Planning layer should not be publicly accessible.

The County will strive to update these layers on a bi-annual basis or as needed, by adding all new archaeological sites with their Borden number and ensuring that all properties that have been subject to archaeological assessment and cleared of further archaeological concern are added to the archaeological assessments layer as appropriate. Where archaeological sites are protected permanently, only the balance of the assessed property in which the site was found is removed from the archaeological assessments layer; the site and its avoidance and protection area retain their archaeological potential.

### 12.4.2 Contingency Planning

In any case in which deeply buried archaeological remains (including burials) are encountered, all construction activity in the vicinity of the discovery, as defined by the

attending consultant archaeologist, must be suspended immediately until an appropriate mitigation strategy is identified and executed.

There exist certain situations in which unforeseen and deeply buried archaeological deposits may be discovered during construction. There are also redevelopment contexts when Approval Authorities may have limited planning control, thus being restricted in their ability to implement the AMP.

In light of these considerations, the County has developed a “Contingency Plan for the Protection of Archaeological Resources in Urgent Situations” (On file with the County of Simcoe). While a Contingency Plan is not required by legislation, it represents best planning practice. The Contingency Plan addresses:

- Notification process, involving the County of Simcoe, relevant First Nations and Métis communities, and MTCS;
- Investigation and reporting processes to be undertaken by a consultant archaeologist;
- Financial responsibility structured according to the ability to pay of public sector, private sector, and individual land owners. In the case of individual land owners, the recommendation to establish a contingency fund; and,
- A recommendation that the County establish greater latitude and flexibility in assisting individual land owners by extending inducements of various types to the private owner/developer in the community interest (e.g., rebates, temporary assessment freezes, etc.).

#### 12.4.3 Reports and Site Locations – Constraints in Sharing Information

As archaeological site locations are considered sensitive information, to protect these resources from looting by unlicensed individuals, information concerning archaeological site locations can only be provided externally for a given property to an agent of the party holding title to that property. This includes consultant archaeologists retained by the owner of a property. Consultant archaeologists should be referred to the MTCS for site information in all other circumstances as should any other external requests to the County for information about site locations. Archaeological license reports are no longer subject to the *Freedom of Information and Protection of Privacy Act*, as well as copyright restrictions, except for sensitive information concerning still extant archaeological site locations. The County may use these reports for internal purposes and provide copies to consultant archaeologists.

#### 12.4.4 Ownership of Artifacts

The question of ownership of archaeological resources, whether they be sites or individual artifacts remains unresolved in Ontario. Consequently, issues of ownership have often complicated the protection or conservation of the resource.

The *Ontario Heritage Act* governs matters related to the care and curation of artifacts. Under Section 66 (1), the *Ontario Heritage Act* stipulates that, “The Minister may direct that any artifact taken under the authority of a license or a permit be deposited in such public institution as the Minister may determine, to be held in trust for the people of Ontario” (2002, c. 18, Sched. F, s. 2 (43)). Moreover, under O. Reg. 8/06, pertaining to licensing under the *Ontario Heritage Act*, “It is a term and condition of a license that the licensee keep in safekeeping all objects of archaeological significance that are found under the authority of the license and all field records that are made in the course of the work authorized by the license, 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 *Ontario Heritage Act* and O. Reg. 8/06 typically involves the curation of recovered artifacts by the consultant 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, such as a regional museum.

#### 12.4.5 Artifact Curation

It is generally preferable that material from an 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 or disposed of without provincial approval.

The Museum of Ontario Archaeology (Western University) already houses collections of material from southern Ontario, including Simcoe County, and are willing to accept additional material according to their policies. A large amount of material from sites in the County, however, is currently curated elsewhere. Indeed, most collections derived from the activities of private archaeological consulting firms, remain in the care of those firms.

It is recommended that archaeological assemblages resulting from future archaeological investigations within the County of Simcoe be curated where feasible, at Simcoe County Museum, Huronia Museum or the Museum of Ontario Archaeology, the latter has ample capacity and is a Sustainable Archaeology facility that houses collections consistent with the policies of a collaborative Indigenous/Archaeologist committee. It is understood that these Museums may also accept donations of significant artifacts found on private land.

It is recommended that the County consider exploring options to catalogue significant archaeological collections recovered from archaeological sites within the County.

#### 12.4.6 Periodic Update to the Plan

To ensure the long-term viability of the AMP, it should be subject to comprehensive review in co-ordination with the review of the County's Official Plan as required by the *Planning Act*.

Such a review should consider any changes in MTCS criteria for site significance, any data gaps in the site inventory, changes required to the composite archaeological potential and archaeological potential planning layers, and all procedures and guidelines related to the implementation of the AMP.

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## 14.0 Glossary

### Aboriginal (Indigenous)

Used inclusively in this document to refer to First Nation or Indigenous communities (also known as “bands” under the *Indian Act*), Métis communities, and communities of other Aboriginal peoples who identify themselves as a community, such as those living in urban centres or those belonging to an Indigenous Nation or tribe that encompasses more than one community (e.g., the Pottawatomi, Mississauga, Mohawk).

### Approval Authority

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

### Archaeological Assessment

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

### Archaeological Resources

In the context of the *Standards and Guidelines for Consulting Archaeologists*, objects, materials and physical features identified by licensed archaeologists during a Stage 2 archaeological assessment as possibly possessing cultural heritage value or interest. Analysis using the criteria set out in the *Standards and Guidelines for Consulting Archaeologists* determines whether those objects, materials and physical features meet the definition of an archaeological site under the *Ontario Heritage Act* and whether Stage 3 archaeological assessment is required. In various planning and development contexts, the term may refer to any or all of archaeological potential, artifacts and archaeological sites.

### Archaeological Site

Defined in Ontario regulation (*Ontario Heritage Act*, O. Reg. 170/04) as “any property that contains an artifact or any other physical evidence of past human use or activity that is of cultural heritage value or interest.”

### **Artifact**

Defined in Ontario regulation (*Ontario Heritage Act*, O. Reg. 170/04) as “any object, material or substance that is made, modified, used, deposited or affected by human action and is of cultural heritage value or interest.”

### **Avoidance**

The process by which alterations to an archaeological site are preserved during the short-term time period during which development activities are undertaken.

### **Borden number**

Since 1974, all archaeological sites for the Province of Ontario have been registered with the Ontario Archaeological Sites Database (OASD), maintained by the Heritage Branch and Libraries Branch of the Ontario Ministry of Tourism, Culture and Sport, Toronto. This database is the official, central repository of all site information for the Province collected under the *Ontario Heritage Act* (1990). An associated Geographic Information System has been developed by the Ministry of Tourism, Culture and Sport. Within the OASD, registered archaeological sites are organized within the “Borden” system and based on blocks of latitude and longitude, each measuring approximately 13 kilometres east-west by 18.5 kilometres north-south. Each block is assigned a unique four-letter designator and sites within each block are numbered sequentially.

### **Cal BP**

Refers to Calibrated years Before Present. The term "Cal BP" is the abbreviation for "calibrated years before present" or "calendar years before present" and relates to the fact that radiocarbon years before present are not equivalent to calendar years due to slight annual variations in the amount of atmospheric radiocarbon. Due to these variations, radiocarbon calibration curves have been created using tree rings with known calendar dates in order to understand the amount of atmospheric radiocarbon at a given date and therefore be able to model the potential calendar date of a given sample.

### **Conservation**

Conservation is defined as the identification, protection, management and use of built heritage resources, cultural heritage landscapes and archaeological resources in a manner that ensures their cultural heritage value or interest is retained. This may be achieved by the implementation of recommendations set out in a conservation plan, archaeological assessment, and/or heritage impact assessment, including mitigation plans.

### **Consultant archaeologist**

An archaeologist who enters into an agreement with a client to carry out or supervise archaeological fieldwork on behalf of the client, produce reports for or on behalf of the client and provide technical advice to the client. In Ontario, these people also are required to hold a valid professional archaeological license issued by the Ministry of Tourism, Culture and Sport.

### **Cultural Heritage Resource**

Cultural heritage resources are identified as built heritage resources, cultural heritage landscapes, and archaeological resources.

### **Cultural heritage value or interest**

For the purposes of the *Ontario Heritage Act* and its regulations, archaeological resources that possess cultural heritage value or interest are protected as archaeological sites under Section 48 of the *Ontario Heritage Act*. Where analysis of documented artifacts and physical features at a given location meets the criteria stated in the *Standards and Guidelines for Consulting Archaeologists*, that location is protected as an archaeological site and further archaeological assessment may be required.

### **Development Proponent**

An entity, consisting of individuals, private corporations or government bodies, which is undertaking a development project.

### **Diagnostic artifact**

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

### **Greenfield**

Outlying locations of the County, within the County's Urban Growth Boundary, on lands that have never previously been developed.

### **Marine archaeological site**

An archeological site that is fully or partially submerged or that lies below or partially below the high-water mark of any body of water.

### **Project Information Form (PIF)**

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

### **Protection**

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

### **Restrictive covenants**

Section 119 of the *Land Titles Act* (subject to imminent revision) defines restrictive covenants being placed “upon the application of the owner of land that is being registered or of the registered owner of land, the land registrar may register as annexed to the land a condition or restriction that the land or a specified part thereof is not to be built upon, or is to be or is not to be used in a particular manner, or any other condition or restriction running with or capable of being legally annexed to land. R.S.O. 1990, c. L.5, s. 119 (1).” The land registrar may register as annexed to the land a condition, restriction or covenant that is included in a transfer of registered land that the land or a specified part thereof is not to be built upon, or is to be or is not to be used in a particular manner, or any other condition, restriction or covenant running with or capable of being legally annexed to land. R.S.O. 1990, c. L.5, s. 119 (2).