

# City of Windsor Archaeological Management Plan

# 2024 Update Appendix C: Contingency Plan for the Protection of Archaeological Resources in Urgent Situations

May 2024





### **Project Personnel**

### **Archaeological Services Inc. (ASI)**

Consultant Project Manager: Robert I. MacDonald, Ph.D.,

**Managing Partner** 

Project Archaeologist: David Robertson, M.A., Partner

Project Manager: Martin Cooper, M.A., Senior Associate

Eric Beales, M.A., Project Manager

Geomatics Manager: Jonas Fernandez, M.A.

Geomatics Specialist: Adam Burwell, M.Sc.

Peter Bikoulis, Ph.D.

#### **Fisher Archaeological Consulting**

Project Archaeologist: Jacqueline Fisher, M.A., A.P.A.,

**Principal Archaeologist** 

Project Archaeologist: Jim Molnar, Ph.D., Manager

Project Archaeologist: Ruth Macdougall, M.A., Project Manager

### **Table of Contents**

P	PROJECT PERSONNEL	
	Archaeological Services Inc. (ASI)	216
	FISHER ARCHAEOLOGICAL CONSULTING	216
T	ABLE OF CONTENTS	217
L	IST OF FIGURES	218
1	1 INTRODUCTION 2	
2	DISCOVERY OF ARCHAEOLOGICAL RESOURCES (NON-HUMAN REMAINS)	221
	2.1 Defining Archaeological Resources	221
	2.2 Policies and Protocols in other Jurisdictions Regarding Contingency Plans	222
	2.3 Role of Province	223
	2.4 Role of the City of Windsor	224
	2.5 Role of Consultant Archaeologist	225
	2.6 Role of Property Owner	225
	2.7 MITIGATIVE OPTIONS	226
	2.8 EMERGENCY RESPONSE PROCESS	226
3	DISCOVERY OF HUMAN REMAINS – BEST PRACTICES PROTOCOL	228
	3.1 Introduction	228
	3.2 Media	228
	3.3 Role of Consultant Archaeologist	229
	3.4 Coroner Notification	229
	3.5 Funeral, Burial and Cremation Services Act Requirements	233
4	RECOMMENDATIONS	236
5	REFERENCES	237
6	APPENDICES	238
	6.1 APPENDIX 1: INSTRUCTION SHEET — ACCIDENTAL DISCOVERIES OF ARCHAEOLOGICAL	SITES
		239
	6.2 Appendix 2: Accidental Discoveries of Archaeological Sites — Examples	241

6.3 APPENDIX 3: INSTRUCTION SHEET – ACCIDENTAL DISCOVERIES OF HUMAN REMAINS 243

### **List of Figures**

Figure 1: Emergency Response Process in the Event of the Accidental Discovery of an Archaeological Site.

Figure 2: Emergency Response Process in the Event of the Discovery of Human Remains.

#### 1 Introduction

The archaeological sites that are the physical remains of the City of Windsor's 13,000-year settlement history represent a fragile and non-renewable cultural heritage resource that must be conserved and protected.

The City of Windsor Archaeological Management Plan (WAMP) represents a comprehensive approach to the conservation of its archaeological resources. While the WAMP reduces the risk of unexpected discovery of archaeological remains during construction (such as disturbing a burial site or nineteenth century building foundation), unexpected discoveries may still occur. To address this possibility, this document outlines processes for dealing with such discoveries:

- A notification process involving the City of Windsor, relevant Indigenous communities, and the Ministry (MCM) <sup>1</sup> from the Archaeology Program Unit;
- An investigation and reporting process undertaken by a consultant archaeologist;

One of the underlying premises of this contingency plan is that, upon discovery of an archaeological resource in an urgent situation, it is illegal for any person or agency to alter that archaeological site, whether registered or not, without an archaeological license issued by the Province of Ontario. This offers automatic protection to all archaeological sites and the City of Windsor must exercise due diligence in all contexts, including emergency situations, such as broken water mains, to ensure that archaeological features are protected from disturbance of any nature.

<sup>&</sup>lt;sup>1</sup> Provincial management of cultural heritage resources has been carried out by operation units attached variously to the Ministry of Citizenship, Culture and Recreation (1993-1998), the Ministry of

Tourism, Culture and Recreation (1998-2002), the Ministry of Culture (2002-2010), the Ministry of Tourism, Culture and Sport (2011 to 2019), Ministry of Heritage, Sport, Tourism and Culture Industries (2019 to 2022), Ministry of Tourism, Culture, and Sport (2022), and Ministry of Citizenship and Multiculturalism (2022).

City of Windsor Archaeological Management Plan 2024 Update
Appendix C: Contingency Plan for the Protection of Archaeological Resources
in Urgent Situations
Page 220

While the nature of the emergency must obviously be balanced with the needs of archaeological resource conservation, the identification of human remains in such situations requires an immediate cessation of work in the area of the remains.

This contingency plan is divided into two main parts, the first of which presents a process for dealing with urgent situations concerning archaeological resources other than human remains. The second part includes a best practice approach to situations involving the unanticipated discovery of human remains. These parts are followed by recommendations and references.

### 2 Discovery of Archaeological Resources (Non-Human Remains)

#### 2.1 Defining Archaeological Resources

The 2020 Provincial Policy Statement 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 includes the following: 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.

As such, archaeological sites are both highly fragile and non-renewable. The Ontario Heritage Act (Ontario Regulation 170/04) defines "archaeological site" as "any property that contains an artifact or any other physical evidence of past human use or activity that is of cultural heritage value or interest;" "artifact" 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;" and "marine archaeological site" as "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." Archaeological fieldwork is defined as "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."

# 2.2 Policies and Protocols in other Jurisdictions Regarding Contingency Plans

Relevant planning policies do exist within infrastructure agreements between environmental monitoring agencies in association with, or separately from, Indigenous communities in Canada and large infrastructure construction corporations (e.g., TransCanada Pipelines, Enbridge). The policies in such agreements follow a similar direction to those presented here, although they are also consistent with the corporate consultation and contingency planning policies of those corporations and those of the planning jurisdiction(s) within which the project is located.

Thus, there are numerous models upon which to base the creation of *specific* emergency procedures in terms of the course of actions to take upon the discovery of archaeological resources. Such protocols are found applied to specific projects, such as state- or sometimes city-level infrastructure works in the United States (i.e., New York City, Minnesota, Wyoming and Washington State). These are all situations in which the funding and legislative context has triggered archaeological requirements. Some U.S. state departments of transportation, such as California, also maintain a roster of contractors qualified to carry out the cultural resource management components of their development projects.

For major projects undertaken by the City of Windsor, special clauses might be inserted in agreements with the contractors to allow for emergency discoveries of archaeological resources. In New Zealand, for example, the Heritage Places Trust may require that an "Accidental Discovery Protocol" be applied to private development projects, and the protocol may form part of the original archaeological assessment report(s) completed for the initiative. Such documents are generally comparable with Ontario's "Discovery of Human Remains – Best Practices Protocol" (see Section 3, below) in terms of the manner in which they outline the steps to be followed (e.g., stop work  $\rightarrow$  secure area of concern  $\rightarrow$  notify authorities  $\rightarrow$  consult with relevant stakeholders and experts to evaluate significance  $\rightarrow$  develop suitable mitigation plan, etc.). Such plans may also identify specific individuals who will serve as project management and supervisory personnel, agency and stakeholder contacts and archaeological consultants who

are responsible for implementing the procedures, should they be required during the execution of the project.

#### 2.3 Role of Province

The Ministry 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 direct conservation and protection of cultural resources. The Minister is responsible for determining policies, priorities, and programs for the conservation, protection, and preservation of the heritage of Ontario. These goals are partly 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.

The Ministry has the primary administrative responsibility under the *Planning Act* and *Ontario Heritage Act* for matters relating to cultural heritage resource conservation including archaeological resource identification and mitigation in advance of land development, specifically the Archaeology Program Unit with respect to the latter.

The Ontario Heritage Act governs the general practice of archaeology in the province in order to maintain a professional standard of archaeological research and consultation. 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 the Ministry. 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 Ministry and the accompanying bulletins, such as *Engaging Aboriginal Communities in Archaeology*. All archaeological fieldwork in urgent situations must be carried out by consultant archaeologists.

In the case of the discovery of unanticipated archaeological remains, under Subsection 48(1) of the Ontario Heritage Act, it is illegal for any person or agency to knowingly alter an archaeological site without a license. Alteration of an

archaeological site is deemed to include any form of unsanctioned disturbance or destruction of an archaeological resource brought about by any means (e.g., construction, archaeological excavation, or soil disturbance of any nature on the site). This in effect offers automatic protection to all archaeological sites and the City of Windsor should help in all accidental discovery contexts to ensure that archaeological features are protected from further disturbance of any nature.

Accordingly, contractors should stop work in the vicinity of a find pending its assessment by a consultant archaeologist. It is likely that most discoveries will be found by a contractor, a pedestrian observer, a private citizen on their own property, or a City of Windsor official. In any of these cases, authorities should be alerted and any further disturbance to the archaeological resource should stop. The City of Windsor by-law enforcement staff can issue a stop work order in such situations, if necessary.

All reports on archaeological investigations concerning accidental discoveries will be submitted to the Ministry by the consulting archaeologist, as a condition of an archaeological license. These will be reviewed by Ministry 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. The reports must also be provided to the City of Windsor's Planning Department. Figure 1 outlines the basic process to be followed in a development context.

#### 2.4 Role of the City of Windsor

Figure 1 charts the steps in the process of dealing with an accidental discovery of archaeological resources and Appendix 1 of this contingency plan includes one-page instruction sheets for handling the accidental discovery of archaeological resources or human remains. In the event that a municipal employee observes archaeological resources during a property inspection, he or she should consult the one-page instruction sheet and make the necessary calls to alert officials to the discovery. The person discovering or reporting the find can seek assistance from the municipal planning department should they require help in determining next steps. A roster of pre-qualified consultants can also be used to secure professional

help immediately in the case of either private property projects or public sector projects (see Recommendation 4 in Section 4, below).

#### 2.5 Role of Consultant Archaeologist

Once a consultant archaeologist has attended to the scene, retained by either the relevant municipality or a private proponent/landowner, the consultant archaeologist will define the nature and extent of the deposit and direct arrangements for the protection of the precise area of concern. Should a stop work order have been placed by the municipality, arrangements can be made to have it rescinded to allow a development proponent or property owner to carry on without impact to the archaeological resource. The consultant archaeologist will then investigate the archaeological resource and assess the potential impact to the archaeological resource posed by the soil disturbance, development, and/or site alteration.

The development proponent or property owner, the consultant archaeologist, the Ministry, and the municipal approval authority must then arrive at appropriate decisions regarding integration of that resource into the development plan or the implementation of mitigative options. In the case of the discovery of Indigenous archaeological resources, the consultant archaeologist is required to engage with the appropriate First Nations to seek their input into this process in accordance with the *Standards and Guidelines for Consultant Archaeologists* (MTC, 2011).

#### 2.6 Role of Property Owner

Should the resource be further threatened on a construction site, the two options available are to immediately avoid and protect the resource in the development plan, such as through the allocation of the area as non-parkland open space or undertake procedures to mitigate the resource through excavation. In the case of a private property owner, the decision will generally be to either abandon the project or undertake mitigative removal of the feature. These decisions will most likely be subject to a cost-benefit analysis where the mitigative option involves input from all stakeholders and rightsholders (i.e., the City of Windsor, Ministry,

First Nations, and the property owner). In the case of a private property owner, the financial implications of an unexpected find may be onerous (see Recommendation 3 in Section 4, below). All participants in any consultation process undertaken in the event of an unexpected discovery must enter into it with the understanding that it will take some time to complete.

#### 2.7 Mitigative Options

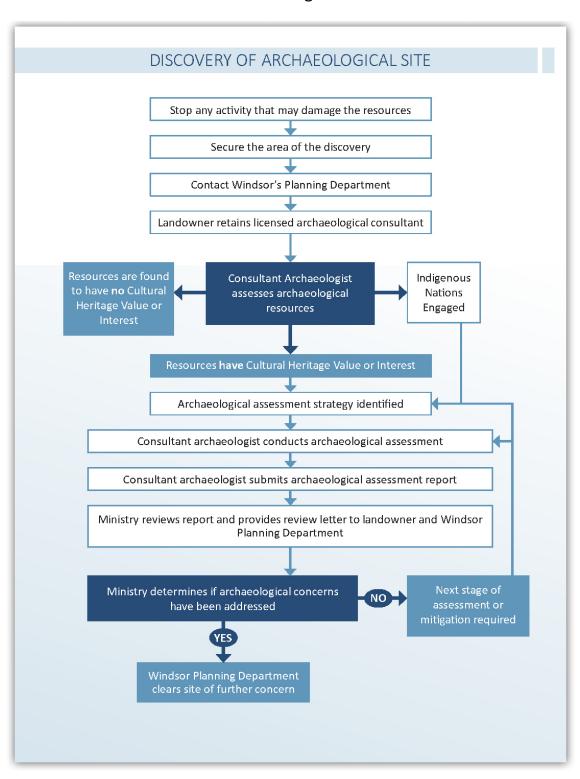
Section 8.3.5 of the WAMP Main Report sets out the criteria for determining the cultural heritage value of archaeological resources, including information value, value to a community and value as a public resource. There is also a set of indicators based on these criteria, which helps to determine which archaeological resources are significant and therefore must be preserved or conserved. Section 8.3.6 of the WAMP describes a number of mitigative options, including avoidance, modifications to construction techniques, long-term protection, and various degrees of documentation and/or excavation.

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

#### 2.8 Emergency Response Process

The following flowchart (Figure 1) outlines the recommended decision-making process and actions for responding to the unanticipated discovery of archaeological resources.

Figure 1: Emergency Response Process in the Event of the Accidental Discovery of an Archaeological Site.



### 3 Discovery of Human Remains – Best Practices Protocol

#### 3.1 Introduction

The following is designed to assist all those involved in responding to and addressing unanticipated discoveries of human skeletal remains outside of a licensed cemetery. This is presented as a series of best practices among the many overlapping interests and jurisdictions of several ministries, agencies, police services and other government bodies that are triggered when human skeletal remains are uncovered. This approach was developed originally for the Toronto region with the support and approval of many Indigenous representatives from across Ontario and is equally applicable to discoveries of human remains elsewhere in the province.

These best practices support the existing regulatory and statutory mechanisms in Ontario. Responsibility for previously unknown human remains passes through a number of jurisdictions (i.e., police, coroner, and the Registrar of Burials in the Ministry of Public and Business Service Delivery, formerly Ministry of Government and Consumer Services), and the intent of this section is to ensure this flow is effective and as seamless as possible.

#### 3.2 Media

Getting through the entire discovery and disposition process when human remains are found will see the authority for the issue shift among several agencies. As such, until all investigations have been carried out and the disposition resolved, formal press releases or contacting the media should only occur if all affected authorities have concurred (i.e., police, coroner, First Nations and Registrar of Burials). In addition, after all investigations have been completed, the concerns of the landowner and group acting as representative for the deceased should be considered before media contact. Premature media notification, particularly prior to having accurate identification of the deceased, will lead to misinformation,

misplaced concerns being raised, and potentially a hardening of attitudes. This can make a final disposition agreement more difficult to reach.

Any media interest should be directed to the agency that has authority over the burial site at the time of the media contact (i.e., police, coroner's office or Registrar of Burials). Media photography of the remains, particularly if they are of Indigenous peoples, should be avoided. A publicly displayed photograph of skeletal remains may be offensive to representatives of the deceased.

#### 3.3 Role of Consultant Archaeologist

It is important to note that the discovery of human remains will occur in two basic contexts: either through accidental discovery by an individual in unexpected circumstances, such as during construction, or through discovery as part of an archaeological examination/excavation of a locale by a consultant archaeologist. In any case, a Burial Site Investigation ordered by the Registrar of Burials, Ontario Ministry of Public and Business Service Delivery, under the provisions of the Funeral, Burials and Cremation Services Act must be conducted by the holder of a Professional-class archaeological license issued by the Ministry of Citizenship and Multiculturalism (MCM) under the Ontario Heritage Act. The work must also be done under a Project Information Form (PIF) issued by MCM with all the attendant license reporting obligations. The consulting archaeologist must have the necessary skills, knowledge and expertise to assist both the police and coroner in determining the age of the interment, as well as to assist the property owner in generating the information required by the Registrar to determine the nature, extent and cultural affiliation of the person(s) buried. His or her presence at the front end of the discovery process is required by law and will greatly aid all authorities in making quick and accurate determinations and should be relied on as much as possible in such circumstances.

#### 3.4 Coroner Notification

A person finding any skeletal material that may be human is required to immediately report the find to the local police or coroner. An appropriate contact

list (e.g., police, regional coroner's offices, Registrar of Burials, MCM) should be maintained by all municipal divisions involved in or managing land disturbing activities, including municipal law enforcement officers, property and building inspectors, and contractors working on behalf of the City of Windsor who may be the first contact with such a discovery. Figure 2 outlines the process that will be followed from the time of discovery onward.

When the police are first contacted, they will attend the scene, protect the site and contact the local coroner. The coroner, or the police on behalf of the coroner, will conduct an investigation to determine if the remains are human and if foul play is involved. The investigator will need to obtain all the information required to make a determination. Efforts should be made at this stage to minimize site disturbance. All bone and associated grave goods still embedded in the ground should not be disturbed. Poking, pulling, and digging up the bone in an uncontrolled manner can quickly destroy critical data essential to making accurate identifications.

The police and coroner will typically rely on their forensic anthropologists in conducting the investigation. Burials are archaeological deposits in their own right and are often found as part of more extensive archaeological deposits. The consultant archaeologist can help ensure that the larger cultural heritage resource is not destroyed or damaged during investigation of the skeletal material as well as determine whether or not the human remains are part of a crime scene.

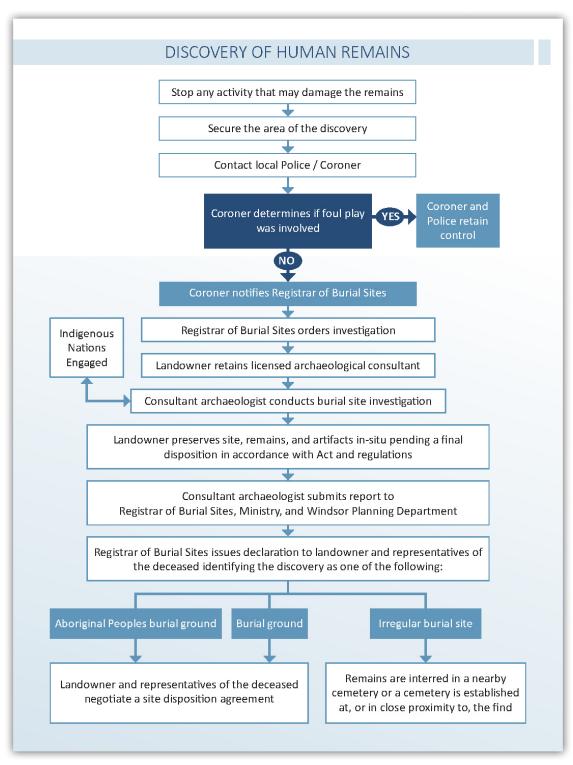
If the burial is found in the course of an archaeological site investigation, or if other archaeological evidence is immediately available without further disturbing the burial, consultant archaeologists may be able to assist with the coroner's initial determination. Such evidence may include the following: the condition and discoloration of the bone; presence of artifacts around the discovery site, such as the presence/absence of a coffin, grave goods, etc.; knowledge of known archaeological sites at or in the vicinity of the burial; intact archaeological features, such as a grave shaft; or depth of and position of remains. Such evidence will also be collected in the course of a subsequent Burial Site Investigation (see Section 3.5).

When skeletal material is found and it is not readily obvious that this material is either a burial or crime scene, coroners will often employ the services of a forensic

anthropologist to examine the bone in detail. While the coroner requires only a basic determination of age (i.e., recent vs. historic/ancient) and nature of the interment, the forensic anthropologist's examination can also determine cultural affiliation (based on the presence/absence of specific skeletal traits), age of the individual at death, sex and even funerary practices. This information will be essential for the investigations for the Registrar of Burials, as well as for the deceased's representative in determining the appropriate re-interment requirements. Allowing the forensic anthropologist to complete a descriptive analysis of the skeletal material as part of the coroner's investigation will greatly aid in addressing remaining issues associated with this process.

When the coroner makes a determination that no foul play is involved, they will contact the Registrar of Burials who may choose to order a Burial Site Investigation. It is essential that the Registrar of Burials and the City of Windsor are notified of the discovery, and given any relevant information (e.g., contacts, results of any analyses). The property owner is legally required to preserve and protect the site when the police are no longer involved until a disposition is made under Regulation O. Reg. 30/11 of the Funeral, Burial and Cremation Services Act.

Figure 2: Emergency Response Process in the Event of the Discovery of Human Remains.



# 3.5 Funeral, Burial and Cremation Services Act Requirements

As detailed in Section C of O. Reg. 30/11, issued in accordance with the Funeral, Burial and Cremation Services Act , the Registrar of Burials will be required to determine and formally declare whether the discovery constitutes an Aboriginal Peoples Burial Ground, a Burial Ground, or an Irregular Burial Site, as defined in the Act. To support this determination, the Registrar of Burials will issue an order to the property owner requiring the submission of a Burial Site Investigation report prepared by a licensed professional archaeologist.

The objectives of the Burial Site Investigation include the following: whether or not the interment(s) was/were intentional, and the basis on which this conclusion is made; the cultural affiliation of the deceased; the defined limits of the area containing burials; the style and manner in which the remains are interred; a description of the artifacts determined to form part of the burial site; and any other information relevant to the preparation of a site disposition agreement as determined by the Registrar (O. Reg. 30/11 s174(2)6.). It may also be necessary to determine the exact number of discrete burials present in the area. Excavation methods should maximize recovery of these data, while minimizing disturbances to the remains. At the conclusion of the investigation, a report must be submitted to the Registrar of Burials, Archaeology Program Unit of MCM, and to the City of Windsor's Planning Department.

During the investigation, the remains must be treated with respect and care. All artifacts found in the burial are to be considered grave goods and should be treated as part of the burial and kept with the skeletal remains. Burials must not be unnecessarily exposed to the elements or to casual viewing and must be covered over as soon as possible following identification. The property owner continues to be responsible for preserving and protecting the site during this investigation and until a disposition is made under the Funeral, Burial and Cremation Services Act.

Once the Registrar of Burials makes a declaration, attempts will be made to locate a representative for the deceased. If the locale is deemed to be an Aboriginal

Peoples Burial Ground, the Registrar of Burials will contact the appropriate First Nation(s).

There are currently seven Indigenous nations that have an expressed interest in the City of Windsor, as follows:

- Walpole Island First Nation
- Caldwell First Nation
- Chippewas of the Thames First Nation
- Aamjiwnaang First Nation
- Haudenosaunee Confederacy Chiefs Council
- Six Nations of the Grand River
- Huron-Wendat Nation

If the burial is non-Indigenous, the Registrar of Burials will attempt to find a representative. Where no descendant is identified, a representative of the same religious denomination as the person buried can act for the deceased. If religious affiliation cannot be determined, the Registrar of Burials will determine the appropriate representative.

For Aboriginal Peoples Burial Grounds and Burial Grounds, the property owner and the representative for the deceased shall reach a disposition agreement outlining what is to be done with the burials. Where there is no agreement, binding arbitration is provided for under the Funeral, Burial and Cremation Services Act. Removal of remains or associated artifacts from the site is not permitted without the consent of the representative of the deceased. A site disposition agreement will contain the following elements (O.Reg. 30/11, s. 184):

1. a legal description of the location of the burial site in which the human remains are interred and, if applicable, a statement that the remains will be left where they are interred, and the site established as a cemetery;

- 2. the style and manner in which the human remains are to be disinterred and reinterred, if applicable;
- 3. the time within which the disinterment and reinterment are to take place, if applicable;
- 4. the provisions being made for the future maintenance of the cemetery in which the human remains are to be located;
- 5. the allocation of the costs of carrying out the agreement;
- 6. all other matters that the parties to the agreement agree upon; and
- 7. in the case of an arbitration, all other matters that the arbitration board or arbitrator considers necessary.

If the discovery is declared to be an Irregular Burial Site, the process will not be subject to a site disposition agreement. Instead, the owner of the land is required to carry out either of two options, as follows:

- 1. leave the remains in place or move them to land in close proximity to the site and establish the site as a cemetery; or
- 2. remove the remains and re-inter them into an existing cemetery in the same local municipality as the site or in an adjoining local municipality.

The property owner is responsible for all costs, although claims of financial hardship will be evaluated by the Registrar in cases where the landowner cannot pay.

The option selected with respect to an Aboriginal Peoples Burial Ground will be negotiated between the property owner and representative for the deceased.

With respect to an Aboriginal Peoples Burial Ground, if a disinterment/reburial option is ordered by the Registrar, the Registrar will direct this process. Costs associated with a disposition agreement will be negotiated by the property owner and representative of the deceased. While the time it takes to complete this work will be subject to the terms laid out in the site disposition agreement, factors such as the number and nature of interments and level of observations prescribed in the site disposition agreement will affect the length of time needed to complete the removal and re-interment.

#### 4 Recommendations

The major recommendations arising from this *Contingency Plan for the Protection* of *Archaeological Resources in Urgent Situations* are the following:

- In the case of private property projects, it is recommended that municipal staff provide the landowner with a list of those consultant archaeologists capable of responding immediately. In the case of public sector projects, the roster of pre-qualified consultants can be used to secure professional help immediately.
- 2. The City of Windsor should develop a roster of pre-qualified consulting archaeologists capable of responding immediately to contingent situations. The key criteria for the roster are the ability of the consultant archaeologist to attend a site within 24 hours or less and demonstration that the consultant archaeologist has an appropriate Health and Safety Plan in place for use under all circumstances. The roster of archaeologists could be accessed through the City of Windsor Planning Department.

#### **5** References

Ontario Funeral, Burial and Cremation Services Act. (2002). Retrieved from <a href="https://www.ontario.ca/laws/statute/02f33">https://www.ontario.ca/laws/statute/02f33</a>. Accessed 26 October 2021.

Ontario Environmental Assessment Act. (1990). Retrieved from https://www.ontario.ca/laws/statute/90e18. Accessed 26 October 2021.

Ontario Heritage Act. (1990). Retrieved from https://www.ontario.ca/laws/statute/90o18 Accessed 26 October 2021.

Ontario Ministry of Municipal Affairs and Housing. (2011). Ontario Planning Act. Retrieved from <a href="https://www.ontario.ca/laws/statute/90p13">https://www.ontario.ca/laws/statute/90p13</a>. Accessed 26 October 2021.

Ontario Ministry of Municipal Affairs and Housing. (2020). Provincial Policy Statement (PPS), Queens Park, Ontario. Retrieved from <a href="https://www.ontario.ca/page/provincial-policy-statement-2020">https://www.ontario.ca/page/provincial-policy-statement-2020</a>. Accessed 26 October 2021.

Ontario Ministry of Heritage, Sport, Tourism and Culture Industries. (2011). *Standards and Guidelines for Consultant Archaeologists*. Retrieved from <a href="http://www.mtc.gov.on.ca/en/publications/SG">http://www.mtc.gov.on.ca/en/publications/SG</a> 2010.pdf. Accessed 26 October 2021.

Ontario Ministry of Heritage, Sport, Tourism and Culture Industries. (2011). Engaging Aboriginal Communities in Archaeology: A Draft Technical Bulletin for Consultant Archaeologists in Ontario. Retrieved from <a href="http://www.mtc.gov.on.ca/en/publications/AbEngageBulletin.pdf">http://www.mtc.gov.on.ca/en/publications/AbEngageBulletin.pdf</a>. Accessed 26 October 2021.

City of Windsor Archaeological Management Plan 2024 Update
Appendix C: Contingency Plan for the Protection of Archaeological Resources
in Urgent Situations
Page 238

## **6** Appendices

# 6.1 Appendix 1: Instruction Sheet – Accidental Discoveries of Archaeological Sites

The City of Windsor has developed a Contingency Plan for the Protection of Archaeological Resources in Urgent Situations.

#### **Archaeological Sites**

The Ontario Heritage Act is intended to ensure the protection of heritage buildings and archaeological sites. Under Subsection 48(1) of the Act, it is illegal for any person or agency to knowingly disturb an archaeological site without a license, with penalties specified in Subsection 69(1). The City of Windsor must exercise due diligence in all contexts, including emergency situations, to ensure that this requirement is enforced.

Evidence of an Indigenous archaeological site may include stone (flint or chert) tools or flakes, burnt and unburnt animal bone, reddish-brown unglazed earthenware-like pottery, burnt stones and spreads of charcoal. Evidence of later colonial archaeological sites may include bottle glass, crockery, iron/metal items, old foundations, wells, drains or similar structures. Examples of some of these types of remains are provided in the photographs overleaf.

In the event that the property owner/proponent believes that such remains have been uncovered and are being destroyed by actions not being carried out by licensed archaeologists, the property owner/proponent should:

- 1. Request work stop on the property.
- 2. Ensure that the area is secured.
- 3. Notify the appropriate authorities: the **Archaeology Program Unit**, Ministry (MCM) and the City of Windsor Planning Department (see contact information below).

City of Windsor Archaeological Management Plan 2024 Update
Appendix C: Contingency Plan for the Protection of Archaeological Resources
in Urgent Situations
Page 240

Arrangements will then be made with the development proponent or property owner to have qualified archaeological personnel investigate the remains.

If in doubt about potential archaeological remains, take a photograph of the site/finds and send it to the City of Windsor planning department.

#### **Contact Information**

#### Planning and Building Services Department, City of Windsor

Suite 201, 350 City Hall Square East Windsor, Ontario, Canada N9A 7K6

Phone: (519) 255-6543 Fax: (519) 255-6544

Email:

planningdept@citywindsor.ca

#### **Archaeology Program Unit**

# Ministry of Citizenship and Multiculturalism

email: archaeology@ontario.ca

Include "Urgent" in subject line.

# 6.2 Appendix 2: Accidental Discoveries of Archaeological Sites – Examples



Examples of Indigenous stone tools.



An example of a charcoal and dark soil stain that is an archaeological feature.



An example of a field stone foundation.



An example of a well.



An example of a stone foundation



An example of a stone and brick foundation



An example of a wood drain



Examples of nineteenth-century ceramics

# 6.3 Appendix 3: Instruction Sheet – Accidental Discoveries of Human Remains

The process to be followed regarding unanticipated discoveries of human skeletal remains outside of a licensed cemetery is laid out in O.Reg. 30/11 of the Funeral, Burial and Cremation Services Act. If human remains should be encountered during construction, the following steps must be followed by those individuals who discover the remains:

- 1. Work must cease immediately.
- 2. The area must be secured.
- 3. The discovery must be reported to the **City of Windsor Police Service** and the **Coroner** (note that the police may do this themselves). The police/coroner may call in specialists in forensic or biological anthropology to determine whether or not the bones are human.
- 4. In the event that the police/coroner determine that the remains do not constitute a crime scene, the City of Windsor Police Service or the Coroner will notify the Registrar of Burials, Ministry of Public and Business Service Delivery. The City of Windsor Planning Department and the Archaeology Program Unit of MCM, (see contact information below) should be contacted by the property owner or their delegate (e.g., licensed consultant archaeologist).
- 5. The Registrar of Burials, Ministry of Public and Business Service Delivery, which is the senior agency in this process, may order a formal burial investigation to be carried out by a licensed archaeologist.

If in doubt about potential human remains, take a photo and send it to the City of Windsor's Planning Department.

#### **Contact Information**

Windsor Police Service

Police Headquarters 150 Goyeau Street P.O. Box 60 Windsor, ON N9A 6J5

519-255-6700

Amherstburg Detachment 532 Sandwich Street South Amherstburg, ON N9V 3R2

519-736-8559

Office of the Chief Coroner

Regional Supervising Coroner's Office, West Region

Richmond North Office Centre 235 North Centre Rd, Suite 303 London, ON N5X 4E7

To contact the Coroner on Call - Coroners Dispatch -- 1-855-299-4100

Email: occ.london@ontario.ca

**Dr. Crystal Forrest** 

Registrar of Burials,

Ministry of Public and Business

**Service Delivery** 

T: 647-233-4033

Email: crystal.forrest@ontario.ca

Manager

**Archaeology Program Unit** 

Ontario Ministry of Citizenship and

Multiculturalism

email: archaeology@ontario.ca

Include "Urgent" in subject line.

Planning & Building Services

**Department** 

**Planning Division** 

**City of Windsor** 

T: (519) 255-6543

Email: planningdept@citywindsor.ca