

RESPONSE TO: Ministry of Tourism, Culture and Sport
FROM: ? Approval Authority ? LACH ?
REGARDING: Streamlined Approach to Archaeological Report Review (Nov. 2012)
DATE: March 3, 2013

We commend the ministry's efforts to modernize the archaeology program and to improve the report review process by reducing report review turnaround times. We further recognize the importance of creating a report review process that enhances customer service to all stakeholders, including the approval authorities.

We do however have some significant concerns about the recently mandated *Streamlined Approach to Archaeological Report Review*, specifically:

1. the lack of consultation prior to its implementation
2. the potential it creates for putting archaeological resources with cultural heritage value at risk
3. the download of responsibility and accountability from the ministry to the approval authorities

Since Blair Rohaly (A) Manager, Culture Programs Unit reported in his memo dated December 22, 2012, that "*The ministry is actively considering other means of ensuring licence compliance and will be actively seeking constructive feedback and suggestions...*", we offer the following constructive feedback and suggestions regarding our stated concerns.

1. Lack of Consultation

The Ministry has worked hard in the past to consult with licensed archaeologists and other stakeholders to develop policies and procedures that are inclusive, efficient, enforceable and which had as their primary goal the protection, conservation and preservation of archaeological resources with cultural heritage value.

The new *Streamlined Approach to Archaeological Report Review* process was, however, quite simply announced (mandated) on November 13, 2012 without prior consultation with consultant archaeologists, their development proponent clients or the approval authorities.

Recommendation:

Providing all stakeholders with some feedback mechanism (survey, Q&A, directed response, meetings, etc) with specific timelines would, at least, identify what stakeholders see as the strengths, weaknesses or problems associated with the new process.

2. Putting Archaeological Resources with Cultural Heritage Value at Risk

"Approval authorities copied on a letter indicating that a stage 2 report has been entered into the public register without review may consider the lands in this development application free from concerns for archaeological sites as no archaeological resources were found during the stage two assessment."

Although not as dramatic as Stage 3 and 4 archaeology, Stage 2 archaeology provides the information upon which all future actions that occur on a subject property are based. Stage 2 is critical to ensuring the protection, conservation and preservation of archaeological resources with cultural heritage value.

The expertise, experience, academic credentials, knowledge and understanding of the Standards and Guidelines, as well as knowledge of the local archaeological context of the Field Directors and survey crews, is absolutely critical in ensuring the accuracy, reliability and validity of the Stage 2 reports. Some of these reports are methodically reviewed "in house" before being forwarded to the ministry ... some are not. The result is quite simply that CRM firms can, for a number of different reasons, mistakenly declare a subject property as having no archaeological resources when in fact this is not the case. This has occurred in our area more than once in the

past year and, in at least one case, on a property where archaeological sites had previously been identified and documented. This problem is exacerbated by the fact that under this new procedure when a report is not reviewed, the ministry's letter to the approval authority will not even indicate whether "the report and its recommendations meet the Standards and Guidelines" mandated by the ministry.

Recommendations:

Implement a program of random reviews of a certain percentage (eg. 5%) of Stage 2 reports that indicate "*there were no archaeological resources found*" for validity and reliability.

Cross check all Stage 2 reports that indicate "*there were no archaeological resources found*" with the ministry data base to, at the very least, ensure that there are no previously identified and documented sites on the subject or adjacent properties.

Implement and enforce some form of deterrent for those consulting firms who, for whatever reason, are found to have put archaeological resources at risk.

3. Approval Authority Responsibility and Accountability

In the past, communications that approval authorities received from the Ministry of Culture, Sport and Tourism ensured that archaeological reports had been reviewed, were accurate and were in compliance with the Standards and Guidelines. This then became the primary basis upon which the approval authorities made their decisions regarding development plan approvals.

Under the new process, in the case of a Stage 2 report which indicates that no archaeological resources were found, the approval authority is expected to make decisions regarding development plan approvals based solely on a third party letter that indicates nothing of significance was found. The responsibility and accountability for such a decision, should archaeological resources of heritage value be found or damaged on that property during development, would now rest solely with the approval authority.

Furthermore, the new process has determined that, "It will be the approval authority's decision whether or not to accept non-compliant archaeological assessment reports for the purpose of development plan approvals." Based upon what criteria, expertise or knowledge? This again puts the approval authority in the untenable position of making important decisions and assuming responsibility and being held accountable for them, based solely upon an interested party report that the ministry has already determined to be non-compliant while being given neither substantive support nor recommendations from the ministry.

Recommendations:

Cross check all Stage 2 reports that indicate "*there were no archaeological resources found*" with the ministry data base to, at the very least, ensure that there are no previously identified and documented sites on the subject or adjacent properties. Communicate the results of the cross check with the approval authority by letter or email.

Clarify to all approval authorities that should they approve a development plan based upon a non-compliant report that in doing so they become responsible and accountable for ensuring the protection, conservation and preservation of any archaeological resources on a subject property.

Encourage approval authorities to **not** accept non-compliant archaeological assessment reports for the purpose of development plan approvals.

Stewardship of Ontario's archaeological resources falls under the auspices of The Ministry of Tourism, Culture and Sport. The protection, conservation and preservation of our archaeological resources is however a responsibility that all Ontarians share with the ministry. As an approval authority we willingly accept our role in the processes and procedures involved. Our ability to best fulfill that responsibility while providing exemplary service to consultant archaeologists and their development proponent clients is, however, heavily dependent upon knowledgeable and reliable oversight, information and direction from the ministry.

Respectfully submitted,
? Approval Authority ? LACH ?