



# BURIAL SITE INVESTIGATION STRATEGIES AND ANCESTORS' REMAINS PROTOCOLS

## 1.0 PREFACE

The following document has been prepared by the Mississaugas of the Credit First Nation (MCFN) Department of Consultation and Accommodation (DOCA) to provide technical and cultural guidance to consultant archaeologists and landowners involved in the Burial Site Investigation (BSI) process, under the Funeral Burial and Cremation Services Act (FBCSA), within the Nation's Treaty Lands and Territory. This document does not represent an exhaustive account of MCFN's views or knowledge with respect to Ancestral burial sites. Ceremonial knowledge is held solely by MCFN, and it shall not be detailed within this document.

This is a living document, to be updated as needed to reflect the department's ongoing experiences with the BSI process. The scope of this document remains broad; contextually specific circumstances must be considered on an on-going, case-by-case basis, through fulsome engagement with the Nation and its representatives.

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### 1.1. ANCESTORS' REMAINS

Henceforth, "**Ancestors' remains**" is understood to also include "*indeterminate remains*," or skeletal remains which cannot be conclusively identified as non-human, and "*grave goods*," or ancestral belongings potentially interred with the Ancestor(s).

1. Possible grave goods are defined/identified by engaged First Nations/descendant communities within the context of a given burial site and associated archaeological site(s).
2. MCFN is empowered to determine whether ancestral belongings are subject to the "Ancestor remains" investigation strategies and protocols detailed in the following sections.
  - Examples of grave goods include, but are not limited to, beads, turtle shell, ceramic smoking pipes, and cache blades.



## 2.0 STAGE 3 BURIAL SITE INVESTIGATION

The following section is organized according to contextual factors that regularly inform appropriate investigative strategies/methodologies. Following the FBCSA, MCFN maintains that investigation into the origins of Ancestral burial sites should cause minimum disturbance [\[FBCSA s.96\(3\)\]](#). Previously disturbed Ancestors' remains, as a rule, are respectfully recovered as part of any BSI excavation strategy. All strategies and protocols set forth by MCFN-DOCA aim to best remediate and/or maintain the integrity of the burial site, pending final arrangements under [\[O Reg. 30/11\]](#).

### 1. WHEN ANCESTORS' REMAINS ARE DISCOVERED NOT IN SITU:

- a) To determine the limits of the burial site within the legal property limits, Stage 3 block excavations around the location of Ancestors' remains must continue until a "buffer" of 5 meters has been established beyond the discovery of any further Ancestors' remains.
  - i. This will entail the hand excavation of 1x1 m units, screened through  $\leq 3$  mm hardwire mesh, extending 5 meters beyond all Ancestors' remains.
  - ii. All stratigraphic Lots/Layers encountered within a 5-meter radius around the known burial site are subject to investigation. The omission of specific Lots/Layers in whole or part, from the scope of the investigation may be deemed appropriate, only on a case-by-case basis.
- b) If additional Ancestors' remains are identified, hand excavation must continue 5 m beyond them.

### 2. WHEN ANCESTORS' REMAINS ARE DISCOVERED IN SITU:

- a) If Ancestors' remains and/or features are discovered that are, or are likely to constitute, an *in situ* burial of an Ancestor or Ancestors, there will be **immediate cessation of excavation**.
  - i. The Ancestor(s) will remain in their original resting place and will not be removed during the Burial Site Investigation.
- b) The discovery must be immediately reported to:
  - i. MCFN-DOCA's appointed Field Liaison Representatives (FLRs) and office (Field Supervisor, Project Archaeologist, and Manager of Archaeology).
  - ii. The Registrar appointed under the FBCSA.
- c) At the time of discovery and/or at the time of reburial, MCFN may hold ceremony. MCFN along with engaged First Nations/descendant communities will determine the appropriate customs and protocols for covering/protecting the burial.
- d) Any documentation needed must follow the protocols outlined in **Section 3.0.4**.
- e) For areas of unexcavated topsoil/previously disturbed soils that remain around an *in situ* burial feature, hand excavation may continue, to identify and recover any additional Ancestors' remains **not in situ**.



- f) Consult **Section 2.1 Cemetery Designation Strategies**.

### 3. *WHEN ANCESTORS' REMAINS ARE DISTURBED/DISCOVERED DURING CONSTRUCTION ACTIVITIES:*

- a) All stockpiled/backfilled soils known to contain Ancestors' remains, and/or displaced soils associated with impacts to burial deposits, must be screened in their entirety, by hand, with the use of  $\leq 3$  mm hardwire mesh.
  - i. In some instances, a decision must be made as to whether the present location of displaced soil(s) (e.g. when soil is trucked to another legal address) is suitable for recovery work, or whether the soil(s) can be returned to the property of origin.
- b) If the original location of found Ancestors' remains is unknown due to loss of contextual information caused by construction impacts, then the 5 m investigative buffer must be applied around all possible points of origin, i.e. the perimeter of the machine excavated area(s) from which human remains were displaced.

### 4. *WHEN ANCESTORS' REMAINS AS DISCOVERED DURING STANDARD ARCHAEOLOGICAL ASSESSMENT/EXCAVATION:*

- a) All excavated soils within the limits of the known burial site previously screened through mesh with an aperture of greater than 3mm (e.g. 6 mm) must be rescreened through  $\leq 3$  mm hardwire mesh.
- b) If Ancestors' remains are discovered in previously excavated/screened soils that have lost precise province data (i.e. 1x1 m square unit or feature context), then all possible points of origin must be investigated within the scope of the BSI, e.g. the wider excavation block.

## 2.1 CEMETERY DESIGNATION STRATEGIES

MCFN supports investigative strategies whereby only a minimum required amount of fieldwork is completed to uphold the designation of the burial site as a cemetery. Where there is express intent from the landowner(s) to pursue establishing either part of or all the property as a cemetery, it may be possible to forego the standard 5 m investigative buffer in lieu of preserving part of or all the burial site as a cemetery. Modified/limited Stage 3 Burial Site Investigation strategies aimed at the creation of a cemetery can only be determined on a case-by-case basis, but the following considerations will apply:

1. The planned legal limits of the proposed cemetery must encompass the entirety of the remaining burial site within the legal property limits.
  - a) The BSI must demonstrate that the burial site does not continue beyond the proposed cemetery within the property limits.
    - i. If the burial site is known to extend directly toward the proposed boundaries of the cemetery, the BSI must take into consideration any needed mitigative measures to



avoid incidental impacts to the burial site, e.g., a partial excavation buffer abutting the cemetery limits.

- b) Any remaining portion of the burial site outside the limits of the proposed cemetery must still be fully investigated (as per Section 2.0.1) within the property limits.

## 2.2 GENERAL GUIDELINES:

1. Investigative strategies must remain fluid and amended based on changing understandings of the site and the on-going results of the investigation.
2. It is strongly advised that consultants immediately develop a communication/information sharing plan to be implemented over the duration of the investigation. Plans should include:
  - a) Regularly scheduled meetings (virtual and/or in person) with the consultant's license holder/project management/senior staff in attendance.
    - i. Prior to the start of the investigation, an on-site meeting should be held with all parties present.
  - b) Circulation of meeting minutes outlining the status of all action items, e.g. outstanding vs. completed.

## 3.0 ANCESTORS' REMAINS PROTOCOLS

The following protocols are regarding the care, housing, handling, and protection of all recovered Ancestors' remains.

1. All Ancestors' remains are to remain on the burial site until a final "disposition" is made. Meanwhile, the landowner(s) remains responsible for the care of the burial site/Ancestors' remains [\[O. Reg. 30/11, s. 175 \(1\)\(b\)\]](#).
  - a) As per [clause 179 \(a\)\(b\) of O. Reg. 30/11](#), unless MCFN consents, no person shall remove the Ancestors' remains/associated artifacts from the site or conduct scientific analysis of the Ancestors' remains/associated artifacts.
2. The enclosure(s) (e.g. wooden box) and coverings in which Ancestors' remains are to be placed, must be fabricated in a manner deemed appropriate by MCFN and the engaged First Nations/descendant communities.
  - a) Protocols may include prescribed materials, crafting methods, and/or craftsperson.
  - b) Arrangements for Ancestors' remains should be made in advance of fieldwork commencement.
3. Ancestors' remains must be housed in a secure location on-site, such as:
  - a) A temporary reburial location within the secured site area.
    - i. Reburial practices will follow MCFN/First Nations'/descendant communities' customs and protocols. Time/space for ceremony is to be respectfully facilitated.
  - b) If the Ancestors' remains cannot practically/safely be reinterred on a site, a portable trailer or storage container may act as temporary housing for Ancestors' remains.



4. Required analysis of Ancestors' remains must be conducted on-site with the following expectations:
  - a) The use of photography to document Ancestors' remains is strictly prohibited.
    - i. Documentation of Ancestors' remains, and in-situ burial features is to be limited to detailed descriptions, provenance data, and hand-drawn illustrations, only as necessary.
  - b) All recovered bone is to be kept on site for periodic review by agreed upon specialists/experts who can differentiate between faunal remains and human remains (including the identification of indeterminate bone fragments).
    - i. The consultant archaeologist must provide an appointed qualified bio-archaeologist/osteologist, who can commit to being available on-site when needed for the duration of the investigation.
    - ii. MCFN-DOCA may appoint an external expert, if necessary, e.g. a forensic anthropologist, to assist with the investigation.
  - c) A suitable workspace for on-site review/analysis of recovered materials/remains must be established with all parties prior to the onset of the investigation.
    - i. Consider the landscape/physical setting of the site, e.g., urban, high traffic, vs. rural, low visibility.
      - A portable/trailer may double as secure housing for Ancestors' remains as well as provide a workspace for osteological/faunal analysis.

### 3.1 MCFN INVOLVEMENT AND ENGAGEMENT

1. It is MCFN-DOCA's expectation that a MCFN representative will attend all on-site activities. Should for whatever reason a representative not be available, MCFN-DOCA may ask that work temporarily pause.
2. MCFN shall be consulted regarding all steps throughout the investigation, and any decisions/agreements made regarding Ancestors' remains. Investigative strategies must remain responsive to on-going feedback from MCFN.
3. MCFN shall be permitted to conduct any ceremonies on site in relation to the Ancestor's remains at any time.

### 4.0 INTERIM PROTECTIVE MEASURES FOR BURIAL SITES

It is necessary to ensure the safety and integrity of a burial site until the end of the Burial Site Investigation process, particularly during periods of inactivity on-site. Any extended pause in the investigation whilst the BSI order is open, and the transitional period post-investigation before final site arrangements are made will also merit special considerations.

The landowner is legally required to "take whatever steps are necessary to preserve the site, the Ancestors' remains and any artifacts until a final disposition is made" [\[O Reg. 30/11 s.175\(1\)\]](#). To uphold



the Act and respect for the Ancestor(s), consultants and landowners must devise an interim protection and contingency plan. In doing so, consider the following:

1. During a substantial temporary work shutdown or following the completion of a BSI, it is MCFN's preference that Ancestors' remains be temporarily reinterred on site. This is regarded as both safe and culturally appropriate.
  - a) If Ancestors' remains cannot be safely reinterred on site, all parties will determine appropriate alternative temporary housing.
2. Protective measures, as well as Ancestor's remains protocols, must be maintained over the entirety of the BSI process.
  - a) In the absence of BSI personnel routinely on the property, additional protective measures may be warranted.
  - b) "Higher profile" sites, e.g., those that have been publicized in the media and/or are highly visible/easily accessible to the public, require the strongest measures.
3. Commonly applicable protective measures include:
  - a) Temporary "fast" fencing to secure the site area. Site access must be restricted to BSI personnel.
    - i. The addition of privacy screens if the site/on-site activities are visible to the public.
  - b) Security cameras with 24hr surveillance and/or security personnel on-site.
  - c) Maintenance of secure on-site storage for unanalyzed bone and artifact assemblages.
  - d) Shoring and protections consistent with "winterization" for any open excavations or exposed faces/surfaces of the burial site, e.g., layering of geotextile and tarps, secured in place by clean fill, plywood boards, sandbags, hay bales, etc.

*Disclaimer: The views/opinions presented in this document are solely those of MCFN-DOCA. Should any of the above conflict with the interests of another named representative of the person(s) whose remains are interred on a burial site, or the law under the FBCSA, MCFN-DOCA presumes to collaboratively amend the strategies, protocols and/or procedures.*

