

**MIND THE GAPS: HOW URBAN PLANNING CAN HELP
PROTECT LESS ‘TRADITIONAL’ TYPES OF CULTURAL
HERITAGE**

**A critical analysis of Ontario’s heritage policy and legislation
in the face of changing definitions of “heritage”**

Supervised Research Project prepared by MacKenzie Kimm

In partial fulfillment of the requirements for the Master of Urban Planning degree

**Submitted to Mark Elsworthy and Nik Luka
School of Urban Planning
McGill University
August 2016**

Abstract

The concept of heritage internationally, in Canada, and specifically in Ontario, has changed dramatically since the enacting of the *Ontario Heritage Act* in the late 1970s. Society and conservationists alike have shifted from valuing mainly the physical fabric of buildings, the oldest, the rarest, or most exceptional examples of heritage resources, towards a focus on places that people use regularly, the meaning they have for the communities in which they are located, and the contribution they make to their wider urban and rural environments. Due to this shift, the current heritage policy and legislation in Ontario has been criticized as no longer being suitable for all types of cultural heritage (Angel, 2016; Harrison, 2010; Smith, 2006). In order to understand the extent of this problem, this project investigates how planning policy and legislative tools are being utilized currently to protect different types of heritage s in order to identify major gaps and make recommendations for the future. This project investigates three research questions: 1) are existing policies and enabling legislation in Ontario working well for municipalities in terms of meeting the goals of heritage conservation and what are the attitudes of different professionals in planning and heritage towards such policies?; 2) what additional measures might strengthen the way heritage resources are protected, particularly in terms of the ‘gaps’ that exist for heritage resources that do not meet the existing criteria for designation, but are equally significant within a municipality?; 3) which tools or processes might help balance conservation with the need for transformations in established urban heritage areas? Through examining the views of professionals against the language and intent of the laws and policies themselves, this project evaluates whether the current tools are effective for areas that might not fit conventional criteria for designation. Additionally, this project examines three potential alternative tools currently in use outside of Ontario: Neighbourhood Conservation Districts, Contextual Zoning and Large Scale Surveys with Context Statements. By analyzing the strengths and weaknesses of these tools, supported by the views of the professional participants, this project provides recommendations that could be applied in various municipalities in Ontario, and provides an example of such a situation within the neighbourhood of Sandy Hill in Ottawa. It was discovered that because the intent of the heritage legislation is to be flexible and interpreted by each municipality, there was a significant range for how tools were being applied. In the sample, most were using the tools to their greatest extent, and even beyond. However, it was found that less traditional types of heritage resources were still not necessarily being protected due to the very nature of the policies and legislation. The tools examined could provide this necessary protection.

Abstract

La notion du patrimoine a changé dramatiquement internationalement, au Canada, et précisément en Ontario, surtout depuis l'entrée en vigueur de la Loi sur le Patrimoine de l'Ontario vers la fin des années 1970. En matière de patrimoine, les points de vue de la société et nécessairement des professionnels ouvrant dans le domaine ont changé. L'approche en patrimoine a évolué, mais auparavant portait surtout sur la valeur du tissu architectural du patrimoine bâti et de même, les plus vieux, les plus rares, ou les exemples les plus exceptionnels de ces ressources ont été protégés tandis qu'actuellement, l'importance que des endroits ont pour les communautés dans lesquelles ils se situent et leur contribution à leurs milieux urbains et ruraux est considérée. Pour faire suite à cette évolution dans la pensée, la politique du patrimoine et la cadre législative en Ontario a été critiquées comme n'étant plus appropriées pour tous les types de bâtiments patrimoniaux (Angel, 2016 Harrison, 2010 ; Smith, 2006). Afin de comprendre l'ampleur de ce problème, le présent projet évalue comment les outils urbanistiques et réglementaires sont appliqués au niveau municipal. Cette analyse explore comment ces stratégies sont utilisées dans pour la protection de différents types de ressources patrimoniales, dans le but d'identifier des lacunes importantes et de même, faire des recommandations. Cette recherche traite trois questions : 1) est-ce que les politiques existantes et les lois en Ontario fonctionnent bien pour les municipalités en terme des objectifs de conservation du patrimoine culturel et quelles sont les attitudes des différents professionnels dans le domaine de l'urbanisme et la conservation du patrimoine culture au sujet de ces politiques ? ; 2) Quelles autres mesures pourraient renforcer la façon dont les ressources sont protégées, particulièrement en termes des lacunes qui existent pour des ressources qui ne répondent pas nécessairement aux critères pour la désignation, malgré leur intérêt pour une communauté ? 3) Quels outils ou procédures pourraient aider à équilibrer la conservation face aux transformations dans des secteurs de valeur patrimoniaux déjà définies ? En confrontant les points de vue des professionnels à l'intention de lois et des politiques eux-mêmes, ce projet évalue à quel point les outils d'aujourd'hui sont efficaces pour les endroits qui ne conforment peut-être pas aux critères conventionnels de désignation. De plus, ce projet examine trois outils complémentaires qui sont présentement en vigueur ailleurs dans le but d'évaluer leur potentiel pour le contexte ontarien, notamment : des Neighbourhood Conservation Districts, le zonage contextuel ainsi que des macro-inventaires dotés d'énoncés de valeurs. En analysant les forces et faiblesses de ces outils, appuyé par les points de vue des professionnels consultés, et par l'examen du cas du quartier de Sandy Hill à Ottawa, ce projet fournit des recommandations qui pourraient être adaptées à plusieurs municipalités ontariennes. Comme l'intention de la Loi sur le Patrimoine de l'Ontario comprend une flexibilité et une interprétation par chaque municipalité, il y avait une divergence importante dans la façon dont les outils sont utilisés. Dans l'échantillon des municipalités, la plupart entre-elles utilisaient les outils disponibles à leur plein potentiel, parfois allant même plus loin que les orientations dans la Loi. Cela dit, les ressources patrimoniales moins traditionnelles ou vernaculaires ne sont pas encore nécessairement protégées en raison de la nature des politiques le pouvoir réglementaire. Les outils complémentaires examinés pourraient combler la protection de cette ressource importante.

Acknowledgements

I would like to thank my supervisors Nik Luka and Mark Elsworthy as well as my second reader Marcus Letourneau, for their guidance, insight, encouragement and support throughout the course of this project, and for providing critical feedback. As well, conversations, correspondence and meetings with professionals in Ottawa and across Ontario, were instrumental in refining the scope of inquiry and interpreting policy in practice. Thank you also to Ms. Gladys Chan and Ms. Heather Holowathy for always being so incredibly organized and efficient. And last but certainly not least, thank you to my parents/editors, friends, and my amazing partner Sean, for your support in my pursuit of this degree.

Abbreviations

ACO: Architectural Conservancy of Ontario
CHCA or CCA: Cultural (Heritage) Character Area
GIS: Geographic Information Systems
HD (USA): Historic District
HCD (Canada): Heritage Conservation District
HCNT: Heritage Canada National Trust
HIA: Heritage Impact Assessment
HLC (England): Historic Landscape Characterization
MTCS: Ministry of Tourism, Culture, and Sport
NCD : Neighbourhood Conservation District
OECD: Organization for Economic Co-operation and Development
OHA: The *Ontario Heritage Act*
OMB: Ontario Municipal Board
OP: Official Plan
PPS: Provincial Policy Statement
UNESCO (international): The United Nations Educational, Scientific and Cultural Organization

List of Tables

Table 1: Summary of Key Information on Heritage Protection in Ontario

Table 2: Key Changes to the *Ontario Heritage Act* for Built Heritage Resources (2005)

Table 3: Review of Heritage Legislation, Policies and Alternative Conservation Tools in Ontario Municipalities

Table 4: Typology of Tools

List of Figures

Base Map Source: City of Ottawa “GeoOttawa.ca” (Open Data)

Historic Images Source: Library & Archives Canada/PA-034330; PA027403; PA-34302 2016

Images by Author

Figure 1: Location and Context Map

Figure 2: Map of existing Heritage Conservation Districts and Cultural Character Area

Figure 3: Map of existing Heritage Overlay

Figure 4: Map of Mature Neighbourhood Infill Bylaw showing coverage

Figure 5: Map of existing HCDs and potential new HCDs

Figure 6-8: Historic vs. contemporary images showing conserved character defining elements within the existing Districts

Figure 9-11: Examples of character defining elements within Districts

Figures 12-14: Examples of character defining elements within the Character Area

Figures 15-17: Examples of features that have been lost or altered

Figures 18-19: Embassies in Sandy Hill that have been altered

Figures 20-21: Features from resources south of the Character Area

Figure 22-24: Examples of alterations that meet the guidelines

Table of Contents

1.0: INTRODUCTION	1
1.1 CONTEXT	1
1.2 PROBLEM AND PURPOSE	3
1.3 RESEARCH QUESTIONS AND OBJECTIVES	6
1.4 METHODS AND GENERAL METHODOLOGY	7
1.5 SCOPE	8
2.0 LITERATURE SCAN	10
2.1 APPROACH	10
2.2 EVOLUTION OF CONSERVATION THEORY	11
2.3 TRENDS IN RECENT CONSERVATION AND URBAN DESIGN THEORY	16
2.4 THE STATE OF HERITAGE POLICY AND LEGISLATION IN ONTARIO	19
3.0 BACKGROUND	25
3.1 ONTARIO’S POLICY CONTEXT: TOOLS FOR BUILT HERITAGE PROTECTION	25
3.2 SURVEY OF TOOLS BY MUNICIPALITY	33
4.0 GAP ANALYSIS	40
4.1 OTTAWA POLICY CONTEXT	40
4.2 INTERVIEW RESULTS	55
4.3 ALTERNATIVE TOOLS FOR INTEGRATING PLANNING AND HERITAGE	65
5.0 RECOMMENDATIONS AND CONCLUSIONS	76
5.1 RECOMMENDATIONS FOR OTTAWA	77
5.2 RECOMMENDATIONS FOR HERITAGE PROTECTION IN ONTARIO	81
5.3 CONCLUSIONS	85
REFERENCE LIST	88
<u>APPENDICES</u>	
APPENDIX A: TABLES	96
APPENDIX B: FIGURES FOR OTTAWA CONTEXT	100
APPENDIX C: ETHICS APPROVAL CERTIFICATE	107
APPENDIX D: INTERVIEW GUIDE	108

1.0: Introduction

1.1 Context

Heritage conservation is an important area of professional practice for architects, planners, and designers in North America, as in other countries in the Organization for Economic Co-operation and Development (OECD) and it is becoming even more so, especially as heritage conservation becomes increasingly synonymous with sustainable development (Ross, 2006). The idea of “heritage” is changing. There has been a large shift in the way many societies, feel about what is important to conserve. Where the focus was once on the physical fabric of historic places, and the rarest, oldest or most exceptional examples of properties and sites, now there is an increased emphasis on more of the ordinary places—the stories those places tell, the meaning they have for the communities in which they are located, and the contribution they make to their wider urban and rural environments (Kalman, 2014). Architects, planners and designers play arguably the most influential and thus, integral role in understanding and conveying the meaning these places have for the communities who uses them, dictating how they will continue to be used in the future, and ultimately deciding how to protect those values for the future.

Currently, municipal governments and other state authorities can use a range of tools to protect their heritage resources and manage change, such as planning and land use regulations, specific heritage legislation, as well as commemoration and public engagement programs. In Canada, unlike other OECD countries such as England or Scotland (Historic England or Historic Environment Scotland), there is no single body or

level of government that is responsible for the legislative management of heritage across the country; this is due to the “Division of Powers”, granted by the Constitution Act, which allows national matters to be dealt with at the federal level and gives the different provinces control over provincial related matters (Parliament of Canada, n.d). The provinces have also divested powers to municipalities for matters that relate specifically to different cities. While this might seem like many layers of legislation and policy, this approach allows for the conservation and protection of the country’s ranging values and heritage resources, by relying on the provincial, territorial and municipal governments, and their respective policies and legislation, to manage how places change. But, this also results in a range of varying protection mechanisms across the country (Parks Canada, 2009). The majority of planning decisions in Ontario, especially those that affect heritage are made at the municipal level, which is where architects, planners and designers are working and influencing decisions. In Ontario, the main legal tool is the power to designate heritage resources, given by the province to municipalities under the *Ontario Heritage Act*, which if a heritage resource meets certain criteria, allows for their protection from demolition and alteration through the creation of a bylaw. This is supported by an additional provincial planning policy framework that reinforces the importance of protecting heritage resources and provides for the creation of zoning bylaws as a tool to reflect different municipalities’ Official Plans and policies. Official Plans and various municipal policies provide more flexible tools to promote the retention of heritage resources and encourage the protection of the different types of attributes that define cities— tools such as grant programs, community design plans, secondary plans and urban design guidelines. Additionally, in some jurisdictions, Official Plans also

include the provision for the creation of special areas of importance, in which design guidelines are created to help manage change. These however, have very little legal authority.

This Supervised Research Project addresses a gap that arises in practice. Despite the shift towards a wider definition of “heritage” and evolving conditions in specific places, the methods that many municipal governments are using to protect and manage change still are mostly fabric-based and many observers now argue that the status quo is no longer suitable (Angel, 2016; Harrison, 2010; Smith, 2006). This is especially so for more ‘ordinary’ places which do not meet the existing criteria for protection and are therefore at the greatest risk of being lost (Angel, 2016; Harrison, 2010). In light of these changes, this study examines the state of municipal heritage conservation policies and practices in Ontario, the tools used for protecting heritage resources, innovative practices, and the lessons that can be learned for managing change. This has been done by evaluating conservation approaches used in different municipalities in Ontario.

1.2 Problem and Purpose

The way municipalities value and protect their varying types of heritage resources can directly influence continuity and change in their built form. Conservation is thus an urban and rural issue with significant impacts. This has been recognized in the recent past throughout the field of conservation and planning in North America, Britain and Europe, which has resulted in a trend towards a more integrated approach to heritage management with land-use agendas at the local, provincial but also international government levels, as seen in recent international charters such as the European Landscape Convention, the Vienna Memorandum, and the most recent UNESCO Recommendation on Historic

Urban Landscapes, that has been adopted worldwide (Veldpaus, Pereira Roders, & Colenbrander, 2013). However, this creates a tension and significant challenges for both planners and conservationists. While land-use planning is usually concerned with growth and development, conservation is focused on protecting the past and managing change; the goals are similar, but their methods can contradict each other.¹

Heritage conservation has typically looked to exceptional examples of the past, allowing significant change to be made to some of the less exceptional built resources or vernacular resources, and since values are changing, the criteria used to evaluate significance may no longer, or may not always be suitable (Angel, 2016; De Fillipi, 2005; Harrison, 2010; Kalman, 2014). Additionally, the field of urban planning inherently calls for the systematic division of places, in order to make identification and organization easier (Corey, 2013). Yet heritage resources often straddle these official divisions, and where one neighbourhood ends and another begins is often gradual and ‘blurry’. The heritage resources that fall in these blurry areas sometimes largely contribute to the character of an area, and yet, they are also the most at risk for being torn down and replaced with something that does not fit in the existing environment. This is a widespread problem in New York City (Levy, 2015), San Francisco (Corey, 2014), and other places across the United States (Yeston, 2014) as well as Ontario in its large urban centres (Angel, 2016; Mueller, 2014). In Ottawa, this is the case in the neighbourhood of Sandy Hill, an urban neighbourhood just east of the downtown core. The area was built up beginning in the 1860s due to the rapid increase in government employees once Ottawa was designated as the federal capital in 1866 (St. Pierre, 2015). Evidence of this

¹ This will be explained further in Chapter three.

² *Ontario Heritage Act*, R.S.O. 1990, c. O.18 ; The amendments to the OHA also coincided with a review

is still seen in the many existing large Victorian mansions lining the streets, but there is also evidence of Sandy Hill's historical evolution from a forested rural landscape, to a 19th-century residential suburb, and finally to an urban neighbourhood (FGDMA, 2010). Today, it remains mostly residential, with a large portion occupied by the University of Ottawa's main campus. It is made up of five Heritage Conservation Districts (HCDs), each unique in character.

The central issue addressed by this SRP is typical of areas such as Sandy Hill. Although the five HCDS have been designated since the 1980s, they do not cover all of the territory, and the 'in-between' zones thus have no official protection, despite having many of the notable features and assets found within the districts. They may not be as cohesive, but they still largely contribute to the overall character of Sandy Hill. Many of the properties have been significantly altered however, and therefore would likely not meet the criteria for conventional heritage district or individual designation. This demonstrates how there is a significant gap in the processes currently being used to maintain the characteristic features of the area, such as the mix of architectural styles, the general form of the two-and-a-half storey, gable-roofed, detached homes, the use of historic materials like stucco and wood cladding, and elaborate exterior features such as balconies with painted woodwork. Sandy Hill thus serves as a case study to inform debate on both the impacts as well as the limitations of the planning tools that currently exist for conserving built heritage in Ontario. While it is acknowledged that patterns in other cities and provinces across Canada vary, for the purposes of this study, Ontario serves as the frame of reference, and specifically Ottawa as the municipal context.

1.3 Research Questions and Objectives

No recent review of Ontario's tools for protecting heritage resources has taken place, despite the apparent gap seen in cases such as Sandy Hill. In 2005, there was a culmination of many years of major review of the *Ontario Heritage Act* (the provincial legislation,) which resulted in amendments to provide more protection to a broader range of resources.² However, there has not yet been a review of how municipalities have made use of these new powers since they were implemented. A brief comparison of how different jurisdictions use different tools was completed in 2009, but this was very soon after the amendments, which would likely have changed drastically since then (ASI, 2009). In light of this, this SRP explores the following research questions:

1. Are existing policies and enabling legislation in Ontario working well for municipalities in terms of meeting the goals of heritage conservation? What are the attitudes of different professionals in planning and heritage towards such policies?
2. What additional measures might strengthen the way heritage resources are protected, particularly in terms of the 'gaps' that exist for heritage resources that do not meet the existing criteria for designation, but are equally significant within a municipality?
3. Which tools or processes might help balance protection with the need for transformations in established urban heritage areas?

This project also has three research objectives:

² *Ontario Heritage Act*, R.S.O. 1990, c. O.18 ; The amendments to the OHA also coincided with a review of the Provincial Policy Statement in 2005. In 2014, the most recent Provincial Policy Statement was released, which reflects some of the changes in attitudes towards heritage conservation and land-use development. Additionally, in 2002, changes in the Government Efficacy Act, shifted the role of the Municipal Heritage Committee, which lead to necessary changes in the OHA.

1. To examine the policy framework in Ontario as it relates to protecting heritage resources in the neighbourhood of Sandy Hill in Ottawa, in order to understand the complex issues currently facing planners, architects and designers;
2. To examine how other municipalities are protecting heritage resources, thus identifying gaps in Ottawa's and Ontario's conservation framework, and to explore innovative approaches or especially effective solutions that may exist elsewhere in OECD countries; and
3. To provide recommendations that better suit a dynamic definition of heritage that will serve as an action plan for how the City of Ottawa can protect its heritage resources more effectively.

1.4 Methods and General Methodology

The overall approach for this research project is both exploratory and qualitative in nature, leading to relevant recommendations and a better understanding of the current issues and limitations of the legislation and policy, and why such recommendations are necessary. The existing policy and legislative framework in Ontario is analyzed for effectiveness, in terms of the changing conservation objectives of the today, and in terms of potential for implementing other alternative methods.

The study begins with a literature review of heritage conservation and urban design theory at a broad scale, and then in Ontario specifically, in terms of its evolution, and explores some of the various perspectives on its use in contemporary academic and 'grey' literature. The review also examines the policy context for heritage legislation in Ontario and highlights the main tools for protection, as well as their strengths and limitations. This is followed by a scan of the current heritage protection policies and tools

from a sample of municipalities in Ontario, from which a typology of tools is created to identify patterns of how they are being used. This is based on a systematic analysis of online content and accessible municipal records, as well as general public information provided by the heritage planners employed by the respective municipalities. In addition, professionals and experts in urban planning and heritage conservation in Ottawa, and across Ontario were interviewed to better understand their perspectives on the limits, issues, strengths and /or benefits of existing protection tools. These interviews were semi-structured and focused primarily on the informants' opinions about the effectiveness of these tools in Ontario. Several alternative tools or policies identified through the interviews are described and evaluated based on a review of primary sources (eg. municipal reports, government websites) and secondary sources (eg. published research reports). Finally, an example of how this situation is currently affecting the City of Ottawa is explored, in order to illustrate the limits of current tools and policies; which ones are effective, and, if any could be added to strengthen the city's protection toolbox. Based on these results, recommendations are made for both the Ottawa context and for Ontario as a whole.

1.5 Scope

This analysis serves as a snapshot of the existing situation, but it does not provide a comprehensive analysis of every municipality in Ontario, nor does it provide the views of all professionals in the fields of heritage conservation or urban planning. The sample of municipalities was defined to provide a comparison with the example in Ottawa. Smaller municipalities were therefore, not included in the sampling frame. Additionally, for the purpose of this project, the definition of "heritage resource" can include buildings,

structures, and sites; archaeological resources; rural and urban cultural heritage landscapes; heritage conservation districts, areas and environments. Although this study focuses primarily on built resources, it is recognized that other types — such as intangible resources, and communities that have been under represented by the nature of conventional ideas of “heritage” and, thus less accepted by decision-makers as significant, — deserve just as much (if not more attention) in the creation of new tools to better suit their protection. The broad recommendations at the conclusion of this paper bear these considerations in mind.

2.0 Literature Scan

2.1 Approach

Examining recent work on the topic of heritage conservation in Ontario, protection tools and the intersection between heritage conservation and urban planning provides the necessary context to situate the analysis of current strategies being used for protection and informs the recommendations at the end of this study. This literature scan is structured to analyze the intersection between heritage, policy and urban planning in Canada, with a specific emphasis on existing publications relating to the impact of tools, legislation and strategies, in order to see if any have achieved the combined goals of conservation and urban development. A broad and general search was undertaken for peer-reviewed journal articles from a range of related disciplines as well as grey literature from planning and conservation organizations and institutions, relating to the topics of approaches to protection policy and legislation within the field of heritage conservation and planning. Information was also collected from recent government publications investigating the state of heritage in Canada, various major cities across the country, and specifically in Ontario, as well as internationally. These documents discussed major trends, strategies and tools used to protect heritage resources within the urban environment. Articles were found in various journals including: *the International Journal of Heritage Studies*; *Landscape and Urban Planning*; *Urban History Review*; *the Journal of the Society for the Study of Architecture in Canada*; *Planning Practices and Research*; *Canadian Journal of Urban Research*; *Journal of Planning Literature*; *APT Bulletin*; *Nebraska Law Review* and; *the International Journal of Intangible Heritage*. A fair amount of grey literature was also found from a range of sources including non-profit

organizations, the public sector, as well as in conferences, theses, and newspaper articles from across Canada, which suggests that this topic is becoming a national policy issue outside of academic or expert sectors. This review is organized by themes derived from the literature in chronological order to support the topic's relevance.

2.2 Evolution of Conservation Theory

In order to situate this research within the existing work on this topic, it was important to very briefly examine the development of recent theory on the approaches to conservation in general, and how Canada and Ontario specifically, have adopted these approaches. In addition, the work of heritage conservation in towns and cities, as practiced by architects, urban designers and planners in particular, is integrally linked to broader agendas of conservation, and thus it is important to start at this wide scale. Much of the work that has been done deals with the shift described at the beginning of this paper; developing from what once focused on technical methods for conserving objects, based on particular architectural, historic and aesthetic values, to a 'values-based approach' to conservation in the 1970 to mid-1990s, and finally towards a more holistic approach that is integrated with urban planning, which has come to light most recently (Kalman, 2014). This shift is connected to the developing understanding of what 'heritage' means. In academic literature, one of the prominent authors on the subject of the changing definition of heritage is Laurajane Smith. She sees heritage as a process, as opposed to an object that has meaning (Smith, 2006). Her work, among others, recognizes that traditionally, the definition of heritage has been a distinctly physical concept, a Western understanding of value, which defines heritage through a singular lens (Harrison, 2010; Kalman, 2014; Pendlebury, 2015; Smith, 2006; Waterton, 2010). Smith

describes this as the “authorized heritage discourse” (AHD). Smith and others suggest that instead, heritage sites, places, and buildings are given meaning by the way communities use them, as opposed to their meaning being a fundamental part of them. This increased valorization of cultural diversity, paired with the understanding that heritage values are not necessarily physical, led to a rise in what archaeologist Rodney Harrison describes as the concept of representativeness (Harrison, 2010). He says that this “way of seeing” recognizes that experts cannot always foresee what will be important to different communities in the future. But by involving the community more in selecting and protecting a sample of a range of places, objects and practices, it protects heritage resources that may be important now or that could potentially be important in the future (Harrison, 2010). This led to what is known as ‘value-based conservation’, centered on a more broad understanding that differed between communities in order to understand what places are important and why, which in turn would lead to a more suitable approach to their protection. This approach is reflected in several works beginning from the late 1980s until very recently (Fulton, 1998; Kalman, 2014; Muños-Viñas, 2005; Olsson, 2008) and has ultimately resulted in a changing AHD, a greater respect for different populations, communities and groups and thus, a wider range of heritage resources that needed protection.

Most recently, the understanding of value and conservation has evolved even further towards an even more inclusive approach that combines intangible values, setting, context as well as urban and sustainable development, which can be described as a ‘landscape-based’ approach (Veldpaus *et al.*, 2013). This evolution is reflected in much of the literature after 2005 (Chynoweth *et al.*, 2007; Kaufman, 2013; Shipley &

McKearnan, 2011). In the work of Chynoweth *et al* (2007), although it deals with conservation legislation in Scotland, the authors identify the development of “holistic landscape-based approaches to conservation” and “the widening of heritage values to include those of particular groups and communities” as two major trends in the field internationally. Further to this Sinha & Sharma (2009) and others (Menon, 2005; UNHabitat, 2010) focus on the connection between monuments and their wider urban context, recommending strategies such as using historic districts as way to balance conservation with development. They acknowledge that not every area in a city includes individual properties of exceptional significance, but as a whole, in combination with many properties, spaces and other immaterial features, areas can convey intangible values for a community, as a precinct or district. This approach is a more “people-centered” one that seeks to balance economic and social needs with respecting the traditional cultural fabric of urban cities” (Sinha & Sharma, 2009).

Additionally, while not only reflected in academic literature, this evolution is also demonstrated in changes in international conservation policy; the charters that define best practices in conservation from an international perspective. The original charter, the Venice Charter, drafted in 1964 (by mostly Western architectural and conservation practitioners) focused strictly on technical methods for conserving and restoring historic buildings and monuments, especially prioritizing “original materials” and advocating for the use of scientific methods and technology ("International Charter for the Conservation and Restoration of Monuments and Sites," 1965; Kalman, 2014). Following this, practitioners became less concerned with specific technical issues, and more interested in the issues surrounding the conservation of heritage resources with less material values;

the social and spiritual values of places. The Burra Charter (2013) illustrated this shift in perspectives and further acknowledged that these types of values may be different for a range of communities. Finally, this change is reflected in the creation of further international policy, the European Landscape Convention (2000), Vienna Memorandum (2005) and UNESCO's Recommendation on the Historic Urban Landscapes (2011), which reflects this re-definition of urban heritage and the methods to be used for its conservation in connection with development in the city. It specifically considers context and the spirit of place, perceptions and memory (O'Donnell, 2015) and also stresses the importance of natural growth in urban development and its management.

Throughout this evolution, conservation has employed a range of tools for protecting cultural heritage resources in various contexts. Approaches originally focused on the technical conservation of buildings and ancient ruins. These approaches can be separated into two main schools of thought. First, the Ruskinian school of thought combined technical and scientific methods to preserve buildings as they were, but only enough to keep them standing, as prescribed in the Burra Charter, article 3 (Jackson, 2004). Many cities in Europe and Britain have taken this approach; in Scotland, the National Trust maintains a number properties in this manner. For instance, New Hailes House, a neo-Palladian villa that has been carefully conserved by doing “as much as necessary, but as little as possible”, and is essentially being kept in its original historic state (National Trust for Scotland, 2016). Another school followed the theories of Viollet-le Duc, who sought to combine historic facts with creative modification, to both preserve the existing buildings, but also make them “better” (Jackson, 2004). Both these schools resulted in the idea of freezing a place in time, converting the most exceptional examples

of heritage resources into museum-like facilities, where the public can experience the history of a place. For instance, in Skansen, Stockholm, Skansen Village was designed by Artur Hazelius (a prominent ethnographer and folklorist) in 1891, and not only displays historic artefacts, but also features farm buildings acquired from across the country, where visitors can take part in traditional activities that communicate Sweden's agricultural past (Stubbs and Makas, 2011). Finally, the Italian school, based on theories by Gustavo Giovannoni, sought to combine the principals of both Ruskin and Viollet-le Duc, particularly noting the need to highlight the differences between new and old interventions, and advocating the value of historic buildings in general, and not just the monuments or most exceptional landmark buildings (Stubbs and Makas, 2011).

When values shifted to include spiritual and social significance, freezing heritage resources in time was no longer accepted as the only way to conserve. This was identified in the Nara Document on Authenticity, which captured the need for a much broader understanding of cultural diversity (UNESCO, 1994). This document formally recognized that authenticity was a defining element of cultural heritage, but it also recognized the need to assess that element from a more objective perspective and in the context of a particular culture. For instance, in the Japanese culture, Pagodas, generally constructed in wood, had a much shorter lifecycle than structures of stone, or brick. At the end of their lifecycle, they are demolished and rebuilt. In traditional conservation practice, this would have translated to a loss in value. But in Japanese culture, this was not the case at all, where in fact the ritual of rebuilding was part of the heritage value. These types of customs lead to the acceptance of value and new approaches based on the value of heritage resources evaluated within their cultural contexts. Today, there has been

further acknowledgment of value attributed to heritage resources coming from the people who live there, who use the heritage resources and their interpretation of significance.

There is more emphasis placed on intangible resources, those that are not necessarily visible elements like architecture, but the recognition of the spirit of places, how they are used and by whom (Lenzerini, 2011). Today, heritage conservation is evolving even further to address a number of emerging themes: sustainability, intangible and cultural heritage, and community engagement (Angus, 2014). In a conference paper presented at the Heritage Canada National Trust Conference, Miranda Angus discussed several emerging trends and approaches in the field such as (Angus, 2014):

- adaptive reuse of buildings to address urban densification (and rural development) but also intensification and climate change;
- the use of technology to document and archive sites so that future generations are able to see what they would have looked like, even if they are physically gone;
- researching places at much broader scale, to gain a wider perspective and understanding about the meaning of a place;
- focusing less on heritage resources themselves and their inherent value, but more on the contribution they make to the larger idea of “heritage”;
- new technologies (and understanding) that allow for the conservation of built resources that are not necessarily hundreds of years old, but still significant to a community.

Ultimately today, there is more of a focus on the composition of heritage resources and how the community understands them, and the tools that reflect those trends are changing as well.

2.3 Trends in Recent Conservation and Urban Design Theory

One of the limitations of the object-focused and value-based approach to conservation, is that it is not based on a comprehensive understanding of how different communities value, use and benefit from different heritage resources (Olsson, 2008). Conversely, it is based on values defined by experts (such as architects and art historians) under the assumption that these values are the same for local citizens. However, recent literature acknowledges the differences between the perceptions of value between experts and everyday people and the increased importance in hearing all stakeholders. This is reflected in several critical articles such as Amdur and Epstein-Pliouchtch's study on the differing perception of place between architects and regular users of space. The authors found that while both architects and users focus on the use of a place as important, when reflecting on what a place means to them, the two groups think differently; architects tend to think abstractly, while users tend to think experientially or emotionally (Amdur & Epstein-Pliouchtch, 2009). What was interesting was that although they understood it differently, the overall value and meaning was the same, suggesting that the way we conserve places could also be done differently. Additionally, the end of the article concludes that the "failure or success of infusing meanings into places may have more to do with the activities that take place there" (Amdur & Epstein-Pliouchtch, 2009, pp. 160-161) suggesting that perhaps less emphasis should be placed on things, objects, and buildings, and more on what places mean to the people who use them. A landscaped-based approach helps to support these types of values.

In light of, and in addition to this, many articles suggested a trend of valued places in need of protection that are located outside of traditional protected areas, such as districts, or conservation areas. This is supported by a survey study conducted in 2012 by

Bertron and Rypkema, which asked professionals in 20 US cities about using historic preservation as a method for revitalization (Bertron & Rypkema, 2012). These professionals identified that there is a need for more attention to “pleasant, liveable, older neighbourhoods that do not meet [existing] Register criteria” (Berton & Rypkema, 2012, p.14). This issue has also come up in several articles (Corey, 2013; McClurg, 2011), where the authors have explored a tool called a ‘neighbourhood conservation district’ as an alternative form to historic designation that conserve unique neighbourhood character without the restrictions of a full historic district in the US. This tool provides an interesting opportunity for balancing conservation with natural growth and is explored further later on in this paper.

Experts in heritage studies like Smith, Harrison, and Chynoweth *et al*, also identify some major implications of these evolutions in theory on the legal framework that has developed to support the protection of heritage resources. Smith and Harrison point out that for the most part, the legal framework works with that traditional, early approach to conservation; emphasizing aesthetic and scientific arguments as valuable and that protection is tied to “things”. However, they are not clear on how it might address the growing range of heritage resources or changing definition of heritage. Ned Kaufman further argues this point discussing how conservation policies in the United States are ineffective at protecting intangible values because they focus too narrowly on categories of “excellent” or “most important” (Kaufman, 2013). Chynoweth *et al* further elaborate on this, discussing how the focus of traditional legal frameworks for special heritage resources have created a “dichotomy between the protected ‘monument’ and the unprotected ‘ordinary environment’ ”(Chynoweth *et al*., 2007, p. 260). Therefore, while

the literature recognizes that broad interpretation of value is necessary, the question of how to legislatively protect these types of heritage resources and ‘ordinary environments’ is unclear; and thus, what this paper seeks to research more in-depth.

2.4 The State of Heritage Policy and Legislation in Ontario

Much of the recent work on this topic in Ontario comes from two distinct time periods: around the beginning of the 1990s, about 15 years after the enactment of the *Ontario Heritage Act* (OHA), when experts in the field had identified flaws and limits of the legislation and were calling for amendments to be made; and more recently, about 10 years after those amendments were actually passed in 2005. In the 1990s, many authors wrote reviews, critiques and conducted studies on the limits of the Act; what was working and what was not (Bridgman & Bridgman, 2000; D'Eye, 2005; Fulton, 1998). These authors touch on the problems with heritage policy in Canada, the roles of each level of government, and identify that even 25 years ago, the definition of heritage was drastically expanding, leaving the legislation that was supposed to go along with it, incompatible. In particular, an article by Bridgman & Bridgman, the authors explore some of the challenges that heritage regulations present for different stakeholders in the development process, especially when trying to redevelop designated heritage buildings. They draw particular attention to the conflict between heritage legislation and other regulations like the *Ontario Building or Fire Code*, by studying several cases in Toronto. They conclude that part of the problem with protecting heritage resources in that city (at the time of its publication) was partly due to the lack of legal strength of the OHA, but

also the lack of appreciation of the concerns of all stakeholders involved in the redevelopment process, including property owners, developers and policy-makers. They forecast that without it, any legislation or policy would be ineffectual (Bridgman & Bridgman, 2000). An article written by George D'Eye, published just after the province passed the bill amending the OHA in 2005, discusses some of the important changes and the significance of the legislation. Although it is an opinion piece, D'Eye illustrates the critical perspectives of many experts in the field on the state of heritage legislation at the time. D'Eye suggests that while the changes helped bring the province's protection tools more in line with the changing definition of heritage, he also highlights two potential drawbacks: having to rely on municipalities to take the initiative to actually protect their own heritage resources and the ability of the Ontario Municipal Board to handle appeals (D'Eye, 2005).

An integral critical analysis of Ontario's heritage policy is a thesis by Victoria Angel on "The *Ontario Heritage Act* and the Provincial Program from 1970 to 1998", which further discusses the importance of community-specific identification of heritage resources and the relationship with the (then) emerging concept of social value and the significance of places to the people who use them (Angel, 1999). She also reviews best practices from around the world in heritage conservation and identifies three major changes and movements within the field: the conservation of monuments; movement toward integrating conservation with urban development and planning; and the increased importance and acceptance of the social value of sites. Angel argues that, while earlier programs tended to focus on centralized legislation and conserving physical elements, such as those in Europe, Britain and the United States, she sees Ontario's program as

unique in that it allows for the incorporation of intangible values and “encourages local initiatives to conserve and manage heritage”, which allows for community-specific values to come through (Angel, 1999, p. i).

In the last five years, the topic of the effectiveness of heritage protection and regulation resurfaced, most likely because of the coinciding 40th anniversary of the World Heritage Convention in 2012. In 2011, Carleton University’s Heritage Conservation Symposium entitled “Does Designation Work?”, brought together experts who discussed many of the limitations of designation in Ontario and other provinces, drawing particular attention to the lack of funding available as incentives for owners to do conservation work, which in turn makes it difficult for municipalities to actively encourage designation applications (Bull & Wiebe, 2011). In 2012, the state of heritage conservation in Canada was the focus of the Heritage Canada National Trust’s conference, where experts identified that there needed to be a re-examination of how heritage protection in Canada was being implemented, and also that a new plan should be developed for moving into the future. The key findings from that conference in relation to heritage protection and regulation were that while positive achievements had been made in the identification and protection of thousands of heritage properties and districts as well as the creation of the Canadian Register of Historic Places (a database of many of the recognized historic places in all of Canada), it was also acknowledged that designation in practice, has significant limitations (Coutts & Collins, *Heritage Canada National Trust*, 2012). For instance, in Ontario since a designation only needs to be approved by the province or municipality, without the consent of any private owner, it fundamentally infringes on property rights and therefore, there is no mutual agreement

that the protective bylaw will be followed by the owner. Designation is limited by its dependence on political and municipal will to enforce it, which becomes problematic when owners claim that a designation makes owning a property too expensive, or that it limits its financial potential, since municipalities are often reluctant to enforce it. This leads to the de-designation of properties and increases the likeliness that owners will just let a property deteriorate, effectively demolishing them slowly overtime, by neglect (Coutts & Collins, *Heritage Canada National Trust*, 2012). However, the conference also suggested many options for how to improve protection tools, such as changing the approach to identification and protection from one that focuses on individual properties or places and towards an understanding of how those properties fit into their context more holistically (Bull & Wiebe, 2011). Ideas also centered around improving the clarity and transparency of how heritage value is communicated to general society, and to help encourage voluntary protection by owners through offering meaningful financial incentives (Bull & Wiebe, 2011).

Much of the literature that was found focused on strengthening policy at the local level and dealing with problems such as demolition by neglect, and the need to protect heritage resources other than just properties and their buildings. Many articles discussed how different municipalities were, at the time, revamping and strengthening their heritage policies to deal with these issues through their official plan and to reflect the changes made to the provincial legislation in 2005 (Heritage Canada NationalTrust, 2012). Many of these included requirements for: heritage impact assessments to go along with official plan amendments, demolition permits for properties adjacent to heritage properties, encouraging the adaptive reuse of city-owned properties, and for the development of

emergency management plans in the event of unforeseen events like fires or flooding. In Burlington, one of the major updates proposed for better protection was the Heritage Register, the city's database of identified properties, with categories and subcategories ranked by significance. The database was large, included both designated and listed properties, which in addition to the categories, was confusing for residents (Baldassi, 2012; "In with the Old," 2012; "New Heritage Policies ", 2012). In their update, the city was proposing to reduce the size of the Register by removing all but the most important, and keeping the rest on an inventory. The article points to the City of Hamilton as a precedent for doing this with only 21 properties on their Register, however, the City of Hamilton is currently undergoing significant changes to their heritage program, including a complete overhaul of their inventory, Register and methodology for inclusion on both (Baldassi, 2012); a report completed in 2014 by a conservation architecture firm in Toronto, recommended that all properties contributing to the heritage value of an area should be included on Hamilton's Heritage Register (ERA, 2014). This is an important concept to highlight since this method of identification and evaluation demonstrates the changing trends in protection tools as well. Additionally, since 2011, Heritage Toronto has undertaken two reviews on the state of heritage in the city (Heritage Toronto, 2015). The first included a set of consultations with heritage organizations to identify issues and make recommendations. In 2015, the review was based on discussion with heritage professionals and organizations as well as with the public. It found that overall the city was making progress in making heritage a priority in the Official Plan and as an important part of planning. The main findings recognized that the city is integrating heritage into other city departments, working towards a holistic approach to heritage

conservation, especially by including Cultural Heritage Landscapes in their inventory of heritage resources and, by recognizing that “heritage should be repositioned as a progressive aspect of better city planning...to be woven into development decisions” (Heritage Toronto, 2015).

This review has demonstrated the evolution of heritage conservation from a technical, objects-based approach to conservation, to a wider, more objective perspective and broader understanding of what constitutes heritage. It has also shown how that legal framework that has been developed to suit traditional approaches does not necessarily reflect the values of conservation today. Finally, these articles illustrate that the strengthening of tools used for the protection of heritage is currently a topic at the forefront of the academic, private and public sectors here in Canada and abroad. This paper therefore, provides a review of existing successful tools in municipalities on Ontario, some new or alternative methods of protection and makes recommendations for strengthening and updating conservation programs across the province and specifically in Ottawa. The following section provides an overview of the existing policy context in Ontario and analysis of existing tools in use (see summary of key information in Appendix A Table 1).

3.0 Background

3.1 Ontario's Policy Context: Tools for Built Heritage Protection

In Ontario, the power to recognize and protect heritage resources is given to municipalities from the province through the *Ontario Heritage Act* (OHA). This Act was originally passed in 1975, and as enabling legislation, it provides municipalities with the strongest legal powers and tools for identifying, evaluating and protecting built and cultural heritage resources as well as archaeological sites; this is thought of as the main tool for the protection of heritage resources in Ontario ("*The Ontario Heritage Act*," 1975). In 2005, the Act was amended to strengthen its powers in terms of demolition control, district management, minimum maintenance requirements and the extent of provincial powers (Appendix A Table 2). Prior to these amendments, municipalities could only delay demolition for 180 days, but not outright control it; now owners of designated properties must apply for demolition consent from city council, which is a significant increase in power (Angel, 2016). The amendments also included the requirement of management plans to go along with heritage conservation district designations. In the original legislation, no plan for the long-term management of change within a district had to be comprehensively completed, so many of the early designated districts, such as in Sandy Hill, were not accompanied by design guidelines. There were also no minimum standards for maintenance that could be required for heritage properties, and the province itself also had no powers to designate properties or step in, in the event that a municipality would not designate a property. Additionally, the definition of "heritage attribute" was strengthened to say that attributes were not the cause of

“value” but rather contributed to the overall value of a property (D’Eye, 2005). These amendments have been instrumental in widening the tools available to municipalities.

3.1.1 Identification

The majority of conservation programs in Ontario and elsewhere, are generally developed based on a preliminary survey of properties within an area, in order to understand the extent of heritage resources that exist (D’Eye, 2005; ERA, 2014). In many municipalities, these surveys have been carried out over many years, as part of several different projects by volunteers, community organizations and heritage-minded citizens, who identify resources that seem to be of heritage value. These sites and heritage resources are recorded and kept as part of an inventory, which often leads to further research being carried out to learn more about them. An inventory serves for identification purposes only, with no legal protection or restrictions.

3.1.2 Evaluation

Once a property or place has been identified, its value is assessed, and then the municipality has several tools available that can help provide protection. The main tools are: listing on the Heritage Register (Section 27 of the OHA), designation of individual properties (Part IV of the OHA) and designation of conservation districts (Part V). However, in order for properties to qualify for designation, they must meet one of the three criteria for determining value, as prescribed in the OHA (“Regulation 09/06 “, 2006; ERA, 2014)³. These criteria are related to design or physical value (*ie.* a rare or unique example of a style), historic or associative value (*ie.* associated with a theme or

³ After the amendments in 2005, the province could now designate heritage resources that were deemed to be provincially significant, if they met another set of criteria, Regulation 10/06. These criteria are different from 09/06 in that they focus on significance at the provincial level. This regulation provides the Province the ability to step in when a municipality does not want to designate a heritage resource, however this has yet to happen.

person, or the work of an architect), or contextual value (*ie.* linked to its surroundings or is a landmark) ("Regulation 09/06," 2006).

3.1.3 Protection

For individual properties, municipalities can pass a bylaw to ensure that any alterations protect the qualities and attributes that contribute to its heritage value under Part IV (Section 29) of the OHA ("Regulation 09/06," 2006). This designation also ensures that any demolition must be approved by council, and in some municipalities, qualifies for special heritage funding. Groups of buildings, places or landscapes may also be designated in a similar manner under Part V (Section 42) of the OHA, providing control for alterations and demolitions. This is often used in tandem with other design guidelines, official plan policies and zoning regulations, which is effective for conserving neighbourhood character ("The *Ontario Heritage Act*," 1975). Additionally, the amendments in 2005 to the OHA now provides municipalities with the ability to list properties, both designated and undesignated on a Heritage Register, Section 27 of the OHA (ERA, 2014). This serves the function of an official list of properties that have been identified as having value, but also provides protection for those with potential value, by necessitating that property owners provide 60 days notice to the municipality, if they intend to demolish part or all of a building on the site (D'Eye, 2005). This tool provides a method for identification, development review and demolition control. It is also a tool that is starting to be used more frequently for demolition control for properties that do not meet the traditional criteria for designation ("The *Ontario Heritage Act*," 1975).

The OHA also provides municipalities the ability to enter into agreements with property owners who wish to protect certain values. These voluntary agreements are

known as Conservation Easements or Covenants (Section 37). These allow the municipality to protect a site without owning it, and allow for specific restrictions on use (which is not covered by designation) and development to be negotiated with the owner. The easement is registered on the title of the property and therefore protection is in place indefinitely. As a legal contract, they are customizable, and applicable to a variety of different types of heritage resources including buildings, natural landscapes and cultural heritage landscapes (Bull & Wiebe, 2011; Elliott, 1995).

Finally, the OHA provides municipalities with the power to identify and recognize areas of special interest, such as older residential neighbourhoods or villages as Cultural Character Areas through their Official Plan policies. These are used in situations where such places might not meet the criteria for conventional designation, but are seen as important. Although the conservation of the character of these areas is encouraged through municipal policy and often supplemented by design guidelines, this tool offers no legal protection.

In addition to the OHA, Ontario's *Planning Act* provides direction not only on land use and development, but also the Provincial government's vision for how to manage different heritage resources. In the most recent Provincial Policy Statement (PPS, 2014), Section 2.6 relates directly to cultural heritage, establishing that "significant built heritage resources and significant cultural heritage resources shall be conserved" (PPS, Sec. 2.6, 2014). *The Planning Act* also provides municipalities the ability to require a Heritage Impact Assessment (HIA), when a development application includes alterations that may have an impact on significant heritage resources or properties adjacent to significant heritage resources (Ministry of Tourism, Culture and Sport, 2006).

Additionally, Section 41 of the *Planning Act* provides municipalities the ability to establish polices and bylaws for Site Plan Control. In areas where these are in place, municipalities can require that any applicant wishing to develop, must receive approval from council on “matters relating to exterior design, including without limitation to the character, scale, appearance and design features of buildings, and their sustainable design...” (The *Planning Act*, Sec. 41, 1990). This tool can sometimes be used to control applications that involve heritage considerations; in Markham for example, site plan control is required for every application that involves a heritage property .

3.1.4 Strengths, Limitations and Issues with these Tools

The *Planning Act*, as a provincial piece of legislation, offers some protection since it provides direction and guidance for municipalities. While it is broad enough to ensure the flexibility to be applied in the various municipalities, it is worded with conservation goals. However, arguably as its main function is to provide direction on land use and development, there is significant tension between its intent for growth management and conserving heritage. Other provincial growth plans under the Act, especially in Southern Ontario, for example the Growth Plan for the Greater Golden Horseshoe, have less strength and even contradict the PPS, stating that cultural heritage be conserved “where feasible”(Architectural Conservancy of Ontario, 2015). This affords developers, the municipality and other land use decision makers, the ability to pay less attention to heritage matters as they relate to development. The PPS works best together with other policies, like the OHA, since land use decisions are appealable to the OMB and only applies to sites that have been designated as meeting the criteria for having heritage value (Regulation 09/06), including those on a municipal Register, since to be

included there, they must meet the criteria as well (Architectural Conservancy of Ontario, 2015). But even together, the PPS would not provide protection for properties that would not meet the criteria for value.

Designation and listing under the OHA are often viewed as the main tools for protection of cultural heritage resources; these tools are attractive because they are an enforceable and established method, that provides strong legal protection that supersedes contradictory policies in any Official Plan or Zoning Bylaw, although, often amendments are made to both, to reflect any changes. This gives extra weight to the value of designation. However, the OHA has its limitations and there are many criticisms of its use (Schneider, 2016a). The public often sees designation as restrictive in terms of what elements must be conserved and therefore, there is little incentive for investment in historic buildings (Angel, 2016; Bull & Wiebe, 2011; Corey, 2016; Coutts & Collins, 2011). The requirements for maintenance and conserving those identified attributes are also placed on owners, and since designation is not automatically tied to financial funding from the province, it is often hard for municipalities, especially smaller ones with smaller tax areas, to take over that responsibility or for councils to even support designation with an owner's consent (Bull & Wiebe, 2011). So while designation ideally is based on a legal agreement between two parties, this is rarely the case.

As well, many people still believe (although this perception is slowly changing) that designation is meant to 'freeze places in time' or that designation means that a property becomes a museum that can be open to the public (Corey, 2016). Though this is not the case, and even when owners are 'conservation-minded', they view the restrictions

as limiting, leaving little room for flexibility for natural growth, and as an infringement on property rights (Bull & Wiebe, 2011). Additionally, some members of the public and professionals alike, still see designation as something only meant for outstanding examples of architecture and have a hard time understanding that protection can extend to a wider range of heritage resources; even though only one criterion must be met to warrant designation, often it is difficult to convince the public and even councillors, of the values they cannot necessarily see. Regulation O9/06 reiterates this issue, because it ultimately focuses on the rarest, the earliest, the most in-tact examples, associated with famous people or events, or landmarks (Bull & Wiebe, 2011; Coutts & Collins, 2011); even though only one criterion must be met to qualify for designation, it can be difficult to argue for political support, especially in municipalities where heritage is less of a priority to development. Although districts are capable of protecting broader types of heritage resources, because of the length of time it takes for property-by property in-depth study and management plan development, this makes the feasibility of using this tool to identify heritage resources, for example, across an entire city, very unlikely. Finally, as the OHA is enabling legislation that allows for flexibility, there is no minimum number of tools required; the only requirement for municipalities to follow, is that “valuable resources shall be conserved” which is made possible by the tools the OHA provides. This ultimately means that the application and interpretation of the *Act* can be, and likely is, very different in every different municipality (Schneider, 2016a).

In addition, it is important to address one additional external factor that affects the limitations of these tools; the Ontario Municipal Board. The Ontario Municipal Board has

been mentioned a few times in the description of several of the tools above, but it is extremely necessary to understand the role and the function of this board, in order to assess the effectiveness of any tool or framework that planners work within currently, or may work within, in the future. The Ontario Municipal Board, is “an independent adjudicative tribunal that conducts hearings and makes decisions on matters that have been appealed to the OMB under specific provincial legislation”, mostly land use legislation, but also some appeals under the OHA (Schneider, 2016b) (Government of Ontario, “About the OMB”, 2014). This appeal board is controversial for many reasons and provides both benefits and drawbacks. In a recent article by Patrick Metzger in the *Torontoist* online magazine, he explains the complicated and controversial process, and the influence the OMB has over land use planning in Ontario . First, he explains that while anyone may represent himself or herself at a hearing, because the process is often long and complicated, those who can afford legal council or expert planning advice tend to have an advantage over those who can not. He also explains that the Board is made up of members appointed by the province for three year terms, (although a member can serve multiple consecutive terms) each of whom come from a variety of backgrounds such as education, planning, politics, and law; for municipalities who may not have staff experts to inform on particular matters (like heritage), the OMB can provide that expertise. However, according to its mandate from the Province, the OMB makes binding decisions and although technically, the Board is required under the *Planning Act* to “have regard to” a municipality’s decision, this phrase is often disregarded (Metzger, 2015). For municipalities and their citizens, it can be very disheartening to have decisions that have been recommended by local staff and debated within the context of their specific

municipality, overturned by a council of members who likely have no experience in their city (Metzger, 2015). This is a significant problem in assessing the effectiveness of any protection tool, especially if the OMB can overturn decisions of the municipality.⁴

With the understanding of the policy context in Ontario and its limits and issues, this next section explores the extent to which municipalities have made use of the legislation and how they are working within that current framework. This next section also includes the analysis of current policies and tools in use from a sample of municipalities, in order to gather a sense of how heritage resources are being protected and to assess whether any innovative options are being implemented. This ultimately provides a basis from which to inform recommendations for how the City of Ottawa might improve its conservation program in terms of addressing the protection of less traditional types of built heritage resources.

3.2 Survey of Tools by Municipality

3.2.1 Approach

Policy documents for 10 of the largest municipalities in Ontario are examined to understand the range of extents to which municipalities are utilizing the OHA and other policies. These municipalities have been chosen based on area and population, to help provide a better comparison with Ottawa, which, while the city itself has a much smaller population than some of the municipalities in Southern Ontario, the amalgamated city is

⁴ Similarly, the primary appeal body for decisions under Section 29 (designation of individual buildings is the Conservation Review Board (CRB). Designation bylaws and alterations to properties can be appealed to this board, however, unlike the OMB, the decisions made by the CRB are recommendations to Council, but are not final (Government of Ontario, 2015).

much larger in area (Table 2). These large municipalities have also been chosen based on the likeliness of a range of potential types of heritage resources that need protection, and therefore have a comparable conservation program in place already. Data has been collected through sources available online from the sampled municipalities, and in cases where information was not available online, data has been gathered through online correspondence with a heritage planner at the municipality. Official plan policies and zoning bylaws of the selected municipalities have also been reviewed in order to find what land use tools are being implemented as well.

This analysis is based closely on a review of policy directions completed by a consultant for the Town of Richmond Hill, three years following the amendments to the OHA, as part of their new official plan process (Archaeological Services Inc, 2009). The review included a benchmark survey, in which policies were analyzed in 12 municipalities across Ontario, where eight different objectives were identified. As part of this investigation, the objectives from that review are used as a starting point to examine the sample of municipalities for this research. Based on this review of the policies and tools in use, the strength of the different conservation programs are evaluated according to the following objectives (Appendix A Table 3):

- the scope of heritage resources that have been identified as important to be conserved
- the use of all available legislation and policy
- achieves a balance of conservation with other urban and rural agendas
- uses conservation as a key component of the development review process

- encourages community involvement and awareness of conservation through different education strategies
- encourages conservation through the provision of financial funding

3.2.2 Limitations

Small municipalities have been excluded from the scope, for the purposes of this research. This is in order to ensure comparability with Ottawa, since smaller municipalities would likely have fewer heritage resources, less emphasis on heritage and likely no heritage planner on staff. However, this would likely have highlighted further the range in the way municipalities can apply the OHA, while still complying with the legislation. The majority of data has been collected from the information available publicly online by each municipality, however in some cases, the heritage planner has provided information to confirm discrepancies or additional clarification, especially in terms of the use of the Heritage Register and inventory. Additionally, during the interview process, it became clear that the use of the Register in particular, was not consistent across the province, so additional research has been conducted to find if the sample of municipalities had both a Register (for demolition control) and an inventory (with no demolition control). All municipalities in the sample have been contacted, however two (Mississauga and Brampton) have not responded.

3.2.3 Analysis

All the surveyed municipalities had the ability to use many of the same tools (Appendix A Table 4), since the OHA is enabling legislation and provides the strongest of mechanisms for protecting heritage resources. However, it is clear that some

municipalities are using them to a greater extent than others. Of the 10 municipalities surveyed, all have an existing conservation program, with a Register and Part IV and Part V designations. The biggest municipalities in the sample have the ability and the need to use more of the tools at their disposal, which is consistent in that the bigger the municipality, the more heritage resources would exist there, and thus more programs and tools would be necessary to protect them. This is the case, for instance, in larger municipalities, which have more extensive financial incentive programs, including tax credits and grants, with some specifically for special types of heritage resources (*ie.* Hamilton and Toronto). This is likely because these programs are funded through tax revenues from their much larger tax area (Archaeological Services Inc,2009).

Interestingly however, some of the smallest municipalities in the sample also have grant programs, perhaps to counteract the lack of provincial funding for privately owned built heritage (Ontario Heritage Trust, 2016). Additionally, nearly all municipalities in the sample have a property standards bylaw, but not all have special sections pertaining to heritage properties. This survey suggests that most municipalities are using the tools to integrate with land use and development, in the use of permit systems and application review, as well as official plan policies, which also demonstrates that heritage generally is a priority, however only Kingston, Ottawa and London have a heritage component within their zoning code. One of the stand-out tools, is the City of Brampton's Vacant Building Bylaw, and a policy for a Heritage Building Protection Plan enabled by their official plan(City of Brampton, 2012; "Vacant Building Bylaw," 2012). This bylaw is in addition to their property standards bylaw, which specifically deals with vacant heritage buildings and requires a plan be established for properties that are vacant at the time

when a development application is submitted. The City of Brampton is the only municipality using such a tool.

In other cases, some of the municipalities are using tools beyond the minimum scope of the OHA. For instance, the municipalities of Mississauga, London and Hamilton have their own special inventories for particular types of heritage resources such as cultural landscapes, cemeteries or places of worship, that are grouped specially within their Register. The City of Hamilton in particular, has a very strong conservation program, with several inventories in addition to their districts, as well as special policies for the protection of heritage bridges; currently they are revamping their entire methodology for evaluating and identifying heritage resources through a historic urban landscape approach (Character Areas) with a significant emphasis on community input and awareness. Hamilton also has eight different financial tax programs. Many municipalities in the sample also have educational programs that promote heritage, in the form of design awards, lectures, or planning workshops, that focus on heritage, however it was the objective that was least consistent in the review. The fact that the programs exist in some form across the sample is not unsurprising, since, these types of programs are cost-effective ways to encourage investment and engagement. But for those reasons, it is surprising that these types of strategies are not a main focus for all the municipalities.

As well, in addition to the Register, Ottawa and Kingston keep a list of properties that have been identified as having potential value. This list is mostly for internal use, and in conjunction with development review, as properties get flagged as “listed” when an application for development comes in. As part of the Hamilton’s program methodology

review, they have recently moved away from using this list, towards only using the Register. Ottawa is also in the process of updating their reference list and will likely move in this direction as well. When I asked the planners from the municipalities in the sample about the reason for keeping an informal list like this, the majority did not see a reason for keeping both a Register and an additional list, since a list provided no legal protection. However, the planners in two municipalities thought this was a good way to keep aware of properties that may have potential value but have not been thoroughly researched. In one instance, the planner felt that the list provides for the cases where properties may have a stronger rationale for protection through the Register or designation in the future, but not necessarily at this point. In another instance, the planner thought that they would likely always keep an internal, informal list. This tool could also help to map out districts with clusters and groups of properties with different values.

Interestingly, easement programs are used mainly by the province (administered by the Ontario Heritage Trust), but also by four municipalities: Hamilton, Toronto, London and Kingston. Finally, community improvement or design plans and character areas are a tool also in use by many municipalities through their Official Plans, that provide a method for identifying heritage resources that are important to a community. These allow for extensive input from community members in terms of planning for an area's conservation or directing how it should grow. These are developed in conjunction with the City and the community, however they are usually guidelines and not binding, and seem to have issues in terms of authority in the face of development and political controversy.

3.2.4 Major findings

The fact that municipalities are developing their own inventories of cultural landscapes and other specific types of heritage resources, suggests that there are distinguishing factors that are being recognized as different from those recognized by measures specifically for built heritage. Currently, while these alternative or less traditional types of heritage resources are being afforded the same protection through the OHA, by being included on the Register, one could argue that different types of protection or tools might be better suited. While many of the municipalities seem to have integrated heritage into some of the land use policy agendas, the fact that only three have heritage components within their zoning bylaws, suggests it is an area with room for growth. Additionally, the widespread use of community design plans, character areas and use of the Register, suggests that municipalities see the need to include more “ordinary” types of heritage resources in their protection plans, but since their current methods do not offer protection and only demolition control, this further demonstrates the gap in the current framework that could be filled by a different type of tool or re-defining of an existing tool.

4.0 Gap Analysis

In the previous chapters, the various tools for protection were described and analyzed in terms of their effectiveness “on paper”. The next chapter examines their effectiveness in terms of practice. First, in order to provide a concrete understanding of how the tools are being used, their impacts as well as their limitations, the Sandy Hill neighbourhood in Ottawa is examined as a case study. The Sandy Hill example provides an illustration of the tools that currently exist, how they are being used in practice and their limits, including the consequences and what form they take. The following section also provides an analysis of a series of interviews with professionals in the field, from heritage and planning, in local and provincial government and the non-profit sector; those who write policy, those who implement policy and then those who work within it. These interviews provide a broad range of perspectives, understandings and attitudes that have been synthesized to help inform the most relevant and applicable recommendations. They have also been used as a way to gathering information on trends that existed elsewhere and what tools professionals in the field see as missing, useful, counterproductive, limiting etc. Based on their answers and the findings in the previous chapters, a discussion of alternative tools follows, in order to examine the benefits or draw backs of any tools that stood out as potential recommendations more closely. These three sections of different kinds of original work have been grouped together to provide support for, and, in order to best inform the recommendations in final chapter.

4.1 Ottawa Policy Context

The City of Ottawa's conservation program, like many other Ontario municipalities, is made up of many of the tools enabled by the OHA and the complementing provincial policies, as seen in the previous chapter. The City is currently making use of all the tools described and even go beyond the scope of the provincial legislation, demonstrating the city's commitment to protecting heritage resources. Despite this however, some of the heritage resources that require protection seem to fall through some gaps. In some of the areas surrounding some of the oldest heritage conservation districts in Ottawa, there is a large amount of physical fabric that is very similar in character, and of similar value, as that which is already protected in the districts. In the area of Sandy Hill in particular, there are several small districts clustered together, each with its own unique character, but with no legal protection provided to adjacent properties. But since these districts were designated before the amendments to the OHA in 2005, heritage planners and community members are concerned that opening up the designation to re-evaluation may result in the loss of some of the districts or parts of the area, as many of the properties would not meet the criteria for designation today (Collins, 2016; Mueller, 2014). Recently, after extensive study, the City has addressed this issue by recognizing those adjacent areas as part of a Cultural Character Area through their official plan with accompanying design guidelines. However, these guidelines are not legally binding and many community members suggest that there needs to be something stronger. This next section provides some background information surrounding the history and development of the Sandy Hill neighbourhood and its conservation districts, as well as provides the context for the specific policies and tools at the City of Ottawa's disposal for protecting these types of heritage resources. It also

highlights the limits of such tools as they apply to Ottawa's context. As the nation's capital, a city that is both rural and urban in form, made up of different types of neighbourhoods, the Sandy Hill neighbourhood presents an interesting example that provides an opportunity to propose options that might be widely applicable elsewhere, in addition to demonstrating the situation where a more flexible protection tool might be beneficial.

4.1.1 Sandy Hill Example

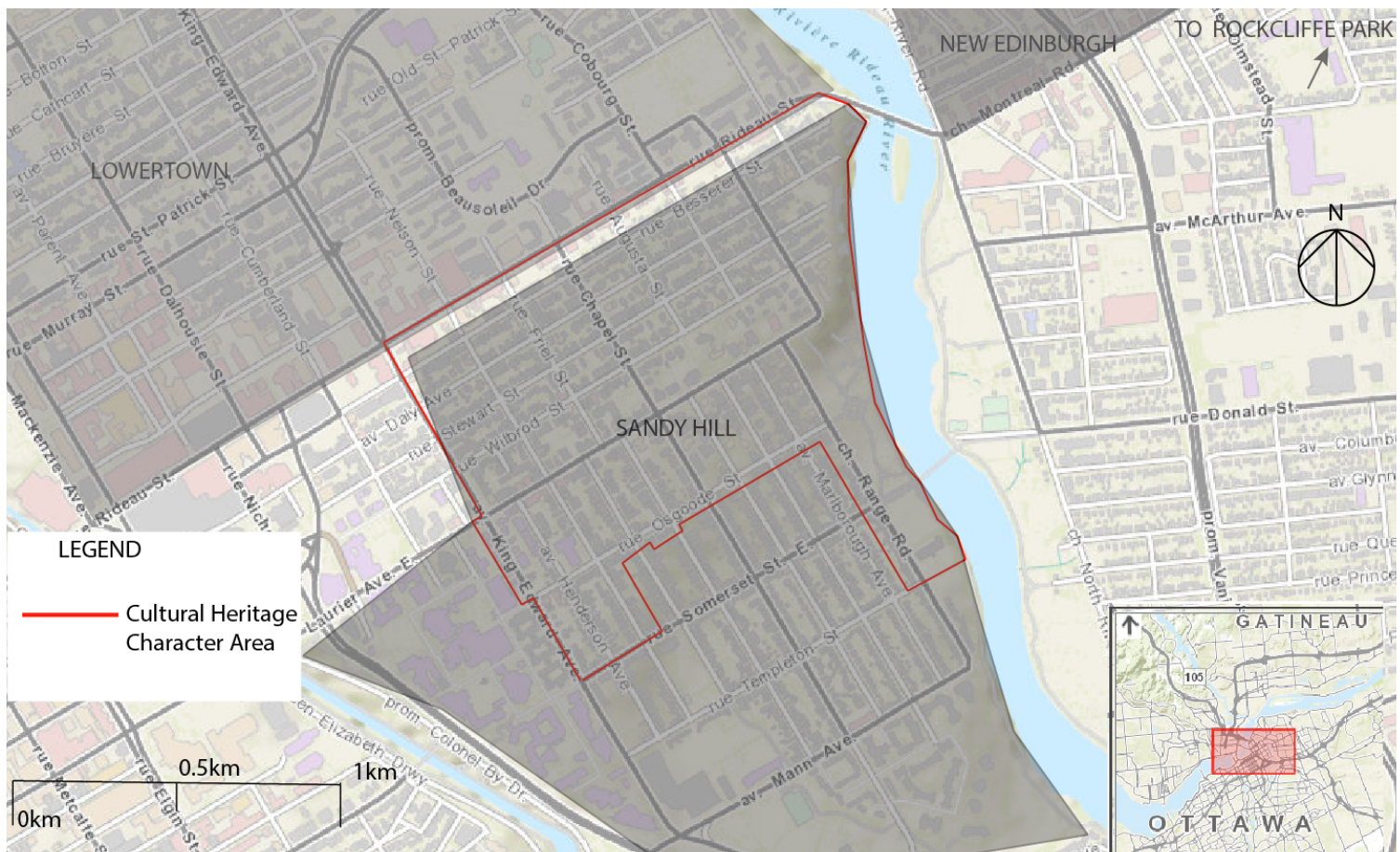


Figure 1: Location map showing the Sandy Hill neighbourhood, CCA and surrounding neighbourhoods.

Sandy Hill is one of Ottawa's older neighbourhoods, located just east of the downtown core, in between the Rideau Canal and the Rideau River and bordered by the Byward Market and Nicholas Street (Ottawa Neighbourhood Study, 2016) (Figure 1). The neighbourhood developed in three distinct phases: The first and most intense period of development occurred at the turn of the 20th century (1860s-1920s) when a large portion of the land was donated by a local lumber baron to the University of Ottawa, around the time when Ottawa was named as Canada's capital. This phase of development saw an increase in the construction of institutional buildings in order to help attract the newly relocated public servants, who could easily walk from home to parliament, many of whom constructed large mansions of varying architectural styles (St. Pierre, 2015); this occurred around the same time that cars became readily available, which contributed to the significant densification of the area.

This led to the second phase of development (1920s-1945) when cars became readily available and the very wealthy moved to Rockcliffe Park, a neighbourhood further east to escape the congestion of the now busy capital city (St. Pierre, 2015). The area continued to intensify, with many of the lots and the buildings themselves being subdivided, into multiple units to cater to many of the students who lived in the area. At the same time, the large Victorian mansions that did remain, became embassies for many countries from around the world for their ambassadors or high commissioners to live (FGDMA, 2010); the third phase of development (1945-2005).

Today, the neighbourhood is primarily residential, with some small commercial shops along Laurier and King Edward Avenues and the large institutional area of the University. Several bus routes service the area, with two major stops at the university

campus and Lees station along the current transit way and future LRT route, and it is located about a five-minute walk from the Rideau Centre Mall and ten-minutes from Ottawa's City Hall across the canal. This final major phase of development (2005-2016), can be characterized as less intense, where gradual infill and some re-investment in the area has started to shape the character and form of the neighbourhood once again.

Sandy Hill has retained many of the features that reflect its development and its residential neighbourhood character, although there have been a number of noticeable alterations made to many of the architectural elements, as well as exterior changes which reflect the needs of residents. Over time there have been some changes that have minimally impacted the historic character; this can be seen in alterations that have occurred as part of re-investment in the area and as part of the general updating of properties with inappropriate materials, for example the replacement of intricate wood work or railing with plastic, or the replacement of historic wood sash windows with black aluminum units, or paving front yards to provide multiple parking spots for tenants. However, in the last two years, the area has faced significant development pressure from the university and from developers in particular who seek to capitalize on the student population, by building more residence buildings in the area. There have also been a few instances of infill that differ quite drastically from the area's character and existing streetscape (FGDMA, 2010).

Ottawa currently has many tools available for protection and the City is making use of them in effective ways, as identified in the survey in Chapter three. In Sandy Hill in particular, there are many properties listed on the Register, Part IV designated properties, and there are currently five of Ottawa's earliest Heritage Conservation

Districts, designated in 1982. These include the Daly Avenue HCD, the Stewart/Wilbrod, the King Edward HCD, the Wilbrod /Laurier HCD, HCD, and the Sweetland Avenue HCD (Figure 2).

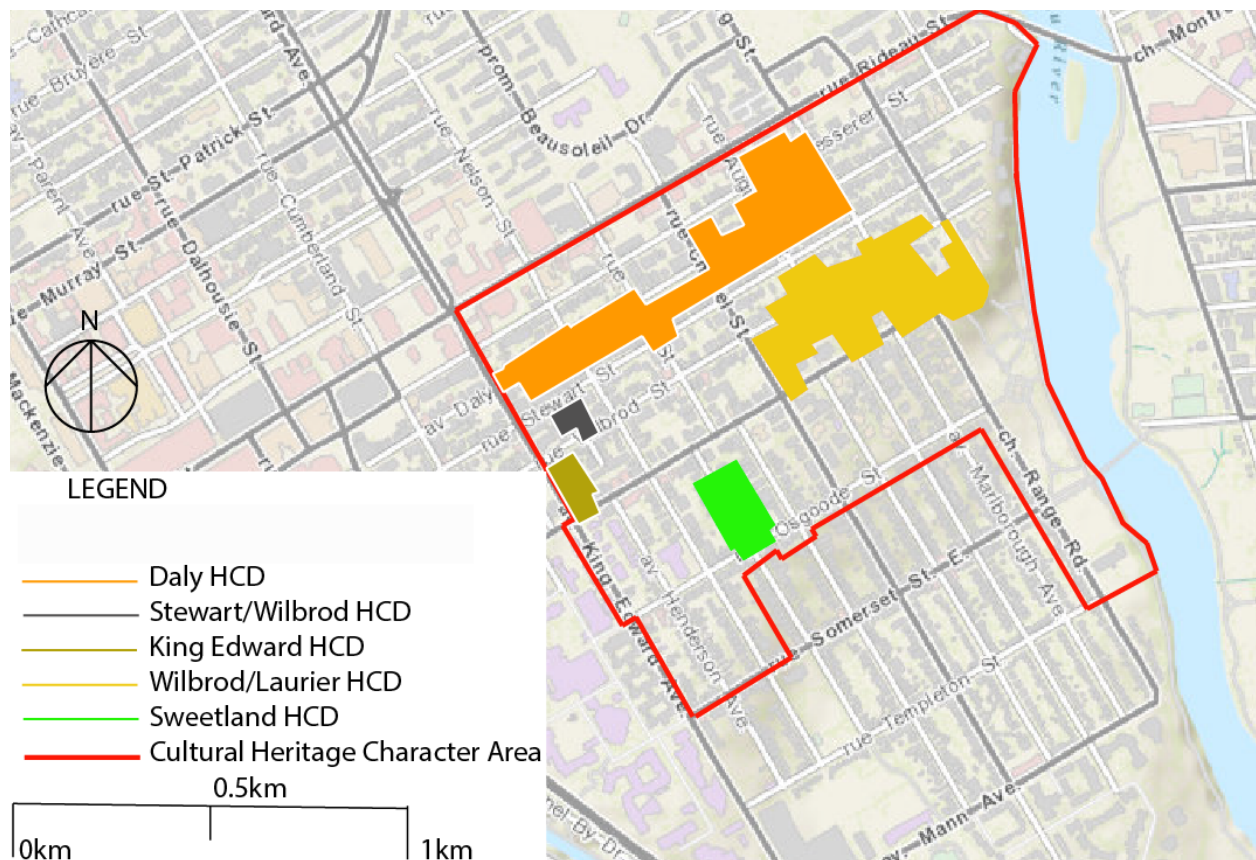


Figure 2: Map of Existing Districts and Cultural Character Area

Because these districts were designated before the OHA required supporting management plans, these five districts had none until recently.⁵

The area is also made up of approximately 710 properties that date from before 1950, many of which are listed on the City’s internal “Heritage Reference List” (FGDMA, 2010). As a former suburb of Ottawa, Sandy Hill also has a Secondary Plan under the *Planning Act*, which does provide guidance on heritage conservation, but it has

⁵ Although as of recently, the City is now in the process of implementing these management plans (Letourneau, 2016)

not been updated since just after the city amalgamated with the surrounding suburbs (City of Ottawa, 2005)(FGDMA, 2010, p. 12). Additionally, Ottawa’s heritage zoning overlay extends to certain areas within the neighbourhood, but mostly where Part IV properties or the districts are currently located (Figure 3).

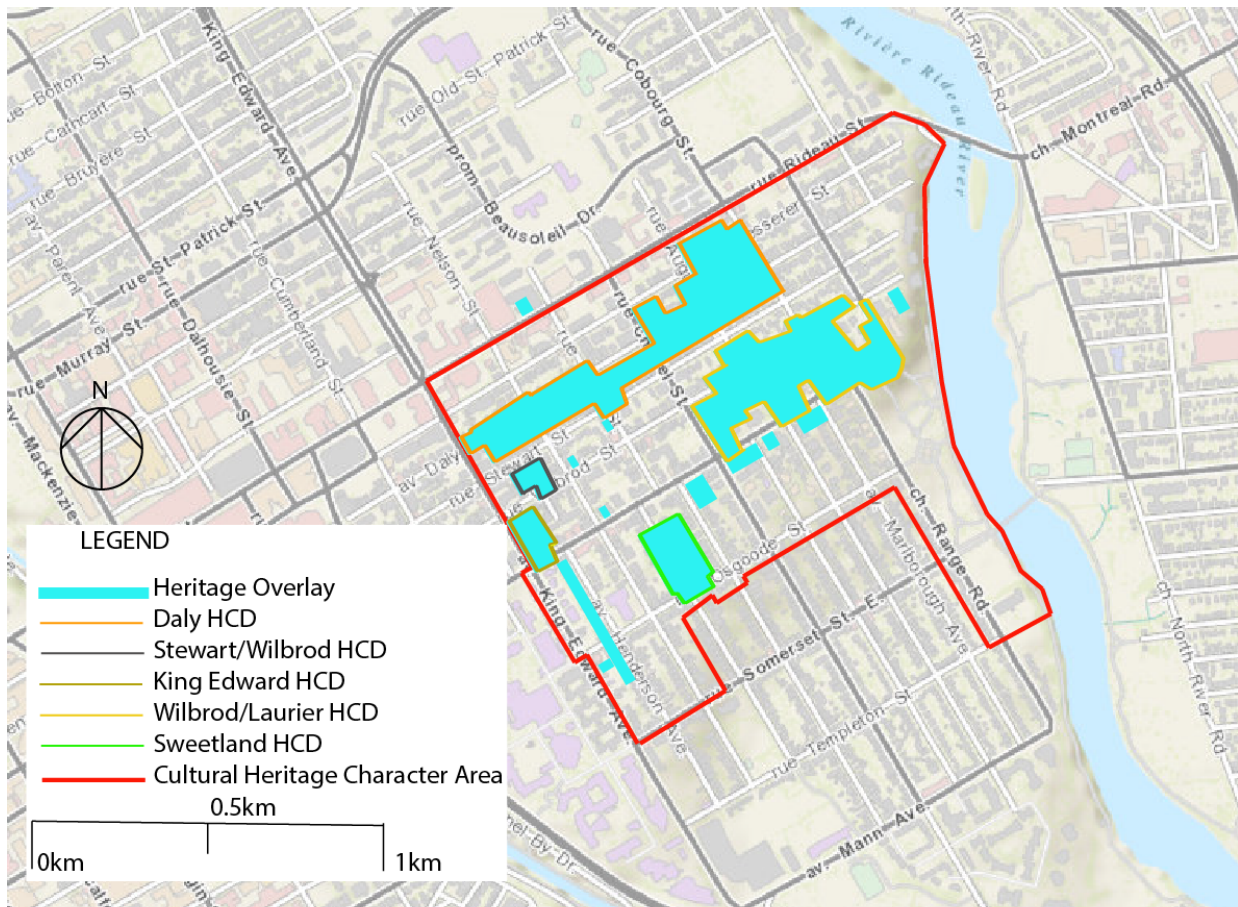


Figure 3: Map showing where the heritage overlay covers in relation to the existing HCDs.

This tool operates through a zoning provision that regulates building envelope, footprint, and rear and side yard setbacks. It has been in place since before the OHA was enacted, and was originally intended to provide a level of protection in terms of regulating infill, should a property ever be demolished (City of Ottawa, Heritage Overlay, Sec. 60, 1978). However, this overlay has not recently been updated. Last year, the City of Ottawa also passed the first part of a bylaw that applies to low-rise residential infill in mature neighbourhoods, including Sandy Hill (Figure 4); this bylaw however, only regulates

driveway size and location, entranceways, and garages, as well as some landscaping (City of Ottawa, Infill Bylaw I, Sec 139, 2015). As regulations enacted through the zoning by-law, they are both equally as legally binding.

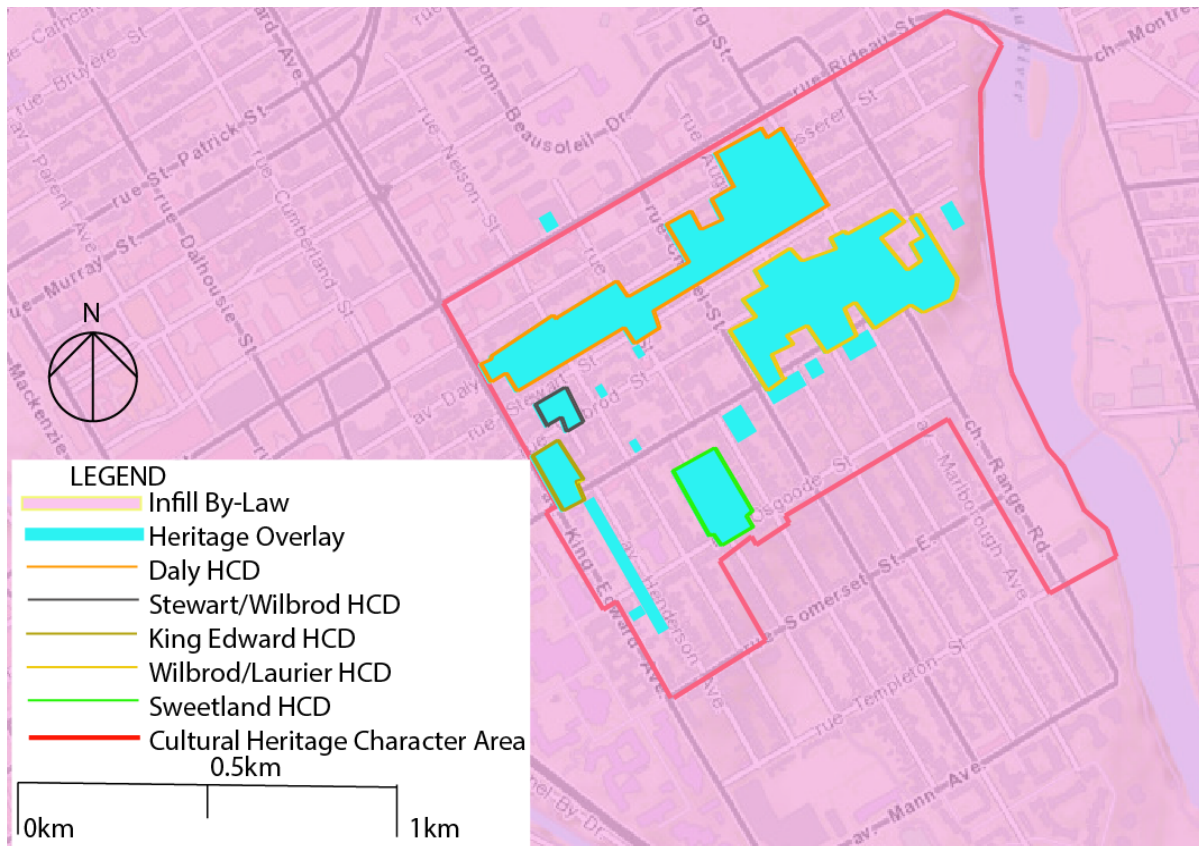


Figure 4: Mature Neighbourhoods Infill Bylaw Overlay showing coverage over the entire downtown area.

4.1.2 The Sandy Hill Heritage Study: Summary of Debates

On November 13, 2002, a developer demolished two buildings in the neighbourhood without permits, which resulted in prosecution on the part of the City. Two years later, a settlement agreement was reached, through which the City received \$250,000. In light of the buildings having been demolished in Sandy Hill, City Council recommended that this money be used to undertake a study of the area, including its

districts, to identify and evaluate the cultural heritage value of the properties in the area, to develop management plans for the existing districts, and to “consider options for the protection of the heritage character of the [surrounding] study area” that could be implemented, so that perhaps in the future, similar situations would not be able to occur (Collins, 2015, 2016; FGDMA, 2010) . The Sandy Hill District Study was conducted by consulting firm FGDMA, hired by the City, to research the properties in the area that had not been investigated as part of the original designations. This research was intended to inform recommendations on developing management plans to bring the districts in line with the revised provincial legislation, but also to identify if any other properties or groups of properties could be considered for designation as well (Collins, 2015).

The consultant concluded that the area was an “evolving cultural landscape”, with visible layers of development reflected in the physical fabric of the streets and structures; there are properties from all periods of development as seen in its “scale, date of construction, materials and design,” and thus the area’s architectural character could not be singularly defined (FGDMA, 2010). The consultant report highlighted that the area was a “mosaic of mini areas of varying levels of heritage interest: designated conservation districts of high value, undesignated areas of comparable value, areas of distinct but more modest value, and areas of little or no heritage value” (FGDMA, 2010, p. 13). Further complicating matters, 31 properties in Sandy Hill function as embassies to foreign countries, and while physically located in Ottawa, technically, they are considered foreign soil and operate under their respective national or international laws, and not Canadian law (FGDMA, 2010, p. 69). While on the one hand this a constraint, on the other, the embassies contribute to the character and prestige of the area; another

unique character defining element. Additionally, while extreme, the Sandy Hill Case does highlight the limits of where there can be intervention on private property. In light of the current tools available, the desire of the community to protect this area, and the desire of the municipality to encourage future growth, the situation was complex and challenging.

The findings of the consultant report yielded several potential approaches (FGDMA, 2010, p. 12). The first was to create one large district that included not only the existing districts, but also the surrounding properties. This option would necessitate removing the protection provided by the current districts' designation, but would allow for the creation of a larger boundary area with an enforceable management plan and bylaw for the whole area. However, this option would also mean an opportunity to appeal the designation at the OMB, and risk losing the protection the existing districts provide currently. The second option was to designate several new districts alongside the existing ones. This would protect more heritage resources, allow for specific elements within each to be identified and conserved, but without any potential risk of losing existing protection. However, this option would also miss providing recognition or protection for the heritage resources within the "gap areas" that would not fit the criteria for designation. The third and final option proposed was to declare the entire study area as a Cultural Heritage Character Area which would provide protection through the adoption of a range of planning policies, tools and guidelines for the resources of varying heritage value, without the risk of option one or the strict regulations on development that come with a designation.

The third option was strongly recommended by the consultant, since it updated the protection and management for the existing districts by creating management plans,

and also provided a broad level of protection and design control for the adjacent properties within the study area. It was also the least time consuming and more easily implemented option.

Over the next several years the city deliberated on which approach to take, with Council ultimately deciding on the third, implemented based on the template established for determining value in the OHA, but outside of its framework by blending planning and heritage tools (FGDMA, 2010, pp. 74-76). The management plans for each of the five districts were completed, their respective bylaws passed under the OHA and the Cultural Heritage Character Area was enabled by the City of Ottawa's Official Plan in conjunction with the Provincial Policy Statement (Section 4.6 of the OP and 2.6 of the PPS). The consultant also recommended that the city look to a combination of several other planning tools currently in use within the city, in order to properly manage and control change within it. These included: urban design guidelines, a community design plan, the heritage overlay, cultural heritage impact statements, the use of the Standards and Guidelines for Conservation, the Register, increased property standards enforceability, financial incentives, extension of demolition control, a protocol for conservation of diplomatic missions, and the use of Part IV of the OHA (FGDMA, 2010). Many of these tools suggested by the consultant have been implemented as described above, including the addition of nearly 300 properties to the Heritage Register and the identification of three new HCDs.

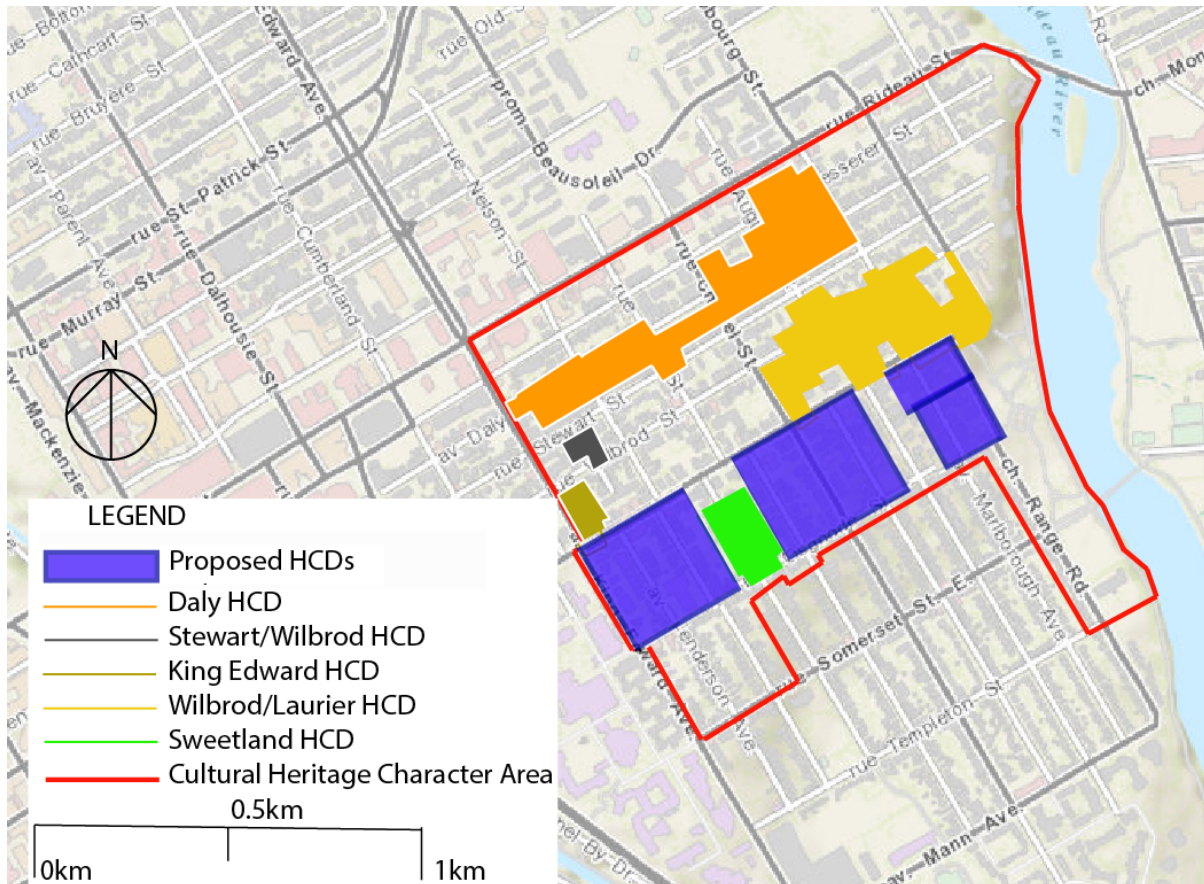


Figure 5: Map of existing HCDs and potential new HCDs.

The bylaws for the management plans as well as the Cultural Character Area boundaries and its guidelines were passed at council this past April (2016), so it will remain to be seen how successful these tools, policies and legislation are, as they work together. Heritage Planner, Lesley Collins, who worked extensively on the project, says in the time since the guidelines, additions to the Register, and management plans were drafted, the City has had only three instances where the new tools were tested. She says it is too soon to tell if they will be truly successful (Collins, 2016). The community is generally pleased that something has been done, but some individuals do not think the guidelines for the Cultural Character Area are enough. In an article in the Ottawa East Community News from June 2014, Chad Rollins, currently president of Action Sandy

Hill Community Association, emphasized that the guidelines are not enforceable (FGDMA, 2010, p. 76). In another article, from May 2015, he elaborates on behalf of the association, that protection afforded by the Cultural Character Area guidelines “may not [have] enough teeth to it to actually achieve the goal of conserving our significant building heritage in this area” (Mueller, 2014).

When I spoke with Ms. Collins I asked if the City had considered integrating the Cultural Character Area (CCA) guidelines into a stronger bylaw or into the current zoning bylaw by updating the heritage overlay. She mentioned that at the time, even though it was recommended, it was not something that was going to be feasible to implement, but suggested that it might be something to propose in the future. She also mentioned that there had been some discussion that having a blanket zoning might be too much regulation, resulting in a change of the neighbourhood’s character over time, or even be detrimental to the existing designated districts, by undermining their significance. Having passed at both the Built Heritage Subcommittee and Council, it seems that the City is positive about the new protections; when they were introduced, Councillor and chair of the committee Tobi Nussbaum called it “sweet justice”, since the demolition of those original two buildings led to some greater protection in Sandy Hill (Jackson, 2015). Ultimately the extent of the success will remain to be seen.

4.1.3 Findings (See Appendix B for Figures 6-24)

A brief physical analysis of the area has been completed as part of this analysis in order to understand the physical and visual impacts these tools had on the heritage character of the area. The results from this investigation demonstrate that within the

districts, the character defining elements are highly visible, and thus the tool of designation is clearly making a significant impact. In comparison with historic photos (Appendix B Figures 6-8 & 9-11), the area retains many of its historic attributes, such as the front porches, the decorative trim work, the low stone or wrought iron fences, the large mature trees that line the streets, and the general residential character (Appendix B Figure 6). Outside the districts, but still within the CCA, it is clear that there is a difference in the integrity of the properties, and thus it is clear why they were not included in the boundaries of the districts (Appendix B Figures 12-14); many of the properties have been heavily altered, or, throughout the years, new buildings have been constructed that are out of scale or character (Appendix B Figures 15-17). However, many of these properties do have many of the same features, if not down to the very minute scale of paint color and materials. The majority of the historic lot patterns exists, the general character of form of the buildings as single or semi detached houses or row houses with front gable rooflines. Additionally, while generally in good condition, many of the embassy buildings (Appendix B Figures 18&19) have had modifications that do not meet the guidelines of the Cultural Character Area or even the district, for example the painting of bricks, installation of high iron fences, or the Embassy of the Russian Federation on Range Road that is out character in terms of both scale and material (Appendix B Figure 18). Within two blocks of the boundary for the CCA, while much of the same degree of integrity of the properties has been lost, again, the general form of the historic lot patterns, and building forms still exist. This would be the area that might be ideal for future development that might benefit from some additional, higher-level protection (Appendix B Figure 20-21).

Generally, the majority of the issues within the CCA, are due to demolition by neglect, incompatible alterations coupled with the use of certain cheaper modern materials or replicas of historic styles, and paving of front lawns (Appendix B Figures 16-17). Inappropriate infill, is not as much of a problem, and many of the alterations do fit with the character of the area (Appendix B Figures 22-24). This is likely due to the fact that there is an active community association that would appeal any such proposals, but also the existing residential zoning.⁶ Moving forward, the Mature Neighbourhood Overlay can help with ensuring appropriate front and side landscaping, entranceways and front parking.

While it is clear that there are varying degrees of integrity, of physical value obvious within Sandy Hill, especially surrounding the districts, it is also clear from the analysis and summary of debates, that there is no single consensus among the community; the students have needs, the private sector wants to respond to those needs, and the embassies have another set all together, while those who live in the area with their family wish for it to keep its historic, residential character. But ultimately, part of the development of the area was due to a dramatic change, which resulted in the character that the community now wants to conserve. Who is to say that this period or any of the other periods of development will not be as significant in Sandy Hill's history? Where is the balance and is there a tool that can help achieve it? The next section attempts to understand and answer these questions from the perspective of professionals working in the field.

⁶ However, the Embassy of the Russian Federation is an extreme example of what has been able to slip through.

4.2 Interview Results

4.2.1 Purpose and Approach

With this example in mind, the following section provides the results from speaking with practicing experts in the field, in order to make stronger and relevant recommendations on how best to fill gaps such as this, within the current heritage planning policy and legislation framework in Ontario.

Between February 12 and April 8, 2016, eight interview sessions were conducted with 12 participants: experts in the field of urban planning and heritage conservation at the municipal and provincial levels of government, as well as the private sector and a non-profit national heritage organization. They each have specialties in either heritage or urban planning, both in the development of policy and legislation, as well as its implementation. Each session lasted between 25 and 40 minutes. All subjects interviewed are primary policy makers or stakeholders, who have been involved in heritage conservation protection or who have been deemed, through review of academic and grey literature, to be potential actors in strengthening heritage planning tools. They were each contacted by email, either directly through me, or in one case, through an introduction by a mutual connection. They were each given an explanation of the research in advance to make sure they had a good understanding of the topics I was investigating and in some cases were provided with a preliminary list of questions to think about before the interview took place.

The majority of the interviews took place by telephone or Skype, in person at a coffee shop near the offices of the participant and one was conducted via email. The

interviews were semi-structured but focused primarily on each participant's opinion about the effectiveness of heritage protection tools; all informants were asked about their everyday responsibilities, about their perspectives on the state of current heritage policy and legislation in Ontario and in their respective work environment, as well as their opinion on how to strengthen any weaknesses or issues that were identified.

4.2.2 Limitations

Due to the limitations on time and constraints of such a research project, these results do not reflect the attitudes of all professionals in the field. It was not intended to be a comprehensive analysis, but was only meant to function as informative. Participants were asked for their own opinion, as well as to speculate on how different stakeholders, in their experience, have reacted to current legislation and policy. Further research on this topic might be done with smaller municipalities to compare results with the larger municipalities, to see if heritage was a concern for planning and growth management in the same ways.

4.2.3 Major Findings: Attitudes of professionals

There was a wide range of attitudes towards existing heritage policy and legislation, depending on the background and industry or organization each participant was working in. Almost all participants seemed to think the current framework was adequate or working fairly well, but also had some significant criticisms. It was interesting to note that the attitudes of planners who were working in the public sector

were heavily influenced by the way their municipality perceived heritage. For instance, if heritage was important to the community, it was important to council and therefore was something important to the planner (Da Silva, Planner, Halton Hills, 2016 and Development Review Planner, Ottawa, 2016). A general comment from nearly all participants was that the legislation seemed to be mostly adequate, but it was likely due to political will and the very nature of the enabling legislation that in different municipalities it was not being implemented to the same extent everywhere. This was also brought up in terms of citizen perceptions of the legislation, particularly when comparing between larger and smaller municipalities; in the smaller municipalities, the planner suggested that public interest in heritage was either not a priority at all or was something that was causing huge amounts of controversy in general (Da Silva, 2016; Town Clerk, Town of Renfrew, 2016), while in the larger ones, applicants seemed to be much more respectful, receptive and eventually accepting of the impacts of the different protection regulations affecting their properties (Development Review Planner, Ottawa, 2016).

4.2.4 Effectiveness of the Ontario Heritage Act

There was also a wide range of perception in terms of the strengths and weakness of the *Ontario Heritage Act*, and designation specifically, however several consistencies stood out. In particular, most interview subjects, although they had criticisms, did acknowledge that the OHA is quite effective and strong as legislation, and that this characteristic is probably why it is the main protection tool and, even shows the issues with some of the other protection tools (Wiebe, 2016). Some also suggested that it is

strong because it is enabling legislation, in that it allows municipalities various powers and the flexibility to interpret and implement those powers to the extent that works for them individually. They also noted that it has become much stronger since the amendments in 2005 as described in Table 2.

Many participants recognized that due to the changes in the way heritage has come to be defined, the OHA and designation might no longer be the best tool for all heritage resources, despite of its strengths. Many specifically pointed out that they were not suggesting that the OHA is out of date or irrelevant, but that perhaps there were other mechanisms that could be implemented in addition to designation, although exactly what those would be, were not generally the same for all participants. Some participants, particularly in the private sector, suggested that more creative, more complex tools were needed and that moving away from the OHA as the primary tool would be critical. However, a few did point out the lack of a clear definition in terms of cultural landscapes within the OHA, which could provide a better way for identifying and understanding types of heritage (Corey, 2016; Angel, 2016). It was also interesting to note the difference between comments from the private sector, who felt that the current scope of the regulations of the OHA were too narrow and did not allow for community engagement or inclusion of changing community values, while those working at the province felt that thorough process and specific criteria were integral to the success of protecting different heritage resources.

One of the other major overarching themes that came out of this analysis, was that in reality, despite the strength or language of policy and legislation, much of the

effectiveness of the OHA or any tool, is largely dictated and influenced by many external factors that despite the tool's intent, are "trumped", in many cases, by conflicting interests. A number of the conversations I had with participants, centered on situations of when different tools had been utilized to the furthest extent, only to be overturned by council, or in some cases at an even higher level, at the Ontario Municipal Board. Politics in particular, plays a large role in the effectiveness of heritage protection tools, since implementation comes down to a decision by municipal council. Many of the participants suggested that it could be very difficult, if not impossible, to create a completely foolproof tool (Wiebe, 2016; Pajot, 2016). They also pointed out that this tends to contribute to a negative perception of the planning process from the public's perspective, creating a sense of distrust in the system.

Additionally, in nearly every conversation, participants spoke about a lack of financial incentives built into the OHA, to go along with designation. Dan Schneider, a now retired senior policy maker at the Ministry of Culture, who worked closely on the amendments to the OHA in 2005, said that the weakest part of the OHA is "the carrots: the incentives that make heritage conservation more attractive by affecting the economic feasibility of conservation approaches versus the alternative, ["the sticks" or disincentives like] demolition, demolition by neglect, unsympathetic alteration" (Schneider, 2016). He said that these types of incentives are necessary from all levels of government, but agreed with some of the other participants that asking municipalities to part with some of their only source of revenue from taxes is a difficult task (Corey, 2016). He suggested that we should look to the US as an example in their national tax credit program, which encourages the private sector to restore and re-use historic properties for a 10-20% tax

credit (National Parks Service, n.d). Natalie Bull, Executive Director for the Heritage Canada National Trust, offered a similar opinion, but also stressed that that financial incentives only go so far (Bull, 2016):

I guess carrots and sticks go together, but, for example, this [heritage building we're in now]...it's really only here because the owner loves the building. Because he really would make more money doing what everyone else around here is doing, like next door where they're putting a 24 storey tower. It's really just his voluntary desire to keep this place here. So what could you possibly do that would make a neutral developer, owning a building like this, willing to keep it standing, in the face of the financial opportunity that it offers?...As a society could we ever adequately create the idea of a level playing field where it's as appealing to own a property like this? I think it's an important piece of the discussion on protection.

Finally, nearly all participants noted a lack of complete integration between different planning policy frameworks, especially that heritage has not been adequately integrated with land use planning, or with other urban or rural agendas in a systematic way. One participant explicitly pointed out that one of the problems with heritage protection (and topically, to the point of this research) was that this lack of integration made it very difficult to protect different heritage resources that “don't have the heritage stamp” or are protected through legal means (Schneider, 2016).

The majority of participants also pointed to the high rate of misunderstanding or misinformation surrounding heritage legislation in Ontario, particularly in terms of the intent of the listing process and what that means for homeowners of properties on that list. They suggested that this was contributing to certain negative perceptions of heritage as limiting, and diminishing the effectiveness of such protection mechanisms. Many participants suggested the creation of a companion document to go along with the OHA,

for working with the public or anyone involved with the buying and selling of real estate. Currently the Ministry of Tourism, Culture and Sport does produce an educational document on designation called “The Heritage Tool Kit”, which explains the designation process as well as one for heritage within the land-use planning context (Ministry of Tourism, 2015). However, these have been criticized as out of date and could be promoted more widely (Architectural Conservancy of Ontario, 2015). Many participants also suggested strengthening the language and intent within the OHA itself and updating the definitions of aspects suggested above. I thought it was interesting that while some participants thought it was necessary to strengthen current legislation, others thought it was better to actually widen definitions and broaden criteria, particularly in terms of heritage districts and landscapes, and especially about how development can occur within them. Additionally, it was those who worked quite closely with the provincial legislation that were against that previous suggestion, and were very concerned with following the process and the criteria as it currently stands, while those in the non-profit and private sector wanted to think about heritage differently and look to mechanisms more broadly. However, one participant pointed out that broad definitions, and the very nature of heritage resources that are not traditionally important like landmarks, makes them difficult to define, and therefore, it would be even more difficult to create a tool for their protection (Pajot, 2016).

4.2.5 Alternative Tools

Many of the participants noted that because of the current strength of the OHA, in their experience, most of the municipalities were already using tools that were provided for within that legislation, which is further supported by the findings in Chapter three.

However, going beyond the legislation was not something that was agreed upon by all. A planner in Halton Hills, ON, a small suburb in the GTA that is currently facing significant development pressure, mentioned that in his experience, going beyond the scope of the Act had resulted in unfavourable outcomes for heritage (Da Silva, Planner, Halton Hills, March 12, 2016). In the last three years, the Town had hired consultants to review their heritage Register in order to add 300 properties. The Town's official policy was to notify the owners of these properties, which is not required by the OHA, and this resulted in a backlash from owners, concerned with property rights and lack of understanding of what being on the Register meant. In one case he mentioned, an owner actually sold his house when he received the notification. However, in larger municipalities, going beyond the scope, and using additional tools or tools to a greater extent was significantly needed, especially where heritage resources are important to a specific community, but might not meet designation criteria. In particular, one participant noted that the use of character areas through official plan policies was something interesting that should be further explored (Schneider, 2016). However, another also suggested that while this type of tool was useful, what might make it even more useful in the future, would be if the designation was listed on title, for example, such as it is with an easement agreement (Development Review Planner, Ottawa, 2016).

In the smallest municipalities, the many of the participants did not feel comfortable commenting on how to improve the OHA, because they either hardly made use of it now, or because heritage does not seem to be a large concern for the public in the community, even though it was something important within the planning department. One town clerk said (Town Clerk, Town of Renfrew, 2016):

I think this community would say that there is a real sense of history and a wish to preserve our history. We have a local museum that preserves history. But when it comes to building stock, I don't think so. I don't think that's there, that same...certainly the efforts aren't there. There's nobody leading the charge.

This comment was actually telling, since a less restrictive tool might be better suited for areas like theirs. It also highlights the problems the AHD (as described in Chapter two) as too exclusive, and perhaps a latent resistance to bureaucracy and government involvement. Two municipalities, one large and one small, also brought up recently initiated or implemented bylaws for maintaining character in mature neighbourhoods, which would be an interesting tool to explore, even though they were outside the scope of heritage, in addition to zoning bylaws that protect heritage character. A few of the municipalities in Ontario already do have a heritage zoning bylaw, but these tend to extend only to the individual property lot, not an entire area. In the US however, special zoning overlays are being used to designate and protect properties based on architectural quality and contribution to the environment, which helps to conserve the character of an area. These will be explored in the following section.

Many other participants brought up the use of the Register as an important method for development control for non-designated properties. Since this does not require extensive research in order to include them on the list, many participants saw this tool as an important mechanism for different types of heritage resources, however, as one senior planner mentioned, it is still important to have a rationale for inclusion. Since currently the Register is being used to varying extents (as seen in Chapter three), this strategy could be further improved more widely across the province.

Finally, the last type of tool that was brought up on several occasions was the concept of implementing a more systematic approach to identifying and managing heritage resources. When asked about alternative tools, Natalie Bull pointed to an approach that has been adopted by another field: the land trust movement. In our conversation, she was reminded of a presentation she attended at a land trust conference, where the group has worked with other local groups to systematically identify and agree upon what areas to protect. She said that they actively work together to raise money to acquire different pieces of property in order to protect them, “whereas for [the built heritage movement] it’s always adhoc, at the 11th hour... to fight to put a designation on it” (Bull, 2016). She suggested that if the heritage and planning field could take a similar approach, more of “a portfolio management, heritage-first approach” there would not be a need to necessarily try and conserve everything, but instead have a better understanding of the heritage resources that exist and make better judgments about where to focus efforts, and perhaps more effectively decide which heritage resources match the values of our time (Bull, 2016). Then perhaps planners and conservationist would be able to make an even greater impact. Additionally, Victoria Angel, Senior Planner at ERA Architects in Toronto, suggested that an emerging trend that goes along with this idea of a systematic approach, is that of large scale, city-wide surveys. She suggested that traditionally, and as another consequence of the AHD and past approaches to conservation, conservationists do a lot of research into singular buildings, but do not necessarily understand the relationship of those to the larger context, or to the settlement patterns in an area. She thought that understanding these relationships are a much better

way to make more effective decisions and are a good “starting point for planning schemes” (Angel, 2016). This tool will also be explored further below as well.

Many of these comments touch on the impacts reactions of individual property owners, however heritage is seen as a collective good or resource in theory. There is a tension between the collective and the individual, in the statements and the actions of property owners. This is something that will ultimately always be in the back of policy makers’ minds for developing new tools, but might never be fully addressed by one singular tool.

4.3 Alternative Tools for Integrating Planning and Heritage

In light of the findings from the previous section and having spoken with professionals in the field, what stood out from their responses was that one of the major areas for improvement in terms of heritage protection, were tools that better integrated heritage conservation with land use planning and other urban agendas. In particular, three tools were suggested as having the potential to aid in this regard, to add to the toolbox and perhaps address the shifting current framework that both urban planning and conservation operate within. These three tools will be explored in more depth, in order to understand how they operate currently in their respective contexts, their strengths and weaknesses, and how they might be implemented elsewhere in Ontario.

4.3.1 A Note on Definitions (HCD vs HD vs NCD)

In order to avoid confusion for the remainder of this paper, I thought it was necessary to include a brief note on the variation in vocabulary between a heritage

conservation district here in Canada and a historic district in the United States. In essence, they represent the same thing: “areas whose cultural heritage value contributes to a sense of place extending beyond their individual buildings, structures and landscapes” (Ministry of Culture and Sport, 2015). In Ontario (as established in Chapter three) these districts are protected through the provincial legislation and administered by the municipality. In the US, the local, state and federal governments can designate historic districts. At the federal level, these districts are listed on the National Register of Historic Places, but there generally are no restrictions for what property owners may do with their property within it and the title is honorific (State Historic Preservation Office, n.d). At the state level, there may be some restrictions on rehabilitations and the standards to which alterations are carried out. At the local level, this is where there is the most legal protection afforded to properties, as a district is a type of zoning. These districts, at all three levels, can include buildings, structures, objects and sites that are historically or architecturally significant and within the boundaries. Below, one more type of “district” is added to the list, in that of Neighbourhood Conservation District, which like a conservation district in Ontario, and a historic district in the US, seeks to conserve particular features and attributes that make an area unique, however, they are significantly less restrictive. These tend to focus less on specific stylistic elements, and more on form and contribution to overall character of an area. They will be described in more detail below.

4.3.2 Neighbourhood Conservation District: the concept

NCDs were expressed as an alternative heritage planning tool by one interview participant, which addresses some of the issues with the current methods for protecting heritage resources highlighted in the previous chapters, especially with respect to the heritage resources and areas that fall between recognized neighbourhoods, or do not meet the criteria for traditional designation. Neighbourhood Conservation Districts are a tool that is currently in use across the US, starting in the 1970s but recently have become more popular (Lovelady, 2008). They are a tool that is implemented through a city's zoning code or bylaw as an overlay, usually in residential neighbourhoods that have a particular physical character that the community and City desires to conserve (Lovelady, 2008). Depending on the conservation goals, they usually either focus on architectural character conserved through design review, basically functioning as a less restrictive heritage conservation district, or focus on neighbourhood character conserved through zoning restrictions such as lot coverage, setback and scale; these are known respectively as the preservation model or the neighbourhood model, or in some cases where aspects of each are blended, a "hybrid" of the two (Levy, 2015). They are a neighbourhood level land use tool that works together with other existing land use and conservation tools. For example, since traditional zoning regulations account for density, height and setbacks, an NCD could regulate other issues like roof style, building orientation and exterior landscaping. They can also be tied with design guidelines that could require design review for new development in terms of materials or specific architectural features. Their fundamental purpose is to avoid future inappropriate infill, as defined by both the municipality but also by the community that lives there.

4.3.3 Pros and Cons

In an article by Adam Lovelady from 2005, he discusses the benefits and drawbacks of this tool in some depth, both of which are important to consider in advance of any potential appropriation and implementation in Ontario. He calls NCDs a “malleable legal tool that is shaped differently for each neighbourhood” (Lovelady, 2008; Yeston, 2014). This is an important distinction, since in the US, historic district regulations are usually tied to national standards, which may not pertain to a particular local area (Corey, 2016). They also address the changing definition of heritage that was described at the beginning of this paper, by reaching broader types of heritage resources and new goals of conservation as they are further intertwined with the goals of urban planning and other urban agendas, by making much broader statements of significance than a traditional district. Because the statements place more emphasis on value coming from a heritage resource’s contribution to the area, and not necessarily the heritage resource itself, they are based on a lesser degree of study and there are less regulations. Lovelady says that a tool such as NCDs provides the ability to compromise in situations where there is opposition to traditional designation: where property rights advocates do not want restrictions placed upon them, or where there is a fear of increased property prices caused by the designation and the increased housing costs the regulations require, which could force out lower income owners (Lovelady, 2008, p. 154). NCDs offer at least some protection in these situations where planners might face an uphill battle for designation.

However, Lovelady also highlights that this type of tool brings up additional issues in terms of both planning and heritage conservation. For instance, while some

conservationists might argue that protecting a broader range of heritage resources is a positive benefit, others see that as protecting too much, asking questions such as “when does conservation get in the way of moving forward?”(Lovelady, 2008, p. 275).

Conversely, other professionals with more traditional views of heritage might argue that if conservation starts to focus on context and form, how will the heritage resources that are of traditional historic value continue to exist? (Lovelady, 2008, p. 176). He emphasizes this in relation to historic districts, where if NCDs are presented to owners as an alternative to historic designation, the important regulations that they currently provide could be lost, and ultimately could significantly affect the heritage value of the area in the future (Lovelady, 2008, p. 176). This is exemplified in a recent thesis by Malachi Peacock , where he analyzed the effectiveness of NCD regulations at conserving neighbourhood character and how they affect the broader goals of conservation. He found that in some cases, NCDs are very problematic for established historic districts, where property rights activists who live there, want less strict regulations, which could “water-down” the regulations already in place (Lovelady, 2008, p. 177; Peacock, 2009). However, in other cases, it could have the opposite effect. In 2014, Max Yeston examined examples of NCDs as they had been implemented in three US cities (Cambridge, Mass; Raleigh, NC; and Philadelphia, Penn) and found that that while planning officials favoured this type of tool, residents actually wanted more design review, since the regulatory process of zoning essentially eliminates any interpretation on the part of city planners (Yeston, 2014).

Ultimately, as Lovelady explains, that if trends in conservation are going in the direction of valuing more ‘ordinary’ heritage resources, then the tools needed to protect

them need to be more flexible and complex, with additional policies and strategies to fill gaps where other tools are limited (Lovelady, 2008, p. 181). As a zoning regulation, NCDs provide a foundation to build other tools around. In a thesis by Jennifer Most from 2005, she emphasizes this use of zoning and binding restrictions in conjunction with other conservation policy (Most, 2005). After investigating 50 policies across the US, she found that conservation policies are most effective when aligned with zoning regulations and with binding design review. NCDs are designed to provide both.

4.3.4 Contextual Zoning: the concept

Similar to NCDs, contextual zoning is an urban planning tool that helps conserve the character of a neighbourhood more broadly, allowing for the flexibility for appropriate growth. It is a zoning tool that was developed in the 1980s and is used as an alternative to historic designation or in conjunction with it. It is used similarly to a form-based zoning code to direct the design of new development in terms of height and massing in consideration of the existing physical fabric of the streetscape and surrounding properties.

In a recent thesis by Rachel Levy, her research focused on how this tool has been implemented in neighbourhoods in New York City where new development is desired, but there is a general consensus that it should fit with the existing environment, as well as its effectiveness in those areas (Levy, 2015). She found that an NCD has three main uses: as an overlay where districts might not quite overlap; as an extension, to provide protection to areas just outside of a district to help conserve qualities such as scale in new

development; and as a transition between areas of high development restrictions and those with lesser development restrictions (Levy, 2015).

4.3.5 Pros and Cons

Levy identifies many benefits of this type of tool, mainly as a way to supplement the goals of conservation in places where it is not strong enough. She suggests that by extending a less restrictive boundary around areas near historic districts, a contextual zone can act as a holding zone, that allows for some control where it might otherwise not be. It can be particularly useful in preventing new buildings that stand out in terms of scale, especially in neighbourhoods with a mix of different types of buildings, from different periods of development. She also says that as part of the zoning code, it automatically guarantees that new development will fit with the environment, through the permitting system, and it is even more acceptable to a range of stakeholders because the restrictions are minimal (Levy, 2015). However, this brings up the question of how much control is too much? Like NCDs, contextual zoning also brings up many of the same broader questions about the goals of conservation and in Levy's research, she identifies many other questions that have to do with the resulting buildings that these types of regulations create. She highlights that because zoning is such a rigid, quantitative tool, the rules have to be followed strictly, without room for discretion and without the ability to regulate design (Levy, 2015). She found that it was highly likely that once developers find a way to meet the restrictions with the most financial return, that formula is replicated over and over; and sometimes, that resulting building might not be contextual at all. In NYC, there is no mechanism that requires an applicant to consider the character

of adjacent buildings— just the zoning, which often does not match the characteristics of the area exactly, so over time, the changes might actually begin to create a new character (Levy, 2015). Similarly to NCDs, contextual zoning works most effectively in consideration of, and when implemented with, other policies and tools; it is an additional layer, or an alternative that can be used in places where traditional designation would no longer apply. Currently a similar example exists in Canada, in the City of Edmonton, where the City has developed a special zoning overlay that is intended to conserve the character of certain urban settings where development is meant to be intensified (City of Edmonton, 2016). The zone provides for intensification by using row houses as the characteristic that defines the area. It also allows for yard size, certain height, building orientations, and even attention to architectural detail and “is intended as a transition zone between low and higher density housing” (City of Edmonton, 2016).

4.3.6 Large-Scale Surveying and Historic Context Statements

One of the other emerging best practices that was suggested in the interviews, was the practice of using city-wide, comprehensive surveys to complement traditional approaches to conservation and to better integrate heritage within land use and urban planning frameworks. Already, this tool is being implemented in Ontario, but could be a strategy that could be applied in many municipalities across the province.

In a report completed for the City of Hamilton, during a review of their heritage approval process, consultants identified that this approach is more of a land-use planning tool to systematically identify and study the heritage resources that currently exist (ERA, 2014). The report describes how this type of approach uses the concept of relating

heritage resources to their historic context, in order establish patterns and identify stories that are locally significant. It is different from traditional historic survey techniques, which have been to construct building typologies and do costly detailed research and analysis for each individual property. The traditional methods often focus on identifying the exceptional heritage resources; the best, the rarest, the oldest, which ultimately separates them from their context in order to protect and conserve them from changing too much. Large -scale surveys coupled with historic context statements, instead focus on broader themes and patterns— the layers of potential significance that have shaped the context of the environment of those buildings or elements— and seeks to evaluate the contribution they make to that context. These survey techniques can help bridge the connection between different urban planning agendas, and for example, can help locate new development or better provide the justification for new regulations, such as zoning bylaws or designation (ERA, 2014). The survey information can feed into mapping and zoning regulations, in addition to being an inventory of heritage resources. By understanding heritage resources from the broader perspective can help make strong rationales for protection and help with the portfolio management approach, by having an understanding of what types of heritage resources and how exist in an area. Importantly, they are also useful for identifying and understanding those types of “blurry” places, and heritage resources that tend to fall through the gaps of traditional protection processes. In the report, which summarized an initial pilot study of these types of surveys and was carried out by the consultant in Hamilton, the consultant describes how once these heritage resources had been identified, by mapping them and totalling them up, they could provide information for many urban planning purposes, such as places where

development should occur or where revitalization is needed (ERA, 2014). Heritage resources can play a big part in the revitalization process by capitalizing on the history of the area to bring a community together, and instead of building new, using existing heritage resources in new ways.

4.3.7 Pros and Cons

Large-scale surveys is a practice that is already in place in other countries, especially in places that people often think of as having extensive experience in heritage conservation, such as Historic England, Historic Scotland and other European Countries (Angel, 2016). In particular, Historic England (formerly English Heritage) employees use a range of approaches for identifying heritage resources, but one of their key strategies is historic landscape characterization (HLC). HLC considers many aspects of landscape, through the identification and classification of “patterns, features, and qualities or attributes” (Historic England, 2015). It is a systematic and comprehensive approach using historic and contemporary maps, and aerial photography to understand the wider scope, and then using methods such as surveying, excavation and architectural investigation to understand more detailed aspects, once those patterns have been established (Historic England, 2015). This characterization is done relatively quickly, so that more detailed research can be focused more effectively and efficiently. Then, by using GIS, the findings can be displayed visually in order to map the recorded information, which can aid in creating more comprehensive and searchable databases of information. This can also allow for creating the layer of data and its integration with other data in municipal planning systems as well. It consequently, can be available in a language and format that planners can use, rather than solely for experts. In addition to the speed with which the approach can be carried out, it also requires fewer resources. What makes the method

unique, is that it recognizes that an area's value, varies place to place, "so fixed measures of significance are not applied to the characterization material...instead the attributes that support it can be assessed and evaluated as different issues affect places" (Historic England, 2015). This allows it to be applied in historic cities, modern cities, rural landscapes and even suburbs.

While this may not be a protection tool in itself, it is perhaps a first step in understanding what heritage resources exist, why they are important and for whom, which in turn can better inform decision-makers who can implement other tools for protection that exist already. For instance, when it may be desirable for a municipality to implement neighbourhood character statements or a neighbourhood character area with design guidelines and policies through their Official Plan, a heritage-driven zoning tool could help give direction to decision-makers in terms of appropriate exterior form and land use.

5.0 Recommendations and Conclusions

This Supervised Research Project sought to answer the following questions: are the existing policies and enabling legislation in Ontario working well for municipalities in terms of meeting the goals of heritage conservation? What are the attitudes of different professionals in planning and heritage towards such policies? What additional measures might strengthen the way heritage resources are protected, particularly in terms of the ‘gaps’ that exist for heritage resources that do not meet the existing criteria for designation, but are equally significant within a community? Which tools or processes might help balance protection with the need for transformations in established urban heritage areas? The narrative and findings in the first several chapters have provided answers to these questions. This final chapter summarizes the conclusions made in those chapters and provides recommendations for how the City of Ottawa can better manage change in the nation’s Capital, as well as broader recommendations for strengthening legislation at the provincial level.

In the first two chapters, the problems and issues with current legislation and policy were described in terms of a changing definition, concepts that were elaborated by others in the field. In Chapter three, this was further explored within the context of Ontario, specifically in relation to the gap for protecting more ordinary heritage resources. The survey in that chapter revealed that because of the enabling legislation of the *Ontario Heritage Act* and its regulations, tools have been enacted to various degrees across the municipalities, offering flexibility for when municipalities want more, or less protection. Generally, in larger municipalities with larger populations and perhaps a higher number of heritage resources, these places may want different options for

managing develop and change. Conversely, in smaller municipalities with smaller populations and perhaps less traditional heritage, they may want different types of tools that cater to their specific needs. It was found that all the municipalities in the sample already had strong conservation programs, working largely within the current framework for planning and protection, but that gaps existed in terms of strong tools for less traditional types of heritage resources. The fourth chapter provided a concrete example of this problem, which, coupled with the results from interviews with professionals, further highlighted the impacts and limitations of the existing tools and planning framework. This chapter also explored possible solutions, through the discussion of three alternative tools, which were described and analyzed for their strengths and weaknesses in advance of providing recommendations for applications in Ottawa and other areas in Ontario. It was found that these types of alternative tools could supplement traditional heritage protection tools and further integrate conservation with land use planning.

5.1 Recommendations for Ottawa

As seen in the previous chapters, in comparison to other municipalities in Ontario, the City of Ottawa's tool kit for protection is already quite strong and comprehensive. The City is making use of the enabling provincial legislation and even goes beyond it with many public awareness and recognition programs, as well as through its Official Plan policies and integration with other urban agendas. Although these OP policies are broad, the City also has strict designation bylaws and zoning bylaws that are helping to manage change and protect different heritage resources. Nevertheless, in terms of

addressing the protection of less traditional types of built heritage resources, and how these relate to exceptional cases, as well as balancing protection with development, there is room for additional, more sophisticated tools and techniques.

5.1.1 Recommendation 1

The first recommendation is to expand and update the heritage overlay so that it works more seamlessly with the existing tools currently in place. This will help to supplement the existing Heritage Conservation Districts and character area guidelines, in conjunction with the infill bylaw for mature neighbourhoods to provide a level of control to direct future development in those places that did not meet criteria for designation. If these tools can work together, there can be potential for better consideration of the character of the area beyond that of a single property's lot lines. This update could take the form of a contextual zoning bylaw. While it is recognized that zoning is a quantitative tool and imperfect in many ways, as highlighted in the previous chapter, from the perspective of conservation, it offers an alternative— a compromise between the highly-regulated conservation districts and general land-use tools, which could help change negative perceptions about heritage as limiting change unnecessarily and other problematic, popular ways of thinking about urban growth and development. This combination of design guidelines and development review with zoning will be akin to a neighbourhood conservation district, which, even if implemented beyond the powers *Ontario Heritage Act*, offers an alternative to the weak and ineffective character areas that currently exist.

5.1.2 Recommendation 2

A second recommendation is to take advantage of the City's current project to update its heritage reference list, to implement some of the emerging best practices for identification and surveying Ottawa's urban, suburban and rural landscapes. By using the techniques described in the previous chapter, such as the Historic Landscape Characterization and the large-scale, city-wide surveys, together with historic context statements, the city will more comprehensively understand the heritage resources that currently exist in Ottawa and how they contribute to the Capital as a historic environment. This will place decision makers in a better position to make stronger cases for designation and other methods of protection. It will also feed into a practical, 'portfolio management' approach to understanding what heritage resources exist, which are important, and in what ways. It also provides information about where to concentrate or direct future sustainable development, and serves as an opportunity to develop a better relationship with the community and to connect with different groups in order to better understand changing heritage values, and potentially to identify heritage resources that would not traditionally be considered as valuable—built or otherwise. This city's current project could provide an excellent opportunity to implement this method almost immediately. The Historic Landscape Characterization is also interesting because it allows for inclusion of private and public assets, such as mature tree lined streets, or fences and gates in certain areas. These are aspects that are often overlooked in the traditional, architecturally focused inventories or assessments. In the area surrounding Sandy Hill, these characteristics will not be defined in black-and-white terms, and they might need reinforcing, but they can be protected through some of the tools discussed here.

5.1.3 Recommendation 3

A third recommendation is to look to how other municipalities are using other existing tools, such as setting up an easement program, examples of which exist in other large municipalities such as Toronto. This would be especially useful in situations where places are of value, and where development is desirable, but when designation is not favourable for the municipality or the property (or area) owner. Easements offer a method to have a developer and the city work together to come to an agreement on what elements should be conserved in creative ways, especially for heritage resources that extend beyond the built environment. The creation of additional tools, such as more wide ranging education and outreach programs should be a main priority. These could help explain the benefits of heritage to the community in order to help change attitudes towards conservation, and to help better understand what heritage resources are of value to the different types of communities that exist within the city, but also within different neighbourhoods like Sandy Hill themselves.

5.1.4 Recommendation 4

Finally, the fourth recommendation is to further update Official Plan and its policies with stronger language to more explicitly assert that heritage is a dynamic and cyclical phenomenon rather than a fixed entity, as reflected in current debates. This type of language should be added to update the intent of the tools that exist currently at the municipality, and to establish that heritage resources should be examined cyclically. Heritage is often described as being at odds with growth and development, but there is room to present heritage resources as being strong assets and components of development plans. The oppositional language often presents heritage conservation as a constraint

rather than an opportunity. This can be addressed and updated in an update the OP as well.

5.2 Recommendations for Heritage Protection in Ontario

Ontario has changed dramatically since the last iteration of the *Ontario Heritage Act*. We now have an opportunity to look back, reflect and evaluate these programs in order to improve upon them, and better serve society's needs; this opportunity has recently been recognized by the province, in their commitment to developing Ontario's first Culture Strategy (Ministry of Tourism, 2016a). In December 2015, the Ministry of Tourism, Culture and Sport produced a discussion paper that invited stakeholders to voice their ideas and opinions about how the province should support culture in the future. The discussion paper identified cultural heritage as one of the four culture sectors it currently supports, through the provisions within the OHA, museums, heritage organizations such as the Ontario Heritage Trust, and through funding sources like the Trillium Foundation and various grants (Ministry of Tourism, 2016b). They asked for feedback on what the provincial government is doing to support cultural heritage, for ways to improve, and best practices that could inform new strategies (Architectural Conservancy of Ontario, 2015). Responses from individual citizens and organizations from across the province were submitted and the results were compiled. On the corresponding online discussion board *Culture Talks*, members of the public were invited to post their comments and suggestions, and other members could "up-vote" or "down-vote" the comments to indicate their support. Among the 10 comments which received the greatest number of positive votes, three had to do with architectural and built heritage

conservation, and the province's approach to protecting such heritage resources (Architectural Conservancy of Ontario, 2015). One comment in particular called for the strengthening of several aspects of the OHA, as did submissions from the National Trust for Canada and the Architectural Conservancy of Ontario. The findings of this research investigation support many of these recommendations in relation to resources that fall in between those that meet designation criteria, and those that do not, which are echoed here.

5.2.1 Recommendation 1

The first recommendation for the province is to strengthen several aspects within the OHA. One of the most important aspects that was brought up in the participant interviews for this research was the need for more explicit guidance on the intent of the Register, and its purpose in relation to designation, in balance with the enabling abilities it provides. As seen in some of the different municipalities observed as part of this research, the Register is now used to various extents across the province, for different purposes. A more structured role for this tool is needed in order to provide guidance for municipalities, and citizens alike, especially in terms of the provincial guidelines being applied equitably across the many municipal jurisdictions.

As well, criteria for identifying value could be made less narrow. It should be less focused on architecture and historic significance and more about the context and contribution to the environment. This could also be extended to the legislation's accommodation for cultural heritage landscapes. In particular, an updated definition of "cultural landscape" that goes beyond the concept of "natural landscapes" to include more of an international definition of cultural or historic landscape, in order to better

demonstrate how these can be used to address more ‘ordinary’ heritage resources and vernacular architecture. The use of large-scale survey techniques could also be included in these regulations, to provide a better understanding of what heritage resources exist at a much larger scale, at the provincial level.

Additionally, a lack of financial incentives embedded within the OHA is largely responsible for some of the issues identified throughout this study. Although tax reform and federal level recommendations are beyond the scope of this research, this paper would be incomplete without mentioning it, since municipal governments are so dependent on property taxes. The ACO and HCNT have lobbied extensively for federal support from the provinces in this regard and perhaps, as these findings suggest, if heritage really is a priority for any level of government, it needs to be followed up with some financial support.

5.2.2 Recommendation 2

Secondly, provincial land-use policies and growth and development plans need to be updated so that they do not conflict with heritage legislation and policy. For instance, in Ontario’s growth plans, direction for the protection of cultural heritage resources states that it shall be conserved “where feasible”, a statement that essentially provides the ability to demolish or alter heritage resources. In the Provincial Policy Statement and the OHA, however, this compromising statement is not included. Having inconsistencies in such policies that are intended to work together, creates conflicting and confusing directions, and allows decision-makers the ability to compromise on valuable heritage resources (Ministry of Tourism, 2016a). In places such as Sandy Hill in Ottawa, this can easily be seen as an area where this might occur. If the province is serious about their

commitment to built heritage, as stated in the *Culture Strategy Discussion* paper, then these weaker statements should be removed. As described by many interview participants, this can be further expanded upon to include better integration of heritage conservation in other urban and rural agendas—such as, but not limited to the environment, schools, health and safety, transportation, and economic development.

5.2.3 Recommendation 3

Thirdly, as noted in the ACO's response to the province's discussion questions on its cultural strategy, public education and awareness about heritage protection policies, tools and procedures should be a priority at the provincial level. Currently the Ministry of Tourism, Culture and Sport provides several advisory booklets that describe in detail, the process of designating individual heritage properties and districts under the OHA. However, based on discussions with professionals in the field, these need to be updated and distributed more widely. For instance, better relationships and education is needed for sectors such as the real-estate sector, property insurance boards and even agricultural boards (Da Silva, 2016). Information about heritage protection policies should be made available, and training programs should be required for these sectors, in order to ensure that correct information is being disseminated to property owners. An additional guidance document should be added to the Ministry's current tool kit, one that provides municipalities and planners with the most current information on the impact of designation on property values, and the limitations and benefits of at least the main mechanisms for protecting heritage in Ontario. These guidance documents should be disseminated to designated property owners, and owners living adjacent to designated properties, but especially to those who wish to make alterations.

5.3 Conclusions

At the beginning of this SRP, it was noted that the definition of “heritage” has expanded in recent years to include much more than high-profile examples of built heritage, such as monuments, major historic sites, and exceptional pieces of architecture. Chapter two provided a narrative of the evolution of conservation theory, trends in recent conservation and urban design theory and the current state of heritage conservation in Ontario. It began with works that described how the profession’s focus evolved from technical methods for conservation, where value was found in the objects themselves, which necessitated their careful conservation and their legal protection, to include an approach that was based on the values of certain communities and then to a broader perspective of heritage resources that make a contribution to the wider environment. This research has found that while this is a useful approach in some cases, it has become too narrow a perspective that does not always consider the less traditional ideas of heritage. Smith’s work on the Authorized Heritage Discourse demonstrated this most clearly. This research has found that the AHD is perhaps slowly changing, and that the legislative and legal framework that was once constructed to fit the AHD, no longer supports it in every case. Many of the works described in Chapter two dealt with emerging approaches that explore methods of addressing this gap, by looking to incorporate more of a range of communities and different types of heritage resources, but also by understanding that these types of heritage resources may need different types of protection. These works also raised the valid point that the very concept of “understanding” is subjective: who decides what is heritage?; Whose perspective is correct? These raise further questions: how should heritage be protected?; Should it be protected at all? This research reveals

that there is no single answer to this question, but that complex solutions will need to be put in place to ensure that as a society, we can define, protect, and share what is considered important for future generations.

Chapter three highlighted that, even with all the changes, there is still a disconnection between heritage conservation and urban development. Planners, architects and urban designers have an important role in bridging this gap and encouraging greater integration with the goals of urban planning and sustainable development. This analysis has shown that while heritage policy and legislation in Ontario can provide strong powers of protection, it really depends on the willingness of the municipality to enact them. In future research, expanding the scope of interviews to smaller municipalities would highlight this, as it was often mentioned in the interview process for this study, that smaller municipalities were not using existing tools to their full extent. Chapter three also revealed that all 10 municipalities in the sample have enacted the legislation to different extents and for different reasons. Planners and heritage professionals alike suggested that there should be a comprehensive review of how all municipalities in Ontario are applying the legislation. This research provides a starting point for such a review.

This study also reveals that while many other protection tools exist, their strength varies as well, depending on their authority and a municipality's political will to enforce them. For instance, design guidelines do encourage appropriate development, but in the face of development that could provide significant financial returns for a municipality or property owner, heritage goals are often the compromising points. Different types of zoning were explored to address properties of alternative value that can fall through the

cracks. This study illustrates that this type of tool could provide the necessary legal strength, and clear direction for future development. Ultimately, this study shows that the best tools are actually those that can work together, as a tool kit of strategies that a city can draw upon.

Several strategies for improving methods of identification, public engagement and education in the process of heritage protection have also been explored and solutions for improvement have been made. Based on these findings, several recommendations at the local and provincial level were discussed, which heavily support the protection of heritage resources. If implemented in creative ways, they can encourage appropriate development as well. Questions raised in previous chapters —such as “How much protection is too much?”, and conversely “How much is too little?” — are valuable for planners and decision-makers to keep in mind, but if professionals make more of an effort to identify and understand the heritage resources that exist, these questions can be strongly supported. Finally, this analysis has demonstrated that if municipalities want to balance heritage conservation with natural growth, and as the goals of conservation continue to evolve, there will need to be compromises between heritage professionals and planners. When it comes conventionally-defined types of heritage, society is still developing its understanding of value, and therefore planners and heritage professionals will need to think more broadly to conserve that value in some way. The tools identified above are useful, but others will need to be developed. No single tool will provide the answer to all issues, but each one will be an addition to the toolbox that must continue to grow, for heritage and planning are fields that deal with complex issues, and therefore, require sophisticated responses.

REFERENCE LIST

Academic Literature

- Amdur, L., & Epstein-Pliouchitch, M. (2009). Architects' Places, Users' Places: Place Meanings at the New Central Bus Station, Tel Aviv. *Journal of Urban Design*, 14(2), 147-161. doi:10.1080/13574800802670952
- Baldassi, J. (2012). Heritage Overhaul Proposed. *Novae Res Urbis: Greater Toronto Edition*, 15(37), 4.
- Bridgman, R., & Bridgman, W. (2000). Regulatory Hurdles to Conserving Heritage Property in Toronto. *Canadian Journal of Urban Research*, 9(1), 23.
- Chynoweth, P., Hudson, J., & James, P. (2007). The changing framework for conservation of the historic environment. *Structural Survey*, 25(3/4), 253-264. doi:10.1108/02630800710772836
- D'Eye, G. R. (2005). Landmark Legislation: Ontario gives municipalities stronger heritage powers. *Municipal World*, 115(9), 27-30.
- Fulton, G. W. (1998). Policy Issues and Their Impact on Practice: Heritage Conservation in Canada. *APT Bulletin*, 29(3/4), 13-16.
- Harrison, R. (2010). *Understanding the Politics of Heritage*. Manchester: Manchester University Press.
- In with the Old. (2012). *Novae Res Urbis: Greater Toronto Area Edition*, 15(24), 1-4.
- Jackson, M. (2006). *The Principles Of Preservation: The Influences Of Viollet, Ruskin and Morris on Historic Preservation*. (Thesis). Southwestern Oklahoma State University, Weatherford, OK.
- Kalman, H. (2014). *Heritage Planning: Principles and Process*. New York: Routledge.
- Kaufman, N. (2013). Putting intangible heritage in its place(ts): Proposals for policy and practice. *International Journal of Intangible Heritage*, 8, 19-36.
- Lenzerini, F. (2011). Intangible Cultural Heritage: The Living Culture of Peoples. *The European Journal of International Law*. 2 (1), 101-120 doi: 10.1093/ejil/chr006

- Menon, A. G. K. (2005). *Heritage Conservation and Urban Development: Beyond the Monument*.
- Muños-Viñas, S. (2005). *Contemporary Theory of Conservation*. Oxford: Elsevier.
- New Heritage Policies (2012). In *Novae Res Urbis* City of Toronto Edition, (Vol. 16, pp. 4). Toronto.
- O'Donnell, P. (2015). The Role of Regulatory Systems. In F. B. a. R. v. Oers (Ed.), *Reconnecting the City: The Historic Urban Landscape Approach and the Future of Urban Heritage*. Sussex: John Wiley & Sons Ltd.
- Olsson, K. (2008). Citizen input in urban heritage management and planning: a quantitative approach to citizen participation. *Town Planning Review*, 79(4), 371-394. doi:DOI: 10.3828/tpr.79.4.3
- Pendlebury, J. (2015). Heritage and Policy. In E. a. S. W. Waterton (Ed.), *The Palgrave Handbook of Contemporary Heritage Research*. Hampshire, England: Palgrave Macmillan.
- Shipley, R., & McKearnan, N. (2011). A shocking degree of ignorance threatens Canada's architectural heritage: The case for better education to stem the tide of destruction. *Journal of the Society for the Study of Architecture in Canada*, 36(1), 83-92.
- Sinha, A., & Sharma, Y. (2009). Urban Design as a Frame for Site Readings of Heritage Landscapes: A Case Study of Champaner-Pavagadh, Gujarat, India. *Journal of Urban Design*, 14(2), 203-221. doi:10.1080/13574800802670440
- Smith, L. (2006). *The Uses of Heritage*. London: Routledge.
- Stubbs, J and Makaš, E. (2011). Chapter 8: Sweden. In *Architectural Conservation in Europe and the Americas*. Hoboken : John Wiley & Son.
- Stubbs, J and Makaš, E. (2011). Chapter 1: Italy. In *Architectural Conservation in Europe and the Americas*. Hoboken : John Wiley & Son.
- Veldpaus, L., Pereira Roders, A. R., & Colenbrander, B. J. F. (2013). Urban Heritage: Putting the Past into the Future. *The Historic Environment: Policy & Practice*, 4(1), 3-18. doi:10.1179/1756750513z.00000000022
- Waterton, E. (2010). *Politics, Policy and the Discourses of Heritage in Britain*. Hampshire, England: Palgrave Macmillan.

Policies, Charters and Legislation

International Charters

European Landscape Convention,

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016802f80c6> . (2000).

International Charter for the Conservation and Restoration of Monuments and Sites,

http://www.icomos.org/charters/venice_e.pdf . (1965).

Recommendation on Historic Urban Landscapes, UNESCO

[http://portal.unesco.org/en/ev.php-](http://portal.unesco.org/en/ev.php-URL_ID=48857&URL_DO=DO_TOPIC&URL_SECTION=201.html)

[URL_ID=48857&URL_DO=DO_TOPIC&URL_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=48857&URL_DO=DO_TOPIC&URL_SECTION=201.html). (2011).

The Nara Document on Authenticity, UNESCO

<http://whc.unesco.org/archive/nara94.htm> . (1994).

The Australia ICOMOS Charter for Places of Cultural Heritage Value.

[http://australia.icomos.org/wp-content/uploads/The-Burra-Charter-2013-](http://australia.icomos.org/wp-content/uploads/The-Burra-Charter-2013-Adopted-31.10.2013)
Adopted-31.10.2013. (2013).

Vienna Memorandum on World Heritage and Contemporary Architecture- Managing the
Historic Urban Landscape, UNESCO

<http://whc.unesco.org/uploads/activities/documents/activity-47-2.pdf> . (2005).

Provincial Policy and Legislation

The Planning Act, (1990).

Provincial Policy Statement under the Planning Act, (2014).

The Ontario Heritage Act, (1975).

The Ontario Heritage Act, Regulation 09/06, (2006).

Municipal Policy and Legislation

City of Brampton. Heritage Building Protection Plan: Terms of Reference, (2012).

City of Brampton, Vacant Building Bylaw, 155-2012 Stat. (2012).

City of Ottawa. Heritage Overlay (Sec. 60). (1978).

- City of Ottawa. (2005). Sandy Hill Secondary Official Pla Retrieved from <http://ottawa.ca/en/official-plan-0/50-sandy-hill/53-policies>
- City of Ottawa. Low-Rise Residential Infill Development in the Mature Neighbourhoods Overlay (2015).
- City of Edmonton. (2016). Land Use Zones Summary- UCRH Zone. Retrieved from http://www.edmonton.ca/city_government/urban_planning_and_design/land-use-zones-summary.aspx

Government Documents

- Collins, L. (2015). *Built Heritage Sub-Committee and Planning Committee Report*. (ACS201-PAI-PGM-0088).
- City of Markham. (2013). *Application for Site Plan Approval*. City of Markham Retrieved from <http://www.mah.gov.on.ca/AssetFactory.aspx?did=10463>.
- Ministry of Culture, Tourism, and Sport. (2015). Heritage Tool Kit. Retrieved from http://www.mtc.gov.on.ca/en/heritage/heritage_toolkit.shtml
- Ministry of Culture, Tourism, and Sport,. (2006). Provincial Policy Statement Information Sheet #5. *HERITAGE RESOURCES IN THE LAND USE PLANNING PROCESS*. Retrieved from http://www.mtc.gov.on.ca/en/publications/Heritage_Tool_Kit_Heritage_PPS_info_Sheet.pdf

Non-profit Publications

- ACO. (2015). *ACO's Response to the Ontario's Culture Strategy*. Retrieved from http://http://www.arconserv.ca/news_events/cf_download.cfm?file=Culture_Strategy_ACO_Response.pdf&path=%22
- Elliott, P. (1995). EASEMENTS ARE FOREVER: The Ontario Heritage Foundation's Experiences in Monitoring Heritage Properties. *ICOMOS Canada Momentum* 1995, 4(3).
- Heritage Canada National Trust (HCNT). (2012). *Toward a New Vision for the Heritage Movement: What's working; What's not; What needs to change*. Paper presented at the National Heritage Summit, Montreal.

- Heritage Toronto. (2015). *State of Heritage Report*. Retrieved from Toronto:
<http://heritagetoronto.org/wp-content/uploads/2014/07/FINAL-State-of-Heritage-Report.pdf>
- Ross, S. (2006). Saving Heritage is Key to Sustainable Development. *Heritage Magazine* Heritage Canada National Trust. (Spring).
http://www.nationaltrustcanada.ca/sites/heritagecanada.org/files/magazines/2006/spring/Spring2006_Sustainable.pdf
- UNHabitat. (2010). *Historic Districts for All- India: a social and human approach for sustainable revitalization*. Retrieved from New Delhi:
<http://unesdoc.unesco.org/images/0019/001915/191526e.pdf>

Theses, Conference Proceedings, and Non-published Material

- Angel, V. (1999). *The Ontario Heritage Act and the provincial program: an alternative model for heritage conservation*. (Master of Arts: MA), Carleton University, Ottawa. Retrieved from <https://curve.carleton.ca/089df2ef-0ac8-4372-b4fa-5728d091457f> CURVE database.
- Angus, M. (2014). Shifts in Heritage Education. Presentation at the annual Heritage Canada National Trust Conference 2014, Charlottetown, PEI. Retrieved from <https://www.nationaltrustcanada.ca/sites/www.heritagecanada.org/files/Annnnnngus.pdf>
- Bull, N., & Wiebe, C. (2011). *Heritage Designation: A National Perspective*. Paper presented at the Does Designation Work? Carleton Canadian Studies Heritage Conservation Programme Symposium, Ottawa.
- Corey, A. (2013). *Preservation Planning: Toronto Case Study*. Final Essay. Graduate School of Architecture and Planning. Columbia University.
- Corey, A. (2014). *San Francisco Neighborhood Preservation Tools*. Graduate School of Architecture and Planning. Columbia University.
- Coutts, S., & Collins, L. (2011, March 26, 2011). *Municipal Designation in Ottawa: Past, Present and Future*. Paper presented at the Does Designation Work: Canadian Studies Heritage Conservation Symposium, Ottawa.

- De Filippi, F and Balbo, R (2005, September). Vernacular Architecture: Identification, Preservation and Upgrading Principles. In CIPA 2005 XX International Symposium, Torino.
- Levy, R. (2015). *Contextual Zoning as a Preservation Planning Tool in New York City*. (Master of Science in Historic Preservation and Urban Planning), Columbia University. Retrieved from <http://dx.doi.org/10.7916/D8HD7TVM>
- Lovelady, A. (2008). Broadened Notions of Historic Preservation and the Role of Neighborhood Conservation Districts. *The Urban Lawyer*, 40(1), 147-183.
- McClurg, J. (2011). *Alternative Forms of Historic Designation: A Study of Neighborhood Conservation Districts in the United States*. Study. University of Minnesota. Minnesota.
- Most, J. (2005). *Neighborhood Conservation Policies: Protecting Communities from Tear Downs and Other Threats to Neighborhood Conservation*. Columbia University, New York.
- Peacock, R. M. (2009). *Neighborhood Conservation Districts and Their Relevance to Historic Preservation in the 21st Century*. University of Georgia, Athens.
- Yeston, M. (2014). *Neighborhood Conservation Districts: An assessment of typologies, effectiveness, and community response*. (Master of Science in Historic Preservation and Urban Planning), Columbia University. Retrieved from <http://academiccommons.columbia.edu/catalog/ac:175541>

Reports

- Archaeological Services Inc (ASI). (2009). *Heritage Policy Review and Key Directions Report*. Retrieved from Toronto, Ontario:
https://www.richmondhill.ca/documents/op_heritage_report.pdf
- ERA. (2014). *Hamilton Downtown Built Heritage Inventory*. Retrieved from <http://hamilton.siretechnologies.com/sirepub/cache/2/zfht2cuvri2uwzia0kdybc0l/924604262016094946985.PDF>
- FGDMA. (2010). *Draft Report: Sandy Hill Heritage Study*. Retrieved from <http://www.ash-acsc.ca/wp-content/uploads/2012/10/Sandy-Hill-East-Heritage-Study-Final-Draft.pdf>

Bertron, C., & Rypkema, D. (2012). *Historic Preservation and Rightsizing: Current Practices and Resources Survey*. Retrieved from Washington D.C:

Newspaper and Magazine Articles and Blog Posts

Jackson, E. (2015, May 15, 2015). Sandy Hill to become city's newest heritage area. *Ottawa Community News*. Retrieved from

<http://m.ottawacommunitynews.com/news-story/5630026-sandy-hill-to-become-city-s-newest-heritage-area>

Metzger, P. (2015). Torontoist Explains: The Ontario Municipal Board. Retrieved from <http://torontoist.com/2015/08/torontoist-explains-the-ontario-municipal-board/>

Mueller, L. (2014, July 3, 2014). New rules could strengthen Sandy Hill heritage areas; Management plans for five conservation districts in the works. *Ottawa East News*. Retrieved from <http://www.ottawacommunitynews.com/news-story/4612745-new-rules-could-strengthen-sandy-hill-heritage-areas-management-plans-for-five-conservation-district/>

Schneider, D. (2016a). "Cultural Heritage" and the fuss with definitions. Retrieved from http://danschneiderheritage.blogspot.ca/2016_01_01_archive.html

Schneider, D. (2016b). Listing- Designation Lite. Retrieved from http://danschneiderheritage.blogspot.ca/2016_03_01_archive.html

Website Sources

Government of Ontario. (2014). About the OMB. Retrieved from <https://www.omb.gov.on.ca/english/AbouttheOMB/AbouttheOMB.html>

Government of Ontario. (2015). Conservation Review Board. Retrieved from <http://elto.gov.on.ca/crb/>

Historic England. (2015). Historic Landscape Characterization. Retrieved from <https://historicengland.org.uk/research/approaches/research-methods/characterisation-2/>

Ministry of Tourism, Culture and Sport. (2016a). Culture Talks- Sparking a New Conversation. Retrieved from <https://talk.ontario.ca/culture/home>

Ministry of Tourism, Culture and Sport. (2016b). Ontario's Culture Strategy. Retrieved from <https://www.ontario.ca/page/ontarios-culture-strategy>

Ottawa Neighborhood Study. (2016). Sandy Hill Ottawa East. Retrieved from <http://neighbourhoodstudy.ca/sandy-hill-ottawa-east/>

Ontario Heritage Trust. (2016). FAQs- Where can I find financial assistance to restore a heritage building?. Retrieved from <http://www.heritagetrust.on.ca/conservation/buildings/faq.aspx#;FAQLink70>.

Parks Canada, The State Party. (2004). Periodic Report on the Implementation of the World Heritage Convention, Section : Application Of The World Heritage Convention. Retrieved from <http://www.pc.gc.ca/eng/docs/rspm-whsr/sec1/sec1c.aspx>

Parliament of Canada. (n.d). The Division of Powers: An Introduction to How Parliament Works. Retrieved from http://www.lop.parl.gc.ca/About/Parliament/Education/ourcountryourparliament/html_booklet/division-powers-e.html





























































State Historic Preservation Office. A Comparison of The National Register of Historic Places with Local Historic Landmark and District Designations. Retrieved from <http://www.hpo.ncdcr.gov/compare.htm>

St. Pierre, M. (2015). Sandy Hill: History of an Ottawa, Ontario, Canada Neighborhood. *Bytown of Bust*. Retrieved from <http://www.bytown.net/capital.htm>

The National Trust for Scotland. (n.d) Newhailes House. Retrieved from <http://www.nts.org.uk/Property/Newhailes/Hidden-history>



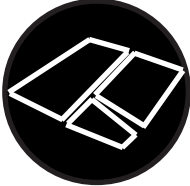


Table 1. Summary of Key Information: Heritage Protection in Ontario							
	Identification	Evaluation	Protection Tool				
Description	<p>based on surveys done over decades</p> <p>by volunteers, not necessarily experts</p> <p>sites are recorded and kept as an inventory, that could lead to further research</p>	<p>evaluated for heritage significance, can be 2 levels:</p> <p>listing on the register (only have to be “of heritage interest”)</p> <p>designation (must meet at least 1 of 3 criteria for determining value, Regulation 09/06)</p>	<p>Listing on the Register</p> <p>must provide 60 days notice in advance of demolition</p> <p>the register can have designated and undesignated properties</p> <p>serves as an official list</p> <p>properties are often flagged for development review</p>	<p>Designation</p> <p>ensures demolition control</p> <p>qualifies for funding</p> <p>can be individually protected (Part IV) or part of a group of buildings or a landscape (Part V)</p> <p>controls for alterations and demolition</p> <p>These are used together with: zoning, design guidelines, official plan policies</p>	<p>Easements</p> <p>voluntary agreements between the City or Province with an owner to protect certain elements and</p>	<p>Special Areas of Interest under Official Plans</p> <p>Areas identified as important to a community, often like a Community Design Plan</p>	<p>Planning Act</p> <p>allows municipalities to require a Heritage Impact Assessment for development to designated properties or those adjacent to designated properties</p> <p>bylaws and policies</p> <p>Site Plan Control can regulate exterior design, including character, scale, and design features</p>
Strengths	<p>an official list of resources</p>	<p>established set of criteria</p> <p>only have to meet 1</p>	<p>flexible enough for interpretation between municipalities</p>	<p>strongest legal tools</p> <p>enforceable and established</p> <p>supersedes other contradictory regulations</p>	<p>registered on title</p> <p>customizable</p> <p>can regulate use</p>	<p>do not need to meet any criteria</p>	<p>provincial policy that provides direction and guidance</p> <p>broad and flexible</p>
Limitations & Issues	<p>not always compiled by experts</p> <p>does not ensure resources are important to a range of communities</p> <p>does not value contribution to wider urban environment</p>	<p>criticized as being too narrow</p>	<p>can be applied to different extents in every city</p>	<p>restrictive</p> <p>little incentive for investment</p> <p>not a legal agreement, the owner may not be willing to preserve</p> <p>existing public misunderstandings of what designation means</p> <p>criteria for value is narrow, does not necessarily capture “in between” resources</p> <p>takes time and resources to do research</p>	<p>future owners may not be as interested as original, may make the property hard to sell</p>	<p>only guidelines with no legal teeth</p>	<p>tension between land use development and conservation goals</p>

Table 2. Key Changes to the OHA for Built Heritage Resources (2005)		
	Pre- Amendments (1975-2005)	Post-Amendments (2005- present)
Demolition Control	demolition could only be delayed (180 days) for individual properties and those in a district	owners of designated properties must apply for demolition consent from city council owners of properties on the register but not designated must provide the municipality 60 days notice for demolition municipalities can attach conditions to a demolition approval property owners can appeal municipal decisions refusing demolition or conditions to the OMB
Municipal Listing and Designation	register could only include properties that were designated definition of “Heritage Attribute” pertains to an element that causes a property to have cultural heritage value or interest	may include designated or non-designated properties that the council believes to be of cultural heritage value or interest definition of “Heritage Attribute” pertains to an element that simply contributes to the property’s cultural heritage value or interest requires the use and application of standard criteria when designating individual properties requires that a designation bylaw accompany the statement explaining value municipalities with an established property standards bylaw can prescribe minimum standards for designated property can require owners to repair and maintain properties to this standard
Heritage Districts	no requirements for a long term management plan no holding period to allow for the study of an area no way of communicating to owners who purchase properties after a district has been designated that their property is included	new HCDs must be accompanied by a management plan; allows for the adoption of such plans for existing districts may designate a study area for a period of up to one year, during which time alterations, construction or demolition may be prohibited requires that the district designation bylaws be registered on the title of properties within the district
Provincial Powers	no powers	allows the province to list properties of heritage value on the provincial register based on provincial criteria province has the ability to step in to over rule the decision of a municipality should it decide not to designate a significant property

Table 3. Review of the Application of Heritage Legislation, Policy and Alternative Conservation Tools in Ontario Municipalities											
		Toronto	Ottawa	Mississauga	Brampton	Hamilton	Kingston	London	Markham	Vaughan	Oakville
	Area	630 km²	2,790 km²	292 km²	267 km²	1138 km²	451 km²	421 km²	213 km²	274 km²	139 km²
	Population	2.6 Million	870, 250	714,413	523,911	519,949	123,363	366,151	301,709	288,301	182,520
Objectives	scope of types resources to be conserved										
	use of all available legislation and policy										
	balances conservation with other urban and rural agendas										
	conservation through the development review process										
	community involvement, awareness and education										
	encourage conservation through funding sources										
Official Plan Date		Updated 2015	Updated 2014	Updated 2015	Updated 2015	Updated Urban: 2012; Rural: 2012	Updated 2016	Updated 2015	Updated 2014	Updated 2015	Currently Under Review



(Source: Population and Area data from StatsCan 2011, 2006)

Table 4. Typology of Tools	
<div><div>Legislative and Regulatory<ul style="list-style-type: none">-Register-Part IV and V Designation</div></div>	<div><div>Education and Awareness Strategies<ul style="list-style-type: none">-Lectures-Planning Workshops-Urban Design Awards-Technical Guidance on Conservation Standards for Maintenance and Repairs</div></div>
<div><div>Land Use Planning<ul style="list-style-type: none">-Heritage Impact Assessments-Development Review-Official Plan Policies</div></div>	
<div><div>Incentives<ul style="list-style-type: none">-Grants-Tax Credits-Height and Density Bonusing</div></div>	<div><div>Evaluation and Identification Strategies<ul style="list-style-type: none">-Windshield Surveys-Inventory Projects-Large Scale, City-wide Surveys</div></div>

APPENDIX B Figures for the Ottawa Context

Conserved character defining elements within the existing Districts



Figure 6: (Left) Wilbrod Street near Nelson Street, ca 1920, (Right) 2016, showing the preserved mature treelined street, with many of the same houses in similar condition with many original architectural elements.



Figure 7: (Left) Residence of William A. Lloyd (227 Daly Avenue), (Right) 2016, showing the much of the original element intact, with the exception of the front porch trim and details replaced and general deterioration.

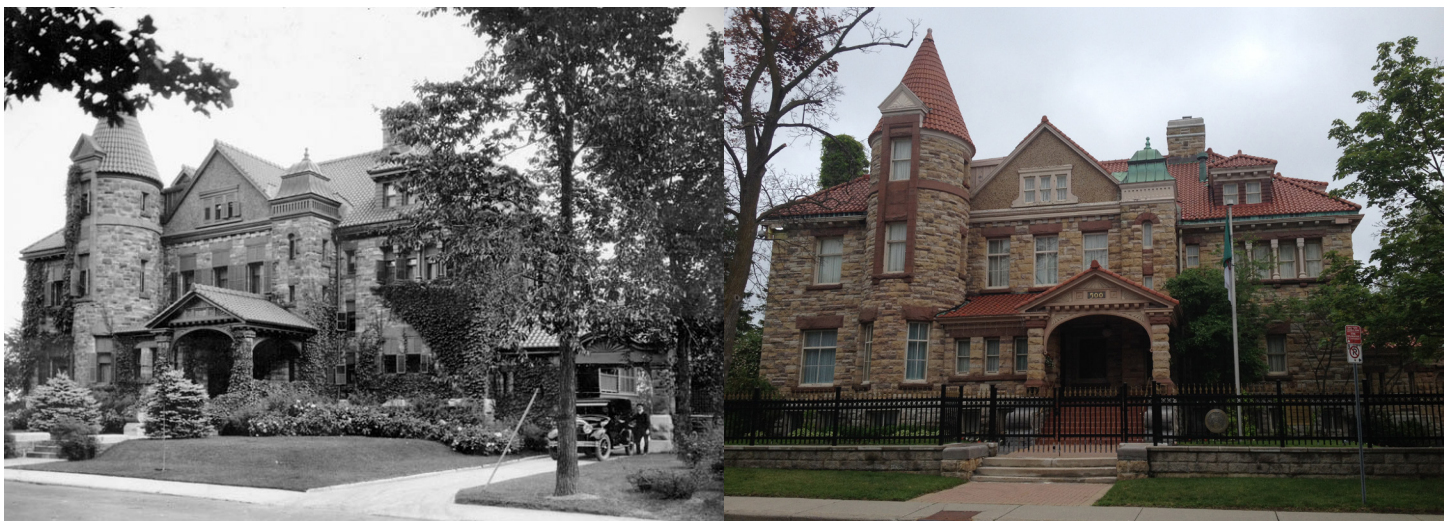


Figure 8: (Left) Residence of H. Gertrude Fleck, 500 Wilbrod St., (Right) Embassy of Algeria, 2016, nearly the same, with the exception of some landscape modifications and security features.

APPENDIX B Figures for the Ottawa Context

Examples of character defining elements within Districts



Figure 9: (Left) Painted wood front porch with prominent brackets , 2016 and (Right) Intricate trim work set into the gable , 2016; elements that have been conserved over time.



Figure 10: (Left) Two storey painted front porch , 2016 and (Right) front gable rooflines featuring historic paint colors of green, cream and ochre, that have been conserved over time



Figure 11: (Left and Right)) Examples of traditional building materials of stucco, brick and wood siding that have been conserved, 2016, however some elements like the front railings and historic metal roofing have been lost.

APPENDIX B Figures for the Ottawa Context

Examples of character defining elements within the Character Area, but outside the Districts



Figure 12: Examples character defining elements like the gambrel roof line (Left) and two storey front porches and low wrought iron fences (Right), but with out of inappropriate infill behind, 2016.



Figure 13: Example of the variety of styles and elements (Left) Gambrel rooflines with stucco and half timber (Right) Intricate bargeboard and finials with typical front gable roofs, with obvious construction occurring.



Figure 14: Example of the commercial properties on Laurier featuring similar features identified within the districts. (Right) Steel roof with stucco cladding, attempts at historic integration.

APPENDIX B Figures for the Ottawa Context

Examples of features that have been lost or altered



Figure 15: (Left): Bungalow within the district, likely a pre-designation construction , 2016.
Right: Whitewash of all features on an embassy building , 2016.



Figure 16: (Left) Paving of front lawns for parking, (Right) Demolition by Neglect, showing the challenges of being located within a district with strict design guidelines, and symptomatic of the attitudes towards conservation.



Figure 17: (Left) Alteration of traditional wooden balconies with white, likely aluminum replacements, 2016.
(Right) Flat-roofed Category 4 building, heavily altered, and out of character, 2016

APPENDIX B Figures for the Ottawa Context

Embassies in Sandy Hill that have been significantly altered



Figure 18: (Left) Embassy of the Russian Federation , 2016, newly constructed and out of scale and character with the area. (Right) Embassy of the Republic of New Guinea , 2016, with paved front yard.



Figure 19: (Left) Embassy of Brazil, 2016 with covered temporary porch and significant front yard paving, but many exterior elements conserved.

APPENDIX B Figures for the Ottawa Context
South of the Character Area



Figure 20: (Left) Historic replicas with a lack of authenticity, 2016.
(Right) Incompatible front additions with inappropriate evolution, 2016.



Figure 21: (Left) Elements identified as heritage attributes, but south of the Cultural Character Area , 2016.
(Right) Mix of stucco with vinyl siding, typical of this area outside the Cultural Character Area , 2016.

APPENDIX B Figures for the Ottawa Context
Examples of alterations that meet the guidelines



Figure 22: (Left) Refinished stucco cladding, traditional paint colors & quoining; refinished cedar shingles on dormers, 2016. (Right) Steel vertical siding, likely to replace asphalt shingles, 2016.



Figure 23: (Left) Historically appropriate infill using traditional materials, but “of its own time”, 2016. (Right) Outside of the Character Area, but historically appropriate and contemporary, 2016.



Figure 24: (Left) Contemporary infill that is sensitive to surrounding heritage buildings, 2016. (Right) Contemporary accessible ramp, but constructed to echo the existing front porch; reversible, 2016.

APPENDIX C ETHICS APPROVAL CERTIFICATE



Research Ethics Board Office
James Administration Bldg.
845 Sherbrooke Street West. Rm 429
Montreal, QC H3A 0G4

Tel: (514) 398-6831
Fax: (514) 398-4644
Website: www.mcgill.ca/research/researchers/compliance/human/

Research Ethics Board I **Certificate of Ethical Acceptability of Research Involving Humans**

REB File #: 333-0116

Project Title: Protect, Promote, Progress: Examining heritage legislation and policy in Ontario and its impact on planning, protection and development

Principal Investigator: MacKenzie Kimm

Department: School of Urban Planning

Status: Master's Student

Supervisor: Prof. Lisa Bornstein

Approval Period: February 2, 2016 to February 1, 2017

The REB-I reviewed and approved this project by delegated review in accordance with the requirements of the McGill University Policy on the Ethical Conduct of Research Involving Human Participants and the Tri-Council Policy Statement: Ethical Conduct For Research Involving Humans.

Deanna Collin
Ethics Review Administrator, REB I & II

-
- * All research involving human participants requires review on at least an annual basis. A Request for Renewal form should be submitted 2-3 weeks before the above expiry date. Research cannot be conducted without a current ethics approval.
 - * When a project has been completed or terminated, a Study Closure form must be submitted.
 - * Unanticipated issues that may increase the risk level to participants or that may have other ethical implications must be promptly reported to the REB. Serious adverse events experienced by a participant in conjunction with the research must be reported to the REB without delay.
 - * Modifications must be reviewed and approved by the REB before they can be implemented.
 - * The REB must be promptly notified of any new information that may affect the welfare or consent of participants.
 - * The REB must be notified of any suspension or cancellation imposed by a funding agency or regulatory body that is related to this project.
 - * The REB must be notified of any findings that may have ethical implications or may affect the decision of the REB.

APPENDIX D: ORIGINAL INTERVIEW GUIDE

Title of Study: MIND THE GAPS: HOW URBAN PLANNING CAN HELP PROTECT LESS ‘TRADITIONAL’ TYPES OF CULTURAL HERITAGE A critical analysis of Ontario’s heritage policy and legislation in the face of changing definitions of “heritage”.

Researcher: MacKenzie Kimm

Introduction:

1. Personal Introduction
2. Introduction of the research project and the research objectives
3. Inform participants of their rights
4. Signature of participants consent form

Categories and Topics of Interest:

1. Heritage legislation in Ontario: benefits and problems for protecting resources and allowing for natural growth and development
2. Attitudes of professionals towards heritage policy
3. Alternatives to provincial designation to address these issues
4. Character Areas: the opportunities and challenges this type of tool presents

Questions:

1. Describe some of your current work experience in general and experience with heritage protection specifically.
2. Describe your opinion about heritage protection tools in Ontario.
3. What sort of attitudes do you find your colleagues or clients have towards heritage policy?
4. What are your thoughts about the key problems with designation in Ontario?
5. In your opinion, how might these be solved?
6. In your experience, do you think it would be beneficial to have something in the Act that protects areas or resources that do not meet designation criteria?

7. In your opinion, how has the City reacted to this lack of protection tool for non-designated, yet valued resources?
8. What do you think some other alternatives to provincial or municipal protection are that can help protect these types of resources?
9. Is there anything you would like to add or any questions that I haven't asked you about that I should have? Or anyone you think I should speak with?

Concluding remarks:

1. Thank participants
2. Allow time for post-interview discussion