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## Finding Common Ground: A Critical Review of Land Use and Resource Management Policies in Ontario, Canada and their Intersection with First Nations

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# Finding Common Ground: A Critical Review of Land Use and Resource Management Policies in Ontario, Canada and their Intersection with First Nations

## **Abstract**

This article provides an in-depth analysis of selective land use and resource management policies in the Province of Ontario, Canada. It examines their relative capacity to recognize the rights of First Nations and Aboriginal peoples and their treaty rights, as well as their embodiment of past Crown–First Nations relationships. An analytical framework was developed to evaluate the manifest and latent content of 337 provincial texts, including 32 provincial acts, 269 regulatory documents, 16 policy statements, and 5 provincial plans. This comprehensive document analysis classified and assessed how current provincial policies address First Nation issues and identified common trends and areas of improvement. The authors conclude that there is an immediate need for guidance on how provincial authorities can improve policy to make relationship-building a priority to enhance and sustain relationships between First Nations and other jurisdictions.

## **Keywords**

First Nations, Aboriginal and treaty rights, duty to consult, accommodation and consent, Ontario, land use planning and policy

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## **Finding Common Ground: A Critical Review of Land Use and Resource Management Policies in Ontario, Canada and their Intersection with First Nations**

This article examines and critically evaluates both the degree of formal recognition of First Nations' rights and of honouring past Crown-First Nations relationships in contemporary provincial land use and resource management legislation that guide planning and development in Ontario. Due to jurisdictional boundaries and an overall lack of meaningful understanding of First Nations' concerns and knowledge towards land and natural resources, the dominant historical view is that First Nations are a "federal responsibility and thus not accounted for in provincial planning" (Borrows, 1997a, p. 444). Changes in the province of Ontario have established several mechanisms for connecting Indigenous Peoples to processes of government policy development and for establishing lines of accountability between the provincial government and Indigenous Peoples. In particular, as a direct result of the Ipperwash Inquiry (Johnston, 2007) following the death of Dudley George in 1995 at the Ipperwash Provincial Park occupation, the Ministry of Aboriginal Affairs was created. More recently, the Government of Ontario established the New Relationship Fund, in part to assist with "core consultation capacity funding" and to enable First Nations and Métis communities to work with different types of stakeholders, including governments and private sector partners, on land use and resource issues (Province of Ontario, 2014). However, in light of these changes, relatively little research has been done with regard to comprehensively analyzing policies and plans at the provincial-scale for their recognition of First Nations (Dorries, 2014).

Our research team consists of leaders among the Mississaugas of the New Credit First Nation and the Walpole Island First Nation, and planning researchers from Queen's University and the University of Waterloo whose backgrounds can be traced to immigrant settlers from Western Europe and India. We work as research partners and as co-authors of this article. Our partnership stems from ongoing conversations about the need to influence provincial policy both to improve municipal-First Nations relations and to enhance dialogue and improve planning within a culture that has historically situated First Nations' issues, claims, and knowledge only peripherally. With consultation mainly occurring today on a project-by-project basis, First Nations often do not have the capacity to influence decision-making (Viswanathan et al., 2013). New funding opportunities in the province for communities, including Ontario's New Relationship Fund (see Province of Ontario, 2014), are changing that reality incrementally, but there remains concern amongst our emerging partnership that meaningful change will not be able to sustain itself without amendments to higher guiding policies. Improvements to policy at the strategic level are required to enable improved on-the-ground planning relations.

The main goal of this article is to develop a baseline on provincial land use and resource management policies to understand their relative capacity at recognizing and supporting First Nations, Aboriginal and treaty rights, and embodying past Crown-First Nations relationships. Through text-based content analysis, this article identifies structural barriers within Crown policies that "shape (both constrain and enable) the kinds of conversations that planners and land managers are able to have with Indigenous peoples, and the kind of decisions and processes in which Indigenous people are involved with" (Porter & Barry, 2013, p. 12). This development of a baseline has the potential to raise further awareness of the limits of provincial policies and ensure that when policies do come up for review, First Nations-led amendments result in more equitable planning processes.

This article contributes to First Nations policy analysis and development in a number of meaningful ways. First, for First Nations across Ontario, it highlights policies that limit agency and the ability to take part in equitable planning processes that affect communities and traditional territories. It also acts as an educational guide and catalyst for First Nations to negotiate amendments and to challenge their perceived role as “stakeholders,” and instead be viewed as planning partners. Our article points to areas of improvement and establishes a necessary space for new discussions about alternative ways to proceed. For planners at the municipal-scale with limited knowledge of Crown–First Nations relations, this article is meant to enhance their understanding of the policies that shape their relations with First Nations. It also is meant to assist practitioners in becoming more self-reflective about how higher policies “shape, constrain, authorize and regulate” planning relations (Barry & Porter, 2011, p.183). This will not only assist planners in redefining municipal-First Nation interaction, but also help to enhance on-the-ground relations, including First Nations’ capacity to participate in planning review processes. Most importantly, our article and the baseline developed as a result of the analytical framework holds significance to partnering community members involved. For example, this baseline has led to the development of materials to assist both First Nations and municipalities in the review of provincial policies and plans. There are also broader effects, including substantial changes to the latest Provincial Policy Statement (2014), a set of minimum standards relating to land use planning matters of provincial interest that all planning authorities and decision-makers must be consistent with. By having a baseline already developed on the draft policy statement, our partnership was able to attend consultations, meet with provincial representatives and provide recommendations that were included into the final Provincial Policy Statement on enabling stronger positive municipal-First Nations relationships.

While pointing to opportunities for Indigenous Peoples and governments to work with one another, our article emphasises the perspectives of First Nations partners who are involved in this research and also points to overarching practices of consultation (namely the Crown’s duty to consult) in its investigation of current land use policies affecting planning with First Nations peoples in Ontario. The article draws key insights from documents developed during the Royal Commission on Aboriginal Peoples (RCAP) (RCAP, 1996a, 1996b, & 1996c) where relevant, as they provide a foundation for relating federal and provincial governments to building policy that directly affects Indigenous–non-Indigenous relations in land use policy and planning.

The article is structured as follows: the introduction is followed by a description and justification of methods used to conduct the research. Next is a literature review which provides insights into the key themes that are foundational to the analytical framework guiding the content analysis. The content analysis broadly discusses common trends in the documents and then the three overarching classifications of the framework—significant, moderate, and minimal—in the analysis of the policies. A discussion follows and highlights the post-2005 northern focus of Ontario policy, the issues of consent, and the need to fundamentally create spaces of common ground. The discussion reveals both the current limits and future opportunities rooted in Ontario’s land use and resource management policies. The article concludes by sharing changes to policy already occurring in Ontario and proposes further policy and planning changes that also need to take place in order to make equitable and constructive relations between municipalities and First Nations the standard and not the exception.

## Methods

This research was conducted by means of a content analysis of policy documents as well as a literature review. The literature review covered two related themes: Aboriginal and treaty rights, and the honour of the Crown. The literature review facilitated the development of a framework for the content analysis in order to deconstruct, analyze, and evaluate the relative capacity of identified provincial policy documents to recognize and incorporate First Nations' rights and honouring past relationships.

Conducted over a five-month period, the content analysis covered material from a total of eight provincial ministries, 32 provincial legislations, 269 regulation documents, 16 policy statements, five provincial plans, six technical documents, two guideline documents, three draft documents and four other reports. The content analysis identified and charted the legislative and policy landscapes that interact with First Nations on issues of land use and resource management in Ontario. Three interviews, two with First Nations community representatives associated with the First Nations partners in this project and one with a planning expert in southern Ontario, were conducted to validate initial findings. These interviews are therefore integrated into the discussion section of this article rather than as stand-alone findings.

The first level of content analysis focused on what Cope (2010) refers to as manifest content analysis; this approach identifies key terms, phrases, and sections of policies in order to understand the broader intersection of Ontario's land use and resource management policies with First Nations. The surface content of each text was systematically searched and examined for indicator terms, including "Aboriginal," "First Nation," "Indigenous," and "Indian" within each policy. Next, a latent (sub-surface) content analysis was completed, where the flagged sections within each text and the text as a whole were assessed for certain themes and concepts in order to understand their recognition of First Nations and capacity to embody past Crown–First Nations relationships (Dunn, 2010). Flagged sections containing key indicator terms, and each text as a whole were analyzed to see if there was any evidence of Aboriginal rights. Flagged sections and texts as a whole then underwent a second-tier latent analysis to see if there was any recognition of honouring past Crown–First Nations relations by means of incorporating several key concepts in relation to First Nations including: (1) the duty to consult; (2) consultation; (3) accommodation; and (4) consent. These four concepts were selected because they provided an indication of the willingness of Crown policy-makers and officials to break with the status quo of a regulatory regime that has traditionally limited participation of First Nations, and recognize and support First Nations through reconciliation and visibly honouring past agreements made by the Crown. Both *consultation* and *the duty to consult* were selected as separate indicators because consultation is often broadly discussed in relation to all stakeholders, whereas the duty to consult is relatively a new concept that focuses solely on First Nations.

Based on these analyses, each text as a whole was coded and assigned an individual category of "significant," "moderate," or "minimal." These assigned categories helped in data reduction and organization as they identified areas for further improvements and exploration. To be coded as significant, the policy had to have recognized First Nations directly, acknowledged Aboriginal and treaty rights within the text, and encompassed two or more concepts of honouring past relations. To be coded moderate, the policy had to have recognized First Nations directly, and acknowledged Aboriginal and treaty rights within the text or incorporated one of the four concepts of honouring past relations. Finally,

to be coded minimal, the policy had to have no direct recognition of First Nations, no acknowledgment of Aboriginal and treaty rights, and no apparent integration of any of the four concepts of honouring past relations. To mitigate biases, if a text was coded minimal, it was re-examined and all associated regulations were analyzed to identify if there was any direct recognition of First Nations, Aboriginal and treaty rights, or any of the four concepts in relation to First Nations. This classification of documents was relative and primarily meant to assist in organizing and evaluating an individual policy's capacity in relation to other policies.

Finally, three interviews provided verification of the content analysis of policy documents and of the analytic framework that was used. Interviews were conducted either face-to-face or over the telephone. General Research Ethics Board approval for Research with Human Participants was obtained through Queen's University and the University of Waterloo such that our research approach followed Chapter 9 of the Tri-Council Policy Statement: Ethical Conduct for Research Involving Humans addressing ethical practices for research involving First Nations, Inuit and Métis Peoples of Canada (Canadian Institutes of Health Research [CIHR], Natural Sciences and Engineering Research Council of Canada [NSERC], & Social Sciences and Humanities Research Council of Canada [SSHRC], 2010).

## Literature Review

### Aboriginal and Treaty Rights

**Aboriginal rights.** Aboriginal rights can be understood as collective or communal rights that manifest from the occupation and intrinsic use of land by Aboriginal peoples prior to the arrival of European settlers (Passelac-Ross, 2010). According to Slattery (2007), Aboriginal peoples have two different kinds of rights: generic rights and specific rights. Generic rights are collectively held by all Aboriginal peoples of Canada, and they include the right to land, the right to resource-specific activities, the right to pass treaties, the right to practice one's culture and spirituality, and the right to self-government (Slattery, 2007; Teillet, 2005). Specific rights are unique to an individual community, and are completely dependent on the context and situation. For example, in some cases they may be defined by treaties or a court ruling (Slattery, 2007). Aboriginal rights are constitutionally protected under section 35 of the *Constitution Act* (1982), and can evolve in a modern form, but in certain instances may not be fully accounted for by the Crown (Lambrecht, 2013). Beyond section 35, general understandings of Aboriginal rights are also influenced by external factors, including ongoing treaty relationships, land claim agreements, and the *Indian Act* (Turner, 2006). Yet, there are limits to how Aboriginal rights are currently understood by the public at large because they are predominantly defined by non-Aboriginal individuals within state legal and political systems that do not fully grasp Indigenous philosophies and worldviews (Borrows, 1997b; Turner, 2006). Moreover, by not taking the spirit and intent of nation-to-nation relations seriously, the Crown has and continues to understand itself as the superior party in the treaty relations with unquestioned sovereignty (Borrows, 2001). For many Aboriginal peoples, rights do not flow from a Canadian state or legal system, but rather flow from nationhood and, as a result, prior occupation and jurisdiction over lands and communities (RCAP, 1996b; Turner, 2006).

**Aboriginal title.** Aboriginal title is the inherent and collective right to land or a territory that flows from the relationship between the Crown and Aboriginal peoples, and gives Aboriginal peoples "the right to control how the land is used" (*Tsilhqot'in Nation v. British Columbia* (2014), supra note VI at

para. 75). While Aboriginal title was first acknowledged as the intrinsic right to territory by the Crown in *Royal Proclamation of 1763*, it was not until the landmark case of *Calder et al. v. British Columbia [Attorney-General]* (1973) that the Supreme Court of Canada recognized that Aboriginal title to land pre-dated the arrival of European settlers and that such title existed outside of and not as a result of colonial law (RCAP, 1996b; Slattery, 2006). In *Delgamuukw v. British Columbia* (1997), Aboriginal title was further recognized as a burden on the Crown's claim to land and placed responsibility on the Crown to negotiate through consulting and accommodating Aboriginal peoples in good faith in order to reconcile issues of Aboriginal title in addition to other rights (Borrows, 2001; DeVries, 2011). Until recently, *Delgamuukw* was a leading case on Aboriginal title, but on June 26, 2014 the Supreme Court of Canada ruled in *Tsilhqot'in Nation v. British Columbia* (2014) that Aboriginal title exists as a fact and that it is territorial in nature, rather than just specific sites, such as reserves, by recognizing the unextinguished title of the Tsilhqot'in First Nation to over 1,700 square kilometres of land (Hildebrandt, 2014). This unanimous ruling by Canada's highest court provided a three-point test to determine title, including sufficient occupation, continuity of occupation, and exclusive historic occupation (*Tsilhqot'in Nation v. British Columbia* (2014), supra note V at para. 50). It also summarized that communities holding title have a right to benefit from the land, including the right to profit from it and the right to decide how the land will be used by future generations. According to the ruling, title is not absolute and provincial laws still apply, but if a government is to infringe on title lands it requires consent or the infringement "must be undertaken in accordance with the Crown's procedural duty to consult and must also be justified on the basis of a compelling and substantial public interest" (*Tsilhqot'in Nation v. British Columbia* (2014), supra note VI at para. 88). While specific to the context of areas of unceded territories, particularly British Columbia, this recent landmark case is highly noteworthy as it moves Aboriginal title from theoretical to fact and puts pressure on provincial and federal governments to act in good faith and to ensure First Nations are valued partners in land use and resource management processes that affect their traditional territories. Furthermore, this recent connection within the Canadian legal system between Aboriginal title and consent as a result of the case can be interpreted as a long overdue return to the spirit and intent of *Royal Proclamation of 1763* and the subsequent *Treaty of Niagara* in 1764 (*Niagara Treaty*, 1781). These foundational agreements of peace, friendship, and respect first indicated that no territories could be taken or infringed upon without a First Nation's consent (Borrows, 1997b).

**Treaty rights.** Treaty rights are context-specific rights stemming from negotiated nation-to-nation agreements between specific Indigenous communities and the Crown following the arrival of European settlers (Newman, 2009; Porter, 2010; Slattery, 2000). They are separate from Aboriginal rights and, in certain cases, treaty rights may recognize, reinforce, or even reshape certain Aboriginal rights (Slattery, 2000). Although it is widely assumed in Canadian society that past treaties with the British Crown predating Confederation were written agreements, the majority were oral agreements and based on spoken exchange between equal parties (Borrows, 1997b; Slattery, 2000). The written accounts of treaty rights that do exist are narratives of British Crown officials and may differ in spirit and intent from those of Aboriginal peoples who initially agreed to them (Slattery, 2000). As a result, the Supreme Court of Canada has recognized more recently that if both oral and written accounts do exist they, along with any discrepancies, should be interpreted in an open manner that gives more weight to an oral history (Slattery, 2000). Each treaty agreement, whether pre-Confederation or post-Confederation such as recent land claim agreements, may differ in content and intent and should be interpreted, in theory, "in a

flexible and evolutionary manner that is sensitive to changing conditions and practices” (Slattery, 2000, p. 209).

Yet, treaty rights as a constitutionally protected right under section 35 of the *Constitution Act* (1982) remain a source of conflict between First Nations and federal and provincial governments due to misinterpretations, a general lack of consensus, and infringing legislation (Lambrecht, 2013). Aboriginal peoples saw and continue to see treaties as a sacred means to share land and authority (Borrows, 2001; RCAP, 1996a). Treaties embody a “continuous relationship rather than a simple and final commercial transaction” entered with a strong belief that they would remain honoured and intact (Maaka & Fleras, 2005, p. 216). When treaty rights and claims to land off reserve are not honoured, First Nations are forced to use “blunt instruments to make their point” (Borrows, 1997a, p. 445). Thus, the blockades and occupations that emerged in Ontario, particularly the ongoing events in Caledonia over the Douglas Creek Estates that began in 2006, can be interpreted in this light not as isolated incidents, but as consequences of a historical failure to understand First Nation land rights and respect for founding relations set out by treaties (DeVries, 2011; Ipperwash Inquiry, 2007). With a proportion of Canadians convinced that treaties are outdated and their obligations meaningless, the RCAP (1996b) declared that society as a whole needs to rethink treaties and see them as an essential and relevant means to ensure justice for Aboriginal nations and reconcile differences. The Ipperwash Inquiry (2007) reaffirmed this stance by advocating that Ontarians should understand that everyone shares the benefit of treaty obligations as the province and the majority of Canada was founded as a result of treaties with First Nations.

### **The Honour of the Crown**

The doctrine of the honour of the Crown recognizes that when the British Crown “claimed” what is now Canada, “it did so in the face of pre-existing Aboriginal sovereignty and territorial rights” (Slattery, 2005, p. 436). The Crown by asserting sovereignty in light of existing Aboriginal rights to land and resources has a unique relationship and set of responsibilities, including the need to act with the “virtue of honour” and refrain from dishonest practices when interacting with Aboriginal peoples in Canada (Ipperwash Inquiry, 2007; Lambrecht, 2013; Newman, 2009; Slattery, 2005). As stated by C. J. McLachlin in *Haida Nation v. British Columbia [Minister of Forests]* (2004), the honour of the Crown is an exclusive and symbolic obligation of the Crown and requires Aboriginal and treaty rights to “be determined, recognized and respected” by the Crown in order to promote meaningful reconciliation (Slattery, 2005, p. 437). The honour of the Crown is significant to this discussion because it promotes a break with static understandings of Aboriginal rights and title and binds the federal and provincial governments when exercising Crown powers to respect past relationships and obligations with First Nations and act with integrity in order to find “balance and compromise” between competing rights and discourses (Newman, 2009, p. 59).

**Duty to consult.** Recently, amid the legal establishment of the Crown’s duty to consult, Crown–First Nations relations are gradually being reconfigured to embody something substantially different (Newman, 2009). As described by Lambrecht (2013), “the duty to consult is, at its simplest, intended to ensure that Crown decision making regarding development of natural resources ‘respects Aboriginal interests in accordance with the honour of the Crown’” (p. 54). Although earlier cases first identified the Crown’s duty to consult and the need to act with integrity, it was not until the recent trilogy of cases in



2004 and 2005 that the procedural obligation of both federal and provincial governments to consult with First Nations prior to making various land and resource decisions became legally recognized (Newman, 2009; Slattery, 2005). The Supreme Court of Canada's trilogy, which includes *Haida Nation v. British Columbia [Minister of Forests]* (2004), *Taku River Tlingit First Nation v. British Columbia [Project Assessment Director]* (2004), and *Mikisew Cree First Nation v. Canada [Minister of Canadian Heritage]* (2005), all played a significant role in the evolution of the establishment of a new legal doctrine into how the Crown mediates and understands the intersection of Aboriginal and treaty rights legally outlined in section 35 of the *Constitution Act* (1982) with on-the-ground decisions and developments (Newman, 2009). While the duty to consult is the responsibility of the provincial and federal Crown, parts of the process may be delegated to proponents or third parties (Lambrecht, 2013).

Newman (2009) has identified five distinct and fundamental components of the duty to consult that have developed because of this recent trilogy of cases. First, the duty to consult can emerge before proof of an Aboriginal right or title claim or with uncertainty regarding an infringement on a treaty right (Newman, 2009). Second, the duty to consult can be triggered with the slightest of knowledge of a potential adverse effect on a right by the Crown (Newman, 2009). Third, degree and scope of consultation required of the Crown varies and is dependent on two factors—the strength of the Aboriginal claim and the scale of the potential impact on the Aboriginal or treaty right (Newman, 2009). Fourth, the duty to consult does not give First Nations the ability to veto a Crown decision or development, but it may lead to accommodation of a community's interests in certain cases if negative impacts cannot be mitigated (Newman, 2009). Finally, if the Crown fails to meet their legal duty to consult, it can result in a spectrum of consequences, ranging from litigation to further consultations (Newman, 2009).

Beyond the legal and theoretical of the duty to consult, the actual practice is evolving and taking shape due to a diverse set of policy frameworks. At the federal-scale, the government has developed a recent set of guidelines, *Aboriginal Consultation and Accommodation: Updated Guidelines for Federal Officials to Fulfill the Duty to Consult* (Aboriginal Affairs and Northern Development Canada [AANDC], 2011), to help guide federal officials in matters affecting Aboriginal peoples, rights, and title. Whereas at the provincial-scale, the Ministry of Aboriginal Affairs (MAA) in Ontario has a draft set of guidelines, *Draft Guidelines for Ministries on Consultation with Aboriginal Peoples Related to Aboriginal Rights and Treaty Rights* (MAA, 2006), to provide general guidance, citing that provincial staff should always consult the Ministry's Legal Services Branch for direction. In addition, individual provincial ministries and administrative bodies have also developed their own individual guidelines and standards on the duty to consult, while the term itself is beginning to materialize within individual provincial legislation (Newman, 2009). Aboriginal communities and organizations at the national, provincial, and community-scale are also developing their own consultation policies and protocols to ensure communities are active in defining how the duty to consult will transpire (Newman, 2009). Finally, industry proponents have developed their own consultation policies and programs specific to Aboriginal communities (Newman, 2009).

**Accommodation.** Consultation in certain cases may not be enough. As clarified in the *Haida Nation* case, “where a strong *prima facie* case exists for the claim, and consequences of the government's proposed decision may adversely affect it in a significant way, addressing the Aboriginal concerns may require taking steps to avoid irreparable harm or to minimize the effects of infringement” (*Haida Nation*

*v. British Columbia* (2004), supra note I at para. 47). From here, accommodation may be required and the Crown must reconcile Aboriginal interests with “other societal interests” (Newman, 2009, p. 59). Depending on the context and situation of the case and the stakeholders involved, the process of accommodation may differ (Newman, 2009). For instance, one type of accommodation heavily utilized by industry proponents when they have to carry out aspects of the consultation process as a third party is economic accommodation through Impact Benefit Agreements (Caine & Krogerman, 2010). Yet, in cases involving Aboriginal title and unceded territories, as the recent *Tsilhqot’in Nation* case emphasized, consultation and accommodation may not be enough.

**Consent.** Fulfilling the duty to consult does not require the Crown to receive the consent of an affected First Nations to proceed as the Crown is only required to consult in good faith (Newman, 2009). However, if Aboriginal title is involved consent of the Aboriginal titleholder is required (*Tsilhqot’in Nation v. British Columbia* (2014), supra note VI at para. 76). The duty to consult and accommodation reflect progressive steps forward, but these approaches do not represent a complete paradigm shift towards honouring past relationships. With limited changes towards making free, prior, and informed consent of First Nations a legal obligation on Crown-related land and resource management decisions, these attempts at reconciliation remain inadequate at honouring past relationships and agreements (Morellato, 2008). Honouring past relationships on the part of the Crown means becoming comfortable with notions of consent and integrating specific clauses in Crown legislation and policies that recognize the significance and pressing need for consent. The latest *Tsilhqot’in Nation* ruling as previously mentioned has the potential to change how we as First Nations and non-First Nations understand consent with respect to areas where there are outstanding land claims and unextinguished title. Despite the polarizing views and tensions that will likely result, such a critical ruling may assist individuals in understanding reconciliation and recognizing that consent may not be a barrier, but a long-awaited opportunity to “smash the status quo” of Crown–First Nations relationships and move towards policies of mutual respect and co-existence (Assembly of First Nations [AFN], 2012, p. 3).

## Content Analysis of Policy Documents

### Common Trends

**Reference to First Nations.** Recognition of First Nations was inconsistent in terms of choice, frequency, and location of words across all policies and text. At one end of the spectrum, provincial Crown texts utilized terms of reference such as “First Nations” along with approximately 12 variations of the term “Aboriginal” paired with a complementary term, including “communities,” “partners,” “organizations,” “interests,” “peoples of Canada,” and “entrepreneurs.” The location and frequency of these terms differs within each text. For example, the *Far North Act* (2010), which is primarily focused on increasing participation of First Nation communities in land use planning in Northern Ontario, had direct mention of First Nations from the onset of the text in the purpose section and throughout the document at high frequency. The *Growth Plan for Northern Ontario* (2011), the *Endangered Species Act* (2007), the *Green Energy Act* (2009), and the *Mining Act* (1990) utilized similar terms of reference in their immediate preamble or purpose sections as well as throughout the text in a clear and meaningful manner. Whereas other statutes and policies, such as the *Municipal Act* (2001) referred to the indicator term “First Nations” at a minimal frequency and only within specific clauses in the main body of the policy. Regardless of where terms of reference were located or their individual frequency, a high

incidence of these texts that recognized First Nations made an effort to distinguish First Nations from other groups that were viewed as stakeholders. However, not all documents were as progressive in their choice of words and recognition.

In contrast, other statutes position First Nations alongside a long list of other political actors under the all-encompassing umbrella term, “public bodies.” In particular, within the *Planning Act* (1990), the *Greenbelt Act* (2005), the *Places to Grow Act* (2005), the *Niagara Escarpment Planning and Development Act* (1990), and the *Oak Ridges Moraine Conservation Act* (2001), the use of “public bodies” as a term of reference for First Nations failed to recognize and identify the distinct spaces and relationships that diverse First Nations occupy within the Canadian landscape because it “fails to appreciate their unique status as original land owners of country that was wrestled from them by the modern colonial state” (Porter, 2006, p. 389). For instance, the *Planning Act* (1990) listed First Nations amongst municipalities, departments, ministries, boards, commissions, and officials of a provincial or federal government, and in doing so intentionally or unintentionally fails to recognize the distinct relations and responsibilities First Nations have within planning in Ontario both with neighbouring municipalities and the province. By addressing First Nations as just another “public body,” the *Planning Act* (1990) seemingly justifies the allocation of power to the Minister to determine if a First Nations community is a valid affected public body depending on the issue. Relying on the judgment of one provincial official in practice may prove problematic depending on the dispute as certain First Nations may be overlooked as a public body, unless conflicts gain media attention. Additionally, if guiding provincial policies are incapable of identifying and recognizing First Nations as significant and distinct communities, there may be minimal incentive for municipalities and other non-First Nation organizations, beyond a moral impetus or a legal challenge, to engage with First Nations and understand treaty relations and obligations (Participant Two, personal communication, November 2, 2012).

**Reference to Aboriginal and treaty rights.** Another pattern of inconsistencies emerged in analyzed documents in how each text recognized and affirmed Aboriginal and treaty rights. Among the 32 statutes examined, eight statutes respectively cited section 35 of the *Constitution Act* (1982), a pivotal legal clause that to a certain degree “gives constitutional protection to Aboriginal and treaty rights” (Teillet, 2005, p. 35). These eight provincial land use and resource management legislations that cited section 35 as a primary means of acknowledging that the policies as a whole must be implemented in a manner that does not infringe or abolish existing Aboriginal and treaty rights included the *Mining Act* (1990), the *Crown Forest Sustainability Act* (1994), the *Clean Water Act* (2006), the *Provincial Parks and Conservation Reserves Act* (2007), the *Endangered Species Act* (2007), the *Lake Simcoe Protection Act* (2008), the *Green Energy Act* (2009), and the *Far North Act* (2010). Furthermore, inclusion of section 35 was not exclusive to pieces of legislation, as the *Code of Practice* (2009) for the *Environmental Assessment Act* (1990) also cited section 35 in referring to the need to consult and accommodate during environmental assessment processes that may infringe on Aboriginal and treaty rights. Additionally, the recognition of Aboriginal and treaty rights were evident in non-binding draft and technical documents as well through the explicit mention of rights, as was the case with was the *Draft Guidelines for Ministries on Consultation with Aboriginal Peoples Related to Aboriginal Rights and Treaty Rights* (MAA, 2006) and *Ontario’s Mineral Development Strategy* (MNDM, 2006). The *Greenbelt Plan* (2005) and the *Oak Ridges Moraine Conservation Plan* (2006) also mention Aboriginal and treaty rights in passing: They outlined the policies in the plan would not infringe on issues of rights

and that the province intended to consult First Nations on decisions relating to the plan that may affect Crown lands and resources that are subject to treaty rights.

While the integration of section 35 of the *Constitution Act* (1982) to these provincial Crown texts reflects a step forward in Crown–First Nations relationships, its episodic and gradual inclusion should be taken cautiously. The bulk of the eight legislative documents with direct mention of section 35 did not elaborate more in depth about Aboriginal and treaty rights beyond the initial reference. Within the *Crown Forest Sustainability Act* (1994), the direct reference to section 35 is the sole reference to First Nations in the entire document. Still, it must be acknowledged that the incorporation and recognition of Aboriginal and treaty rights within 8 of the 32 land use and resource management statutes, as well as other non-binding texts, represents a progressive policy trend forward. A trend that through awareness and advocacy may be consistently implemented within all Ontario land use and resource management statutes, ideally reconfiguring how First Nations are understood and engaged with on decisions and processes that affect their rights, their communities, and their traditional territories.

### Categorizing Policies

**Provincial policies categorized as significant.** Of the 337 texts analyzed, 13 provincial land use and resource management policies ranging from binding provincial legislation to draft guidelines for discussion purposes only were categorized as significant. Indeed, no two texts designated as significant were precisely the same in their recognition and support of First Nations, but they did have three commonalities—each directly recognized First Nations, acknowledged Aboriginal and treaty rights in their wording, and encompassed two or more concepts of honouring past Crown–First Nations relations in their latent content. An additional pattern emerged in terms of latent content as there was indication of consultation, the duty to consult, and, to a certain extent, accommodation through reference of section 35 of the *Constitution Act* (1982), but no indication of consent. The *Mining Act* (1990) and the *Far North Act* (2010) (see Table 1) were the only two legislations that mentioned the duty to consult and accommodation while speaking directly of First Nations and Aboriginal and treaty rights.

Other texts categorized as significant included the *Provincial Policy Statement* (2014), *Growth Plan for Northern Ontario* (2011), the *Environmental Assessment Act's Code of Practice* (2009), and the *Draft Guidelines for Ministries on Consultation with Aboriginal Peoples Related to Aboriginal Rights and Treaty Rights* (MAA, 2006). Additionally, several secondary texts, including the discussion paper *Towards Developing an Aboriginal Consultation Approach for Mineral Sector Activities* (2007), and the technical paper *Ontario's Mineral Development Strategy* (MNDM, 2006) were relatively progressive in their approach and discussion of how the provincial Crown and third parties can engage with First Nations. These results do not indicate significant documents are ideal and without weakness in relation to recognition and support of First Nations and relationship building. Without further First Nations-led amendments, as will be discussed later, these policies cannot truly reflect a fundamental shift in Crown–First Nations relationships. By giving the Minister of Northern Developments and Mines and his or her counterparts “broad discretionary authority” to manage mineral-based initiatives and dictate the terms by which to proceed, the *Mining Act* (1990) minimizes the ability of First Nations communities to assess and influence provincial decisions (Pardy & Stoehr, 2011, p. 13).

**Table 1. Examples of Select Provincial Land Use and Resource Management Legislation with Classification**

Legislation Ministry [Classification]	Purpose of the Legislation	How are First Nations Referenced and Addressed?
<p><i>Far North Act (2007)</i> Ministry of Natural Resources and Forestry [Significant]</p>	<p>The purpose of the <i>Far North Act</i> is to provide direction for community based land use planning in the Far North region of the province, an area previous regulated as public lands, in a joint planning process between First Nations and Ontario that is consistent with existing Aboriginal and treaty rights protected under section 35 of the <i>Constitution Act</i> (1982).</p>	<p>There is recognition of First Nations; acknowledgment of Aboriginal treaty rights within the opening purpose section; and discussions of to the duty to consult, consultation, and accommodation in the latent content of the text. The outcomes of the Act are still emerging, but it aims to ensure a significant role for First Nations in planning in the region, protecting areas of cultural and natural value, maintaining biodiversity, and enabling sustainable economic development, which will benefit surrounding First Nations. However, the Act has received ongoing criticisms since its development (see Gardner et al. 2010).</p>
<p><i>Planning Act (1990)</i> Ministry of Municipal Affairs and Housing [Moderate]</p>	<p>The purpose of the <i>Planning Act</i> is to provide an overall policy framework for land use planning in the province and identify how land uses may be managed and who has the authority to do so. It is also meant to encourage public participation and recognize different stakeholders' interests in land use decision making. This overarching act covers everything from how provincial policy statements are to be interpreted by municipalities to zoning by-law implementation.</p>	<p>While First Nations are cited exclusively and separately as a term in the opening interpretation section, the actual wording only appears twice throughout the entire text. Conversely, First Nations are predominantly referenced using the term "public bodies," which makes no clear distinct between First Nations and other stakeholders, particularly with respect to discussions of consultation.</p>
<p><i>Public Lands Act (1990)</i> Ministry of Natural Resources and Forestry [Minimal]</p>	<p>The purpose of the <i>Public Lands Act</i> is to manage the use of Crown lands by providing the Ministry of Natural Resources and Forestry the authority to control how public lands and forests in Ontario are managed, sold, and disposed. It applies to all Crown lands south of the Far North region in the province.</p>	<p>Within the actual legislation, there is no mention of First Nations. However, within associated policy statements, including Strategic Direction For the Management of Ontario Crown Land (Ministry of Natural Resources, 2014) &amp; Application Review and Land Disposition Process (2008), and the Guide for Crown Land Use Planning (Ontario Ministry of Natural Resources, 2011), there are clear examples of recognition of First Nations under the umbrella term Aboriginal peoples; acknowledgement of Aboriginal and treaty rights, and the continued ability to exercise these rights on crown lands; and discussions of the fiduciary obligations to consult and accommodate Aboriginal peoples.</p>

**Provincial policies categorized as moderate.** Texts were designated moderate if their intersection with First Nations was apparent, but limited and relatively fragmented in their approach in comparison to other Crown texts. For example, the only indication of a discussion of First Nations and rights in the *Crown Forest Sustainability Act* (1994) occupied a single sentence in reference to section 35 of the *Constitution Act* (1982) and how the Act does not infringe on any recognized and affirmed Aboriginal or treaty rights. Nonetheless, two common features emerged amongst these policies—they referenced First Nations through use of key indicator terms, and incorporated one of the four concepts of honouring past relations or recognized Aboriginal and treaty rights. In terms of honouring past relations, the majority spoke of consultation or accommodation, but often in reference to consulting and accommodating all stakeholders that the Minister deems appropriate. Additionally, reference to First Nations and key indicator terms in many instances, particularly amongst major pieces of legislation, was done so under the broad title of public bodies.

Legislation that took a fragmented approach in their intersection with First Nations included the *Planning Act* (1990) (see Table 1), the *Municipal Act* (2001), the *Places to Grow Act* (2005), the *Niagara Escarpment Planning and Development Act* (1990), the *Oak Ridges Moraine Conservation Act* (2001), the *Crown Forest Sustainability Act* (1994), and several others. Overall, moderate texts further illustrated the clear inconsistencies of provincial Crown policies in Ontario as policies attached to legislation discussed First Nations in an apparent, but limited manner, while the legislation, such as the *Public Lands Act* (1990), the *Environmental Assessment Act* (2009), and the *Environmental Protection Act* (1990), made no such clear effort. What the moderate classification provides both First Nations and non-First Nation officials alike is a clear indication that, while there are often strong discussions of consultation, accommodation, and support of First Nations and other Aboriginal organizations in political circles, the policies that guide how exactly land and resource management unfolds on-the-ground are inadequate and unclear (Participant One, personal communication, November 7, 2013).

**Provincial policies categorized as minimal.** A third set of land use and resource management policies materialized following the two-tiered analysis process, with no recognition of First Nations, no acknowledgement of Aboriginal and treaty rights, and no reference to any form of honouring past Crown–First Nations relations. These provincial Crown policies were designated minimal because their intersection with First Nations was non-existent within each text, even under liberal interpretation. In certain cases, higher legislation did have accompanying policy statements, guides, and other texts that contained an apparent recognition of First Nations, Aboriginal and treaty rights, and consultation and accommodation. Thus, this final classification is not to suggest that all policies designated as minimal were identical and unreceptive to First Nations, but it is to suggest that there are many policies developed by the Province of Ontario that intentionally or unintentionally do not directly prioritize First Nations and their inherent and distinct rights. These texts include the *Public Lands Act* (1990) (see Table 1), the *Lakes and Rivers Improvement Act* (1990), the *Aggregate Resources Act* (1990), the *Fish and Wildlife Conservation Act* (1997), the *Wilderness Areas Act* (1990), the *Forestry Act* (1990), the *Ontario Water Resources Act* (1990), and the *Environmental Bill of Rights* (1993). The *Growth Plan for the Greater Golden Horseshoe* (Ministry of Infrastructure, 2006) and the *Niagara Escarpment Plan* (2005) were likewise classified minimal with no clear recognition of First Nations within each provincial plan. Furthermore, the majority of the 269 regulations examined did not mention First Nations with the exception of eleven.

## Discussion

With First Nations' engagement in planning matters being highly circumscribed and often pre-determined by government through provincial land use and resource management policies, it was crucial that a comprehensive baseline be developed to understand how engagement is evolving. The results broadly reaffirm the reality that First Nations are not treated fairly in land use and resource management processes (Borrows, 1997a; Porter & Barry, 2013) and illustrate several key concerns and contradictions.

### The Post-2005 Northern Focus

A high proportion of texts categorized as significant and (the most progressive) were developed or amended post-2005. The *Draft Guidelines for Ministries on Consultation* (MAA, 2006) and *Ontario's Mineral Development Strategy* (MNDM, 2006), two texts which recognize the importance of the fiduciary duty to consult and accommodate and the need for Aboriginal involvement, emerged one year after the end of the Mikisew Cree ruling, which extended the duty to consult to treaty rights (Newman, 2009). The *Mining Act* (1990), one of two pieces of legislation recognized as relatively progressive, was noticeably amended in 2009. Its purpose clause was expanded to include the words "[...] to encourage prospecting, staking and exploration for the development of mineral resources, in a manner consistent with the recognition and affirmation of existing Aboriginal and treaty rights in section 35 of the *Constitution Act, 1982*, including the duty to consult" (Mining Amendment Act, 2009, s. 2.). Additionally, since November 2012, the *Mining Act* (1990) has been further amended to give First Nations the ability to apply to have sites of Aboriginal cultural significance under 25 hectares recognized by the provincial Crown and withdrawn from province's database to prevent mining claims from being staked (MNDM, 2013). These two specific amendments illustrate the gradual changes occurring post-2005, but they also link to a much larger trend worth mentioning.

The larger trend is that policies that have emerged or have been amended recently to better reflect the interests of First Nations in Ontario largely relate to Northern Ontario and resource development (Participant Three, personal communication, November 15, 2012) with the exception of the 2014 Provincial Policy Statement (Viswanathan et al., 2013). Those provincial policies relating to Southern Ontario and urban growth have not prioritized First Nations to the same extent. In particular, the *Growth Plan for the Greater Golden Horseshoe* (2006) does not recognize First Nations' history in the region, and their role and influence on the future successes of the region. As DeVries (2011) observed in her account of the conflicts surrounding the contested territory of the Six Nations in Caledonia, within the provincial growth plan's primary map, the Six Nations' reserve is "literally blanked out," appearing as a white and unlabelled territory surrounded by land designated as beige and well-suited for priority and continued growth (p. 41). This type of normative planning diagram is shaped by a dominant non-First Nation assumption that reserves are a federal jurisdiction and that lands outside of a reserve's boundaries, including traditional territories, were honourably acquired and no longer of interest to First Nations (DeVries, 2011; Participant Two, personal communication, November 2, 2012). Additionally, major guiding acts and policy statements, including the *Planning Act* (1990), the *Places to Grow Act* (2005), the *Greenbelt Act* (2005), the *Niagara Escarpment Planning and Development Act* (1990), and the *Oak Ridges Moraine Conservation Act* (2001), predominantly refer to First Nations at a minimum as just another "public body," which in itself is highly inadequate because it frames First Nations'

concerns as one of many stakeholder concerns to consider (Barry & Porter, 2011; Porter, 2006; Sandercock, 2004).

With First Nations and traditional territories adjacent to and overlapping with major urban areas in Southern Ontario, provincial policies outside of the realm of Northern Ontario and resource development need to come to terms with how land use and resource management policies that shape planning and development in urban areas can recognize and support First Nations, as well as rights and claims. Recent changes to the Provincial Policy Statement (2014) have, for the first time, included policies that recognize First Nations under the constitutional term of Aboriginal peoples as outlined in section 35 of the *Constitution Act* (1982) and reinforce the importance of consultation and coordination with First Nations, particularly on matters regarding archaeological and heritage resources, which may be an indication of an emerging shift. Nonetheless, if Northern resource-based policies such as the *Mining Act* (1990) and the *Far North Act* (2011) are relatively the most progressive legislation that exist in the province, with the latter having received strong First Nations opposition (Gardner et al., 2010; Participant Three, personal communication, November 15, 2012), the Province of Ontario will need to further improve both the way it understands Aboriginal and treaty rights and the way it accounts for First Nation communities in its Crown policies both in Northern and Southern Ontario.

### Issues of Consent

Although consultation, the duty to consult, and accommodation were discussed in certain policies and guidelines, there was no apparent discussion of consent in relation to First Nations in any text. Consent was mentioned in the *Planning Act* (1990) 107 times, but it was largely in relation to the Minister's authority and consent between lower-tier and upper-tier municipalities when subdividing land. Without meaningful mention of consent in relation to First Nations, no policy examined can truly embody past Crown–First Nations relations in a meaningful manner because, short of consent, these types of high-level Crown policies fail to acknowledge and embody the nation-to-nation foundations of past agreements, particularly treaties grounded in mutual respect and recognition. In turn, an inability to understand and integrate consent offers no real fundamental change in approach and places First Nations vis-à-vis the provincial Crown in a subordinate and passive role.

With the recent *United Nations Declaration on Rights of Indigenous Peoples* (United Nations [UN], 2007) identifying the eminent need for states to obtain “[...] free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them,” consent should not be viewed as archaic or irreconcilable in contested territories (UN, 2007, Article 19). Its application in higher-policies at the provincial Crown-scale could greatly improve the way First Nations and non-First Nation communities understand and interact with each other, particularly with respect to planning at the municipal-scale. The recent *Tsilhqot'in Nation* case may catalyze greater change as it has elevated consent to the forefront of public discourse surrounding unceded territories and now requires the Crown to obtain consent from an affected First Nation community where Aboriginal title is involved. Still, the term “consent” has become a polarizing topic. Instead of using it as a best practice to base consultation with the intention of coming to an agreement, it has become a discussion on whether or not a First Nation has the right to unilaterally stop projects. The spirit of consent should be incorporated into policy while recognizing that the term itself may serve as a barrier to improved relations as fear of the unknown or opposition may undermine any chance to redress historical misdeeds and injustices



on the part of the Crown. Thus consultation, particularly in instances outside of cases involving Aboriginal title where consent is already a requirement, needs to evolve into a process that seeks to obtain the blessing of First Nation communities and encourages relationships based on mutual trust and respect.

### **Creating Spaces of Common Ground**

While this research does point to areas of improvement within individual texts and policies, from a theoretical standpoint, it links to a much larger discussion about how Ontario, as a province, similar to other contested territories developed through unchecked settlement and colonial expansion, has deviated far from past Crown–First Nations relations first outlined in spirit and intent of the *Royal Proclamation of 1763* and the subsequent *Treaty of Niagara* in 1764 (Borrows, 1997b). While the province and its guiding policies for land use and resource management are progressing towards greater recognition and understanding of First Nations, Aboriginal and treaty rights, and the need to honour past Crown–First Nations relations, they are doing so slowly. This slow pace coupled with an inability on the part of provincial and federal governments and other institutions to acknowledge or address in a meaningful and honourable manner “decades, if not centuries, of broken promises, dispossession, and frustration” has resulted in ongoing First Nations disputes and protests (Ipperwash Inquiry, 2007, p. 2). The well-documented confrontations of Ipperwash in 1995 and ongoing struggles in Caledonia are clear indications of a policy gridlock or “paradigm muddle,” where state governments remain caught between a set of contradicting mindsets that play out in policies, plans, perspectives, and decisions—one characterized by the remnants of an entrenched colonial mindset bent on assimilating First Nations and the other newly emerging paradigm focused on empowering and engaging First Nations as distinct self-determining nations and partners with valid claims and concerns (Maaka & Fleras, 2005, p. 299). In turn, “the new seeks to dismantle the old, but the old guard is digging in its heels in one last-ditch effort to preserve the status quo,” thus resulting in minimal change to policy frameworks and general gridlock (Maaka & Fleras, 2005, p. 300). Amending provincial Crown texts to include recognition of First Nations, Aboriginal and treaty rights, the duty to consult, accommodate, and consent is one means to break this gridlock.

Beyond altering these texts that influence on-the-ground planning relationships, there is an immediate need to change course, and return to the types of relationships and understandings first embodied and symbolised by the Two Row Wampum (RCAP, 1996a). As reflected on by Indigenous legal scholar John Borrows (1997a), “the two-row wampum belt reflects a diplomatic convention that recognizes interaction and separation of settler and First Nation societies” (p. 164). Proposing that First Nations and non-First Nation communities can exist in a shared space of mutual trust and respect is influential and inspirational when thinking about how provincial Crown policies can evolve: It is no longer about First Nations as a stakeholders; it is about First Nations as equal partners with equal footing. In turn, recognizing equality and committing to long-term and sustained relationships has the potential to shift outcomes away from current win–lose situations and more towards developing meaningful solutions that reflect the needs, intentions, and beliefs of neighbouring First Nations and non-First Nation communities.

Planning can provide an opportunity to create spaces of common ground, but to do so requires, among other steps, reworking higher policies, including restrictive federal policies, through First Nations’

participation and voices to give clarity and direction on how to build and sustain relations between First Nations and neighbouring non-First Nation communities. It has the potential to facilitate cultural changes through bridging understandings and strengthening individual relations across communities that a continued dependence on ridged legal approaches may struggle to achieve. These spaces of common ground may not bring us to consensus on all issues, but they will enable us to co-exist and learn from each other on equal footing through sustained relations and interaction in an unprecedented manner. Yet, for planning to be fundamentally transformative, it requires recognition of both political and territorial rights to ensure First Nations are actively pursuing and shaping what is best for individual communities and traditional territories (Porter & Barry, 2013). This type of recognition, which parallels the recommendations of the RCAP (1996c), would ensure First Nations' right to self-determination and an equitable planning practice more reflective of the shared foundations of the province.

### Conclusion

This research is vital to discussions of Crown–First Nations relations because there is an immediate need for both a conceptual framework to analyze provincial land use and resource management policies and an overall baseline to be developed in Ontario. This comprehensive document analysis is a first step, among a series, that together have the potential to inform better Crown–First Nations relations along with numerous policies, processes, and practices. This critical reflection is by no means a concluded process—we hope that the ideas present here and the analytical framework will continue to evolve through dialogue and reflection. They will advance discussions about the need for further amendments to clarify provincial policies about both the protection of rights and interests of First Nations, and the need to build and sustain relationships between First Nations and neighbouring municipal jurisdictions. Additionally, within the context of Southern Ontario and its rapid growth, it is critical that our understanding of recognition expand to include traditional territories in provincial land use and resource management policies, plans, and decisions. Not only to build mutual understanding between First Nations and the public at large, but most importantly to give the land “a chair at the table,” as noted by Carolyn King, former Chief of the Mississaugas of the New Credit First Nation (Personal Communication, June 12, 2014), and ensure its proper stewardship for future generations.

In light of the United Nations' recent adoption of the *Declaration on the Rights of Indigenous Peoples* (UN, 2007) and the release of the *Report of the Ipperwash Inquiry* (Ipperwash Inquiry, 2007), Ontario is at a critical junction. The recommendations of the latter have certainly changed Ontario's policy approach as the report highlighted “the vacuum of policy in Ontario addressing consultation and accommodation” (DeVries, 2011, p. 133). For example, Justice Linden's recommendations have led to the Ministry of Aboriginal Affairs encouraging municipalities to develop and use archaeological master plans to better recognize Aboriginal burial and heritage sites, and to establish a New Relationship Fund (Province of Ontario, 2014) to build capacity and lines of communication and engagement amongst Aboriginal communities, including First Nations and Métis, with governments and third parties (Fraser & Viswanathan, 2013; Ipperwash Inquiry, 2007). Whether or not the province and the public have fully changed or unsettled their mindsets remains unclear. Specifically, with recommendation 36 of the Ipperwash Inquiry (2007) outlining the immediate need for the provincial government and Ministry of Aboriginal Affairs to create “mechanisms for obtaining input from Aboriginal communities on planning, policy, legislation, and programs affecting Aboriginal interests” (p.104), Ontario can set a precedent nationally and internationally by reworking certain guiding provincial policies to reflect meaningful and

valued partnerships with First Nations. Good relations between municipalities and First Nations are occurring in different contexts and to different degrees across Ontario, but they are often as a result of the cooperative efforts of individuals across communities (Participant One, personal communication, November 7, 2013). To ensure that equitable and constructive relationships become the standard and not just isolated examples, there is an immediate need to begin to rework policies and plans to reflect mutual understanding and mutual learning in shared territory through First Nations-negotiated amendments. Other efforts and resources will be necessary to catalyze this change within governments and public perspectives as outlined in by the RCAP (1996c) and the Ipperwash Inquiry (2007). For now, however, there is a clearly defined hope that this fundamental shift will occur (Viswanathan et al. 2013; Walker, Jojola & Natcher, 2013). Recognizing that First Nations are foundational partners in Ontario's past, present, and future, and acknowledging that new opportunities exist in rebuilding lost relationships and sustaining new relationships grounded in co-existence will greatly assist in how we, as non-First Nations, and First Nations peoples recognize our pasts, understand ourselves, mutually respect and trust each other, and plan differently in a shared territory.

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