

**EXPANDING THE PRAXIS OF INDIGENOUS RIGHTS: ALTERNATIVES TO
COLONIAL RELATIONS IN THE REGIONAL LAND USE PLANNING PROCESS OF
THE MUSHKEGOWUK CREE**

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Abstract

This research examines the conflict between provincial and Indigenous land use planning approaches in northern Ontario that involve the traditional territories of the Mushkegowuk Cree. Specifically, I examine how the politics of resurgence were evident in the Mushkegowuk Regional Land Use Planning initiative (2008-2015) in ways that challenged or broadened the conception of rights reconciliation envisioned in the Ontario government's Far North Act (2010). Significant tensions often exist between the goals of state directed environmental governance and management initiatives, and the needs and aspirations of Indigenous communities. Therefore, Indigenous communities in some instances have unilaterally developed their own initiatives, shifting the praxis of rights from participation in the institutions of the state, towards autonomous nation-building exercises. The Mushkegowuk Land Use Planning initiative is representative of this shift in rights praxis where Indigenous driven environmental governance and management processes potentially provide for more robust foundations to realize community goals, and for negotiating with state governments and other interests.

The dissertation explores how a politics of resurgence might transcend the sphere of culture to support self-determination in the governance and management of Indigenous homelands. It does so by first developing a theory of resurgent rights praxis by examining Indigenous thinking on the subjects of self-determination and cultural resurgence. Second, the institutional development of land use planning in northern Ontario is tracked, with specific attention to the Far North Initiative and development of the Far North Act. Third, the Mushkegowuk Regional Land Use Planning initiative is examined, focusing on the process captured by documentation and meeting minutes. Lastly, interviews with several people involved with planning at the Mushkegowuk Council and First Nations' community levels are analyzed to interrogate the goals, the role of cultural and political traditions in planning, and how Omushkego relationships with their lands are defined and made relevant to land use planning in the Mushkegowuk initiative.

The study reveals how the politics of resurgence characterized the approach and goals for Mushkegowuk planning. However, Ontario was instead determined to reconcile Indigenous rights under its Far North Community Based Planning. The Ontario government's breaking from a partnership approach with First Nations in crafting the Far North Act, and intrusive control of the funding and the process for regional planning, served to undermine Mushkegowuk Council's nation building aspirations. The involvement of the province at early stages of regional planning also made it difficult to conceptually root LUP in Omushkegowuk traditions, and to be clear about their vision for land governance, planning process, and expectations. Given the challenges, Mushkegowuk Council was not able to meet its goal of a complete regional land use plan during the time of the case study, and fell short of the goal of reconfiguring relations with the province.

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Abbreviations

EA – Environmental Assessment

LUP – Land use planning

MNR – Ministry of Natural Resources (Ontario)

MNRF – Ministry of Natural Resources and Forestry (Ontario)

MNDM – Ministry of Northern Development, Mines (Ontario)

MNDMF – Ministry of Northern Development, Mines, and Forestry (Ontario)

MRLUP – Mushkegowuk Regional Land Use Planning

NAN – Nishnawbe Aski Nation

NBI – Northern Boreal Initiative

RCNE – Royal Commission on the Northern Environment

UFA – (Yukon) Umbrella Final Agreement

UNDRIP – United Nations Declaration on the Rights of Indigenous Peoples

Chapter 1: Introduction

1.1 Land Use Planning in the Ontario North

This thesis is about the land use planning (LUP) efforts of Omushkegowuk Cree peoples in northern Ontario. LUP is a primary concern to First Nations¹ in the northern region of the province in their attempt to gain control over development decisions. As such, the interests of First Nations in Ontario have often come in conflict with provincial planning priorities. This conflict for many First Nations intensified after the introduction of Ontario's Far North initiative, which included the provincial government's intention to produce community based LUP legislation (Ontario, July 14, 2008). The process of crafting legislation that would become the *Far North Act* (2010) was highly contested by First Nations and their regional organizations, who felt the province was overriding treaty rights and proceeding without their consent (Talaga, Sept 14, 2010). This prompted Mushkegowuk Council, the regional representative organization of Omushkegowuk First Nations located to the south and west of the Ontario coast of Hudson and James Bays (see Figure 1), to respond with its own LUP initiative. The tensions and interactions between the Ontario government's Far North Initiative and the Mushkegowuk Regional Land Use Planning (MRLUP) initiative are the focus of this dissertation.

The MRLUP initiative is a significant attempt by several First Nations to collectively assert decision-making roles in the governance and management of their territories, and craft sustainable, culturally appropriate land use plans. Mushkegowuk Council was founded in 1984

¹ The term First Nation refers to communities whose members have recognized status under the Indian Act, as do the communities of Mushkegowuk Council that are discussed in this dissertation. First Nations' members are broadly referred to in Canada as Aboriginal –along with Métis and Inuit –however, governments in Canada are tending to adopt the term 'Indigenous peoples' that is accepted internationally. First Nations and Indigenous peoples are used interchangeably throughout the dissertation, but where necessary more specific terms (i.e. Omushkegowuk) are utilized.



Figure 1. First Nation communities of the Mushkegowuk Council, with the Far North boundary (purple line). Modified from Mushkegowuk Council, Lands and Resources (n/d).

as a non-profit corporate entity for political lobbying purposes. Since its inception, the Council has evolved into a “national government” with elected leadership representing the Omushkegowuk First Nations’ communities of Moose Cree, Fort Albany, Attawapiskat, Kashechewan, Taykwa Tagamou, (formerly New Post), Missanabie and Chapleau Cree² (MC, 2012a). Collectively, the traditional territories of the Mushkegowuk Cree are extensive, covering about one quarter of the Province of Ontario, and representing over 10,000 First Nations people (MC, 2012a). They are signatories to the original Treaty 9 in 1905, and the 1929 adhesions to that treaty, which were notable as the first and only time a provincial government was actively involved in the negotiations of historic treaties (AANDC, 2012). The interpretation of Treaty 9 rights and responsibilities remains a major obstacle to relations between Mushkegowuk First Nations and the federal and provincial governments, and frames their respective approaches to planning.

Although the Province of Ontario’s reason for involvement in treaty negotiations was to catalogue and ensure access to resources in the north³ (Long, 2010), until recently the coastal Mushkegowuk communities have seen little in the way of large scale resource development⁴. However, mining exploration activities have increased dramatically over the last twenty years. For example, De Beers began production at the Victor diamond mine near Attawapiskat in 2008, and is currently in the process of expanding mining operations to a nearby site. Additionally, the

² The First Nation community of Weenusk on the south coast of Hudson Bay participates regularly with Mushkegowuk Council initiatives and is part of the regional planning initiative, but is not formally part of the Council.

³ Recent uncovering of the diaries of Treaty 9 Commissioners, including Ontario’s representative Daniel MacMartin, demonstrate that further promises were made to Treaty 9 signatories that are not reflected in the written versions, which were drafted before the Commissioners began their negotiations. Mushkegowuk Council launched a lawsuit in Ontario Superior Court in July of 2013 based on the new evidence that argues the federal and Ontario governments cannot unilaterally restrict or extinguish their rights to harvest in their territories by allowing resource development, thus implying the need for consent by Treaty 9 First Nations (Wawatay News, August 7 2013).

⁴ Southern Mushkegowuk First Nations have experienced a great deal of development associated with mining, forestry, infrastructure and settlement, but the current mineral exploration boom in the north is bringing extractive industries to areas that have not had much previous experience.

‘ring of fire’, the site of extensive mineral staking and exploration containing the biggest chromite deposit in North America, and a development priority of the province (Talaga, 2010), intersects several rivers flowing into Mushkegowuk territories. There are also forestry pressures north of current provincial licenses, and well as significant hydro-electric development in the Mushkegowuk lands to the south of James Bay (MC, 2012*b*). As such, the Ontario Far North as a whole is coming under increased pressure as a resource frontier to support provincial and national economic development priorities. Conservation groups therefore have also focused their activities on the Ontario far north, particularly on issues of Boreal forest protection and potential climate change impacts. With little infrastructure and populated by small First Nations communities, the far north is viewed by conservation groups as a vast area of ‘pristine wilderness’ and a valuable ‘carbon sink’, to which the Ontario government has responded by making northern conservation a central part of Ontario’s climate change action plan (MNR, 2011). Balancing its resource development priorities with conservation in the Far North took on greater urgency as Ontario slipped into the status of a “have not” province in 2008 for the first time in its history (Gardner et al., 2012). This new focus was coupled with the federal Harper Conservative government’s emphasis on resource development as the economic engine of the Canadian economy.

In consideration of the development potentials and conservation pressures in the north, the Ontario provincial government under former Liberal Premier Dalton McGuinty launched the Far North Planning Initiative in 2008 (Ontario, July 14, 2008). The purpose was to direct economic development, support conservation, and address Aboriginal and treaty rights through community based land use plans in the massive 450,000 square kilometer Far North region—an area that represents over forty percent of the province (MNR, 2011). However, LUP, as it is evolving in

the provincially defined Far North (see Figure 2), reflects continued tensions between the Ontario government's approach and First Nations' understandings of their rights as they relate to Indigenous homelands. Indeed, there was widespread perception that Ontario's approach to LUP deepened colonial relations, and was about assimilating First Nations into the institutional framework for lands and resources of the provincial government (King, 2010), rather than supporting shared decision-making with Indigenous peoples. First Nations, on the other hand, viewed LUP as necessary tool to protect homelands, and a process that could provide a self-determining and sustainable future that builds on their relationships to their lands. Thus, contradictory visions for LUP have extended long-standing conflicts over the nature of Indigenous rights, and the relations between settler governments and Indigenous peoples⁵.

The Far North Initiative, formalized with the Far North Act receiving Royal Assent in the Ontario Legislature on October 25, 2010, was intended to set out the terms of a new relationship with First Nations in the northernmost part of the province. However, despite much greater recognition of Aboriginal and treaty rights in the Far North Act, the legislation still replicates several problems of the earlier Lands for Life LUP framework to the south (Burlando, 2012) (see Figure 2). The Lands for Life process was an initiative introduced by the Mike Harris Progressive Conservative government. This comprehensive LUP initiative was to complete Ontario's system of parks and protected areas while ensuring certainty of access for resource industries. Lands for Life culminated with *Ontario's Living Legacy Land Use Strategy* released in 1999, which was implemented in the face of objections by all major territorial Aboriginal organizations in the province, who had withdrawn from what they argued was an unacceptable process (Burlando, 2012). Mushkegowuk territory is split between planning completed under

⁵ Rather than unique in this respect, Ontario's experience follows the pattern of northern land use planning where Aboriginal and Treaty rights and provincial or territorial development goals are reconciled in numerous planning processes.



Figure 2. The Ontario Lands for Life planning area, and the Far North which is not subject to LUP for Crown lands under the Public Lands Act. Source: Ontario Ministry of Natural Resources, April 1, 2011.

the Lands for Life initiative in the south, and the Far North planning region to the north.

As with the Ontario Living Legacy Land Use Strategy, the Ontario legislature passed the Far North Act despite significant opposition from Aboriginal leadership. First Nations' representatives from across the north argued that consultation processes were incomplete and did not constitute free, prior and informed consent (NAN, n.d.). Moreover, they held that the veto power granted to provincial ministers did not acknowledge their Aboriginal and treaty rights. Colonial relations continue to remain embedded in the Far North Planning Initiative, despite the provincial government's stated partnership approach to community based LUP led by the Ministry of Natural Resources (MNR)⁶ (MNR, 2011). This study in part reveals how the provincial LUP framework for the Far North is in fact a continuance of a state directed hierarchical approach. The province continues to set the parameters within which communities can participate, and also has veto power over community decisions. This means that Indigenous communities remain limited in their planning options, and play little part in setting the overall vision and strategy for land use, thereby inhibiting their self-determination significantly.

1.2 Approaches and Challenges for Land Use Planning

The approach taken by the Ontario government reflects a broader institutional weakness in the recognition of Indigenous rights across Canada. Many are critical of recognition and the reconciliation of Indigenous rights with Canadian sovereignty as an attempt to legitimize the continued colonization of Indigenous peoples (Blackburn, 2007; Coulthard, 2007, 2014; Alfred, 2005; Egan, 2012). In provincial contexts where historic treaties structure relations, Indigenous

⁶ The Ontario Ministry of Natural Resources (MNR) changed its name in 2014 to include forestry (Ministry of Natural Resources and Forestry) although forestry was already in the ministry's mandate.

communities often find it difficult to be considered as anything more than stakeholders in the management of the vast majority of their territories. But what has changed is how First Nations are responding to this exclusion and how they are advancing their demands for a renewed relationship. In order to move forward on such issues as self-government, co-management, or LUP, in some instances First Nations are forging ahead on these issues internally, rebuilding their own governance and land management systems rather than wait for negotiated agreements with federal and provincial governments. This is indicative of what some observers and activists describe as Indigenous resurgence (Alfred, 2005; Simpson, 2008; Cornthassel, 2012). Resurgence signifies the growing political power of Indigenous peoples, and an approach to self-determination based on revitalizing Indigenous cultural and political traditions. It is also a rejection of the recognition and reconciliation of Indigenous rights as subordinate to Canadian sovereignty.

However, given Canada's colonial history, planning initiatives by Indigenous communities come with significant challenges. First, of course, is convincing federal and provincial governments, as well as other external interests—namely industry and conservation organizations—to respect Indigenous rights claims. There are no guarantees external parties will respect the governance and management frameworks put forth by Indigenous communities. In fact, Indigenous protocols and processes to manage lands are unlikely to be respected unless backed by some form of enforcement, which includes court actions and blockades. But rather than simply engage in confrontation, what Indigenous LUP initiatives do is change the conversation when it comes to negotiating with governments and other interests. Many First Nation's feel they have already won significant protection through the Canadian court system

and through international rights advocacy⁷. Therefore, they have options beyond simply conceding to the environmental governance and resource management frameworks that federal and provincial governments in Canada tend to offer.

A second significant challenge is how to fund initiatives that challenge federal and provincial authority, given First Nation dependency on state financing. Gaining a share in the revenues generated by resource development is a high priority for most if not all First Nations who have that option; however, many are also cognizant of the risks of simply changing their dependency on government financing to revenues from externally driven resource extraction (Slowey, 2001). But it is exactly these conditions that First Nations are trying to change by embarking on their own land governance and management initiatives. First Nations have needed to be more proactive in LUP processes in order to ensure they can rebuild their economies in ways that don't require an unsustainable sell-off of resources, and reflect their relationships to their lands as Indigenous peoples.

A third challenge for Indigenous communities, and a central concern of this dissertation, is how to conduct LUP and produce outcomes that are relevant to and informed by Indigenous traditions and ways of life. In fact, a primary motivation for Indigenous planning is to make visible, restore and strengthen the relationships Indigenous peoples have with their lands.

Environmental governance and management initiatives by First Nations are highly important for

⁷ Several landmark Supreme Court of Canada decisions originating from cases in British Columbia introduced Crown obligation to consult and accommodate Aboriginal peoples when infringing on Aboriginal rights and title, notably *Delgamuukw* (1997), which was further clarified in the *Haida Nation* and *Taku River Tlingit First Nation* decisions (2004), and the *Tsilhqot'in Nation* decision (2014). Although the cases from B.C. occurred in contexts without historic treaties, the duty to consult and accommodate applies to Aboriginal and treaty rights and title broadly. In the *Grassy Narrows First Nation v. Ontario* decision, the Supreme Court ruled that Ontario could infringe on treaty rights with justification in areas of its constitutional jurisdiction, but that the province was bound by the duty to consult and accommodate, and that infringements must not negate the meaningful exercise of treaty rights. Canadian courts have interpreted the duty to consult and accommodate as not including a veto on development; however, the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) adopted by the General Assembly in 2007 and supported by Canada in May 2016, recognized free, prior, and informed consent as necessary to infringe on Indigenous rights.

factors beyond external recognition and economic development as they are conventionally approached. These initiatives, developed and driven by First Nations communities, provide a forum to envision how Indigenous peoples can sustain themselves in their homelands, and articulate a course of action for their future. As such, LUP by Mushkegowuk Council potentially acts as part of a broader Indigenous resurgence movement that promises to reconfigure Indigenous/state relations in Canada.

1.3 The Case Study

Backed by the assertion of inherent rights, and First Nations' interpretations of their treaty rights in this case study, Indigenous communities in Canada are taking a more proactive approach to manage their traditional territories. Often frustrated by the level of participation and insufficient recognition of their jurisdiction in federal or provincial processes to address land issues, Indigenous communities have looked to broaden their options. These were the circumstances in Ontario that led Mushkegowuk Council to advance their LUP alternative. In asserting their Treaty 9 and inherent rights –as stipulated in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) –the Mushkegowuk Council embarked on its own regional LUP initiative in November of 2008, which followed Ontario's announcement of the Far North Initiative earlier that same year. The initiative was the first time in Canada that a council of First Nations attempted to develop a regional land use plan for its member communities. Many other First Nations have initiated their own planning processes or established land use visions in order to guide their interactions. For example Pikangikum First Nation in northwestern Ontario began its Whitefeather Forest planning process in 1996, and West Moberly First Nation in British Columbia established its Mountain Dunne-za planning

initiative in 2004. The Haida Nation also developed their land use vision and had subsequent success changing forestry practices in their territories. However, the Mushkegowuk initiative is unique as it encompasses multiple First Nations and represents a self-determined regional effort at comprehensive planning.

The nature of LUP—the purpose, assumptions and the practices it enables—makes it a critical point of intervention for Indigenous peoples in state planning processes. Planning as it is widely exercised for state-led environmental management is virtually entirely Western in its approach, and persists in “its complicity in colonialism” (Porter, 2010: 2). Therefore, LUP by First Nations for their own purposes may be necessary to not only counter weaknesses in state processes, but also to assert their authority to make decisions about their homelands. LUP can be a nation building exercise because it provides the strategic foundation for balancing diverse interests while expressing common values for a political community. For the province, the political community in question in the Far North Initiative is clearly the broader Ontario population. In a promotional video for the Far North Initiative, former Premier Dalton McGuinty stated, “now is the time to stand up for our children and their children” as the video’s narrator stresses balancing environmental protection and development opportunities where “together we are laying down the vision for the future of the Far North and the people who live there” (MNR, 2009). This statement reflects the importance Ontario places on its development plan for the Far North—a plan that ensures broader Ontario interests will decide the future vision that the Far North Act is intended to enable. This paternalistic treatment of First Nations people and their treaty rights (which are not even mentioned in the video) reflects Ontario’s priorities, rather than supporting Indigenous values and a government to government approach.

To counteract the imposition of Ontario's land planning regime, Mushkegowuk First Nations needed to drive their own LUP processes. Although one of its purposes is to provide a foundation upon which builds a new relationship with the provincial government, it also supports the larger political project of Mushkegowuk nation building. Thus, LUP represents a critical juncture for First Nations in the north of Ontario. The absence of either comprehensive or community based LUP in the northernmost part of the province prior to the Far North Act, and limited industrial development, means that there are less constraints on planning options. How First Nations respond to and are able to influence planning is vitally significant for a self-determined future in their homelands. Mushkegowuk Council's effort to implement a regional Indigenous nation-based land use plan, while also working within Ontario's Far North planning process, will be revealing of the possibilities and challenges of attempting to counteract colonial relations.

In particular, this case study will demonstrate the limitations in Ontario's approach to LUP for First Nations. Ontario's recognition of Aboriginal and treaty rights, reconciled within Far North community based planning, falls well short of Mushkegowuk Council and the communities' self-determination goals. The research will then also show the need for Indigenous peoples to challenge the recognition and reconciliation⁸ offered by Settler governments by focusing on their internal resurgence as Indigenous nations. It is through a resurgence approach that Indigenous values, modes, and priorities can be made visible in otherwise Western dominated LUP processes. However, the research will also reveal the substantial difficulties Mushkegowuk Council encountered in the attempt to assert their approach

⁸ The type of reconciliation that this dissertation critically examines encompasses efforts by Canadian governments—and the provincial Ontario government in particular—to recognize and affirm Aboriginal and Treaty rights in accordance to the *Constitution Act* (1982), and subsequent judicial rulings, within its institutions for lands and resource management. This focus for reconciliation is distinct from a redress for past harms, such as residential schooling impacts that were the subject of the Truth and Reconciliation Commission.

and vision for LUP against the provincial government who was determined to see its priorities realized through the Far North Initiative.

1.4 Guiding Question and Concepts

This research contemplates the intersection of the politics of Indigenous rights and the cultural resurgence of Indigenous nations as they are exhibited in the management of lands and resources. Further, the dissertation conceptualizes resurgence processes specific to particular Indigenous nations as occurring in praxis. This means that ideas about how to decolonize relations, be self-determining and shape Indigenous traditions to meet present challenges, are both applied and developed through contemporary initiatives. Thus, this research asks: are self-driven environmental governance or management initiatives by First Nations an effective innovation that furthers the resurgence of Indigenous nations? This question and the concepts that are elaborated below frame the study, which is investigated through a qualitative case study analysis of the MRLUP initiative.

To begin, competing conceptions about the nature and the scope of Indigenous rights has meant conflict over what constitutes the proper exercise of these rights. In this thesis, the specific question of how Indigenous rights are operationalized in LUP contexts is explored, given that their meaning to Indigenous peoples and Settler governments are long-standing points of contention. How rights issues are addressed in land planning draws attention to both colonizing and decolonizing processes. Peter Kulchyski contends that the concept of rights has largely arisen from “an oscillation between the concentration of power and its limitation” (Kulchyski, 2013: 42). The meaning of rights, therefore, represents a contested interpretation that organizes relations between governments and its perceived citizenry. Rights can then be

evoked either to justify state and societal elite power, or by popular social movements to curtail the excesses of centralized power (Kulchyski, 2012). Within this dynamic, the idea of human rights found its defining expression in the 1948 United Nations Universal Declaration of Human Rights, which enshrined the principle of equality (Coates, 2004; Niezen, 2003). But as Kulchyski notes, the idea of universal and equal rights was also used by states to deny Indigenous claims; in Canada most infamously expressed in the 1969 “white paper” on Indian Policy (2013). That policy direction proposed to dissolve treaties and assimilate Indigenous peoples into the general Canadian population. The assimilation objective was justified on the rationale that eliminating differentiated rights would resolve conflicts and inequality between Indigenous and settler peoples. The argument that Kulchyski makes is that although Indigenous rights have often been conceived of as a subset of human rights, they differ in that they adhere to specific cultural groups that are potentially nations themselves, and as such, are not universal (2013). The constitutional entrenchment of Aboriginal and treaty rights in 1982 effectively recognized this distinction; however, the constitution provides no direction on meaning. The definition of these rights has largely been left to adjudicators, modern land claims, self-government, and other negotiated agreements, such as impact benefit agreements (IBA’s). Despite that the *Constitution Act* (1982) provides the legal recognition Indigenous rights, these rights are still interpreted by governments and the courts as subordinate to federal and provincial jurisdictions. This is a particular problem for areas covered by historic treaties, as there is little recognition of Indigenous jurisdiction beyond reserve lands in the governance of traditional territories⁹.

⁹ This interpretation was reinforced by the Supreme Court in *Grassy Narrows First Nation v. Ontario* (2014) that upheld Ontario’s authority to permit logging in Treaty 3 lands.

However, from an Indigenous perspective the nature and meaning of rights can be quite different. While Indigenous peoples in Canada can and do utilize the institutions of Canadian governance to protect and exercise their rights (i.e. Court actions, intervention in regulatory approval processes, participation in co-management), they do not rely on Canadian recognition to confirm they exist. Indigenous peoples in Canada and elsewhere often articulate their rights as emanating from their long spiritual and material relationships with their lands since time immemorial¹⁰. Therefore, Indigenous communities need to pursue other options beyond state led environmental management to protect their lands when the extent of recognition is deemed unacceptable. For Mushkegowuk Council to defend the inherent rights of its member First Nations, the MRLUP initiative was such an option. Omushkego peoples, represented by Mushkegowuk Council, clearly state that they view their rights as “inherent rights we have possessed since the time of first light and bestowed upon us by the Creator of Life” (MC, 2001: 5). Further, they characterize the international community as latecomers to the recognition of collective and individual rights, not its authors (MC, 2001). Therefore, as Mushkegowuk Council claims, rights in the LUP context suggest different relationships and sources of authority than state-centric conceptions of rights.

Second, the concept of resurgence suggests a need to look deeper than the outward political conflict over rights to understand the motivations, goals, and strategic orientations of Indigenous communities. Resurgence refers to a renewed focus within Indigenous communities to rebuild their own systems and institutions of governance, which is necessary to confront colonial co-optation and sustain a meaningful existence as Indigenous peoples. Important to this task are the

¹⁰ For example, the Chiefs of Ontario’s statement on First Nation sovereignty asserts that “as distinct and independent Nations, we possess inherent rights to self-determination. These inherent rights were not endowed by any other state or Nation, but are passed on through birthright, are collective, and flow from the connection to the Creator and our lands” (<http://www.chiefs-of-ontario.org/faq>).

concepts and principles articulated in the Indigenous resurgence literature¹¹. This work draws strongly on the experiences and perceptions of Indigenous peoples in describing the growing political power and cultural revitalization evident in many First Nations communities. More importantly for this research, Indigenous resurgence suggests certain strategies in order to decolonize relations with settler governments. For example, the question of whether or not Indigenous communities should participate in the institutions of the state as a means to pursue self-determination is a particularly contentious issue. The Idle No More movement that began in the fall of 2012 amid protests over the National Energy Board's review of the Enbridge Northern Gateway Pipeline and the Conservative government's omnibus Bill C-45, was in part a response to a widespread perception among Indigenous peoples in Canada that operating within the institutions of Canada was not working. So too was the challenge to Shawn Atleo's leadership of the Assembly of First Nations over support of the Conservative government's *First Nations Control of First Nations Education Act* (Bill C-33), which ended with his resignation in May of 2014. The election of the Trudeau Liberal government in October of 2015 promised a more responsive government to the concerns of Indigenous communities, but the federal government's backtracking on the full implementation of UNDRIP has added to mounting criticism that there has not been enough substantive action (CBC News, Oct. 10, 2016). But engaging with state governments, industry and other external organizations is necessary to protect territories and rebuild economies. LUP is a critical point of intervention for these purposes; however, Indigenous peoples need not depend only on avenues as designed by the state. Understood through a resurgence lens, Indigenous peoples have the right to articulate their vision for their homelands that not only allows Indigenous cultures to persist, but to flourish. This most

¹¹ The work of several authors who are integral to the articulation of Indigenous resurgence as an essential cultural and political movement for decolonization and self-determination are explored in Chapter 3, including Taiaiake Alfred (2005), Jeff Corntassel (2012), Leanne Simpson (2011), and Glen Coulthard (2014).

certainly requires resisting the usurpation of their lands by other interests, but resurgence also requires revitalizing Indigenous cultures.

Third, the idea that Indigenous resurgence is occurring in praxis is evoked as the concept draws attention to the interplay between theories or guiding principles, and how they manifest or are adapted to actual situations. Therefore, praxis connects theories of rights and cultural resurgence to on the ground practices. Attention to praxis also eschews conceptions of static or prescriptive approaches as there is always a “learning by doing”¹² element, particularly when it comes to cross cultural engagements and establishing new initiatives. As the content or clear definition of Aboriginal and treaty rights was not articulated in the 1982 constitutional amendments, both the theory and practice of these rights has developed through numerous means, such as federal and provincial legislation, jurisprudence, land claims, self-government and co-management agreements, as well as internationally through UNDRIP. However, these mechanisms, and particularly Indigenous understandings of how these mechanisms or other means give substance to their rights, has also developed through praxis.

The notion of praxis is perhaps most famously evoked by Paulo Friere who utilized participatory and action oriented research methods to produce liberatory social change desired at local levels (1970). However, Thohahoken Doxtator (2011) has also noted that Indigenous peoples need to take hold of the processes of change as they have long been the target for such transformations, benevolent or otherwise, that have been highly destructive. Indeed, the colonial relationship is one premised on transforming Indigenous peoples by instilling certain practices, ideologies, and institutions in efforts to pacify, assimilate, and at its extreme, bring about the

¹² “Learning by doing” is a description or mantra of adaptive collaborative management processes, where developing consensus among diverse interests, re-evaluation, and innovation are primary concerns. Adaptive collaborative management is also arguably more compatible with Indigenous ways of knowing than rigid, hierarchical management frameworks.

cultural genocide of Indigenous peoples. Praxis that supports the cultural resurgence of Indigenous peoples' renews their longstanding commitment to their cultures and their lands while adapting to thrive in contemporary circumstances. Rights exist in this context as defending Indigenous territories and cultural practices from encroachment and regulation by the state, and also as a connection between Indigenous traditions and contemporary initiatives to help ensure Indigenous ways of being persist.

Thus, the intersection of Indigenous rights, particularly as they support self-determination, and the cultural resurgence of Indigenous nations, has profound implications for the environmental governance of Indigenous territories and the manner in which lands are managed. Indigenous peoples in Canada have moved from a position of exclusion in state resource management, to become significant political players in management processes. They have gained a greater role largely through successful intervention in the courts and negotiated agreements with federal and provincial governments. Greater roles in decision-making and the management of their lands has been backed by wider international Indigenous peoples' movement and direct action on the ground by communities and supportive organizations.

But the recognition of Indigenous rights achieved in the institutions of federal and provincial governments in Canada has significant limitations. The conditions attached to negotiations in many instances undermine Indigenous self-determination (Irlbacher-Fox, 2009), which can spur more cases going through the courts or direct action to protect homelands. This has already occurred in the Ontario Far North. Protest by Kitchenuhmaykoosib Inninuwug (KI) First Nation over exploration activities by the mining company Platinex resulted in the company suing KI for \$10 billion in 2006, and also saw members of the community's Chief and Council imprisoned in 2008 for contempt of court (Peerla, 2012). The Ontario government was

eventually forced to buy out the Platinex claims in order to end the suit (Wawatay News, December 14, 2009). Subsequently, in 2011 Matawa First Nations initiated a judicial review of the federal government's environmental assessment (EA) process for chromite mining in its territory, an area commonly known as the Ring of Fire. The action raised legitimacy concerns about the federal EA and lack of provincial involvement, which prompted a major proponent, American-based Cliffs Natural Resources, to suspend their involvement¹³. As a consequence, the Ontario government realized it had to re-engage with First Nations in the Ring of Fire to move forward with the development, which subsequently prompted Matawa First Nations to drop its suit in federal court (CBC News, September 11, 2013). Mushkegowuk Council also launched a lawsuit in Ontario Superior Court in July of 2013 charging infringement of its Treaty 9 rights (Wawatay News, August 7, 2013). In the statement of claim, made on behalf of Peter Archibald of Taykwa Tagamou First Nation, Mushkegowuk Council argued that "oral assurances of continued and undiminished" harvesting rights that were "critical" to achieving an agreement with Treaty 9 First Nations, meant that the federal or provincial government have "no power or right under Treaty 9 to unilaterally restrict or extinguish" these rights by way of resource development without their consent (in Wawatay News, August 7, 2013). Mushkegowuk's action reignited discussions at the Treaty Tables with Ontario and Canada about their relationship, and the actions of First Nations throughout the Far North reflect a new determination that their consent to any form of development is no longer optional.

What is clear is that First Nations in the Ontario north do wish to work with both governments and resource developers, but on terms that require deeper cooperation, including their consent. But First Nations, and Indigenous peoples more generally, also face questions

¹³ Cliffs Natural resources eventually terminated their involvement in the federal EA in 2015 and began divesting its claims in the Ring of Fire (Northern Ontario Business, February 6, 2015).

beyond simply whether or not to participate in the institutions of colonial government. These other questions include how to make their traditional relationships to their lands relevant to land management, and how best to engage in management initiatives that contribute to rebuilding the resilience and long term sustainability of Indigenous communities –in other words, nation building. LUP is a common management tool utilized by all colonial orders of government in Canada and elsewhere (Matunga, 2013; Porter, 2010; Sandercock, 2004). Planning commonly includes zoning areas for varying degrees of development and conservation, and as such are expressions of Western relationships to land.

However, as Mushkegowuk Council contends, they and other Indigenous peoples have always engaged in their own form of LUP (MC, 2013). Indigenous planning, as such, predates colonialism and is premised on the worldviews, relationships, and practices of specific Indigenous peoples and places (Matunga, 2013). But Indigenous planning in contemporary contexts also represents “a political strategy aimed at improving the lives and environments of Indigenous peoples” (Matunga, 2013: 5). Planning in an Indigenous way undoubtedly is a very different exercise from contemporary Western planning practice (see Porter, 2010) as Indigenous relationships to their lands are rooted in vastly different epistemologies. Making these relationships visible in current planning initiatives is essential to ensure Indigenous futures in political, economic and cultural ways. Within LUP debates, negotiation, conflicts and practice, the development trajectory for any community is established. It is fundamentally important to Indigenous communities for their future as Indigenous peoples to be a major part of the planning process. Planning imposed on Indigenous communities may make space for their participation, but ultimately fail to share their vision.

1.5 Purpose and Objectives of the Study

The objective of this study is to ascertain if the MRLUP initiative is representative of a growing shift by Indigenous peoples in Canada from the reconciliation of rights in state directed institutions to self-driven management initiatives. As such, the Mushkegowuk initiative provided the basis that represented an expanding praxis of Indigenous rights where ideas about reasserting community traditions and forms of governance are put into practice, but in a context where enormous pressure was placed to conform to the expectations of the Ontario initiative. LUP by Mushkegowuk Council was intended to be a foundational element for the rebuilding of Cree self-governance that was not necessarily dependent on the formal mechanisms of the state. It was intended to address inherent and Treaty 9 rights, and was to be driven by Omushkegowuk values, priorities, and relations rooted in their lands, knowledge and cultural traditions. These elements of the Mushkegowuk initiative are indicative of an emerging paradigm of Indigenous resurgence where, this thesis will argue, one of the primary objectives is the transformation of colonial relations by strengthening the continuity with cultural traditions¹⁴. This contrasts with what is arguably a defining characteristic of state recognition—the transformation of Indigenous societies to conform to the norms of state institutions and sovereignty. Key features of resurgence are manifest in the MRLUP initiative, whereas the Far North planning processes is primarily concerned with provincial priorities that include the duty to consult and accommodate Indigenous communities. Both the theory and normative arguments explored in the literature become visible in this case, as well as the significant challenge to operationalizing an Indigenous driven planning framework.

¹⁴ This argument will be developed in Chapter 3.

Following the above argument, the key analytical questions guiding this research include:

1) What are the hallmarks of Indigenous resurgence identified in the literature, and in what ways are they visible in the MRLUP process? 2) Can the Mushkegowuk initiative be characterized as an example of *resurgent* rights praxis as defined in the literature review? And 3) If so, what are the effects of the identified shift in rights praxis on land planning processes and how does this reflect efforts to decolonize the governance of lands and resources in Mushkegowuk traditional territories? The argument developed here is not intended to suggest that there is no longer a need for substantial engagement with state institutions. But what is significant about the MRLUP initiative is that it not only challenges, but potentially provides an alternative to colonial resource management. As such, the Mushkegowuk initiative is evidence of a move beyond mere resistance to, or participation in, colonial forms of governance. It provides an alternative that is Indigenous driven, which is integral to the cultural, economic, and political future of the Cree. It is the ability to deliver on these potentials –which the dissertation argues reflect the central tenets of resurgence –that will determine the success of Mushkegowuk’s efforts to build a regional land use plan.

1.6 Significance of the Study

This research is significant because it deepens our understanding of lands and resources governance contexts in Canada in which the rights of Indigenous peoples are addressed in diverging governance frameworks. By changing the focus of attention to First Nation and tribal council level initiatives, rather than specifically how Indigenous rights are reconciled in state institutions and agreement making, attention will be paid as to how Indigenous communities are developing their own processes and institutions of governance, or self-determined self-

determination. Therefore this research is significant because it shows how alternatives to formalized federal and provincial institutional arrangements in Canada are being used to more effectively exercise Indigenous and treaty rights. Further, it shows how the cultural and political revitalization of Indigenous communities is being generated from within, and is crucial to effective roles in the governance and management of lands and resources. While state institutions and initiatives remain central to this research, they are primarily considered to understand the context within which Indigenous self-determination efforts operate and are constrained. The importance of community and tribal council level institutions and processes for engaging in environmental management and governance issues, where the mix of traditional and non-traditional elements is determined by Indigenous communities, are highlighted. Thus, this research also supports calls for greater Indigenous autonomy and decision-making powers in Canadian environmental management and development contexts. This research benefits Mushkegowuk First Nations directly by drawing attention to the significant problems with Ontario's Far North process and legislation, and validates the necessity of Omushkegowuk driven planning to give meaning to constitutionally protected Aboriginal and treaty rights, including the right of self-determination.

1.7 Outline of the Chapters

Following this introduction, Chapter 2 will outline the study's methodology. It will begin by outlining the theoretical assumptions guiding this research, with particular attention to issues with research with Indigenous communities. The chapter will justify the choice of the MRLUP initiative for the case study, and provide the rationale for the research's focus on the perceptions of Mushkegowuk Council and member First Nations' community representatives. Further, the

chapter will discuss the strengths and limitations of data collection and analytical techniques utilized in the conduct of this research.

In Chapter 3 a theory of resurgent rights praxis is developed by first examining Indigenist thinking on the subjects of self-determination and cultural resurgence in order to identify and discuss key features. Then, literature that examines land planning and environmental governance contexts where resurgence principles appear to be significant to Indigenous roles is examined to further develop the theory of resurgence as practiced in these contexts. The goal of the chapter is to develop the theoretical and analytical framework from which the MRLUP initiative can be analyzed.

Chapter 4 tracks the institutional development of LUP in northern Ontario, and how Ontario's LUP processes have historically engaged First Nations. In particular, the chapter will identify enduring problems with Ontario's approach to recognizing and reconciling Indigenous or Aboriginal rights in its northern land planning policies. Specific focus will be on the Far North planning initiative as it reflects Ontario's approach to recognition and reconciliation, and the response by Indigenous organizations representing First Nations in the Far North. Then, the MRLUP initiative will be examined, paying particular attention to how it shifts the praxis of rights from the institutional practices of the Ontario government to its own initiatives in order to change the basis from which negotiations over LUP in their territories can proceed from. The goal of the chapter is to contrast Ontario's approach, indicative of the orthodox recognition and reconciliation approach outlined in chapter 3, with the Mushkegowuk initiative based on their understanding of inherent and Treaty 9 rights.

Chapter 5 will take a closer examination of the MRLUP process. Looking beyond jurisdictional or participatory issues, the overarching goals of the planning initiative, the role of

cultural and political traditions in the planning process, and how Ojibwe relationships with their lands are defined and made relevant to LUP in the Mushkegowuk initiative are key questions addressed in the chapter. The characterization of the Mushkegowuk land planning process as an example of a resurgent rights praxis that is creating alternatives to colonial relations, which is central to the argument of this dissertation, will be looked at closely. The emphasis on how those involved with the initiative who were interviewed for this research perceive its accomplishments, future potential, and understand the importance of the initiative.

The concluding chapter will summarize main arguments and research findings, and draw the distinction between the Ontario and Mushkegowuk LUP visions. The conclusions will compare and contrast key elements of the Mushkegowuk initiative discussed in chapters 4 and 5 with the core concepts of resurgence discussed in chapter 3 to demonstrate the usefulness of resurgence to conceptualize and explain changes in contemporary relations between Indigenous peoples and Canadian governments.

Chapter 2: Methodology

2.1 Introduction

This research broadly examines self-driven environmental management initiatives by First Nations in which I ask whether environmental management initiatives instigated by Indigenous communities are effective innovations that further their resurgence as Indigenous nations. It does so by way of a qualitative case study grounded in the interdisciplinary field of environmental studies. The research also draws from a wide body of disciplinary fields, including most strongly politics and geography, as well as from Indigenous studies, given the subject areas of Indigenous/Settler relations and LUP. The attention for fieldwork was on the process and perceptions of Indigenous peoples as they worked to develop alternatives to colonial relations, which remain embedded in federal and provincial processes that recognize and reconcile Aboriginal and treaty rights.

LUP is an exercise that exposes significant and fundamental tensions between Settler governments and Indigenous peoples. Along with the many challenges that are present with setting the mandates and frameworks for environmental management initiatives broadly, LUP also explicitly aims to provide direction for the future use of land in specific regions and communities. To this end, the practice of planning by Settler states has historically had the consequence of displacing and erasing Indigenous relations to land in order to “clear the way for the settler state, its citizens, and economy” (Matunga, 2013). How Indigenous communities involve themselves in contemporary planning processes in order to confront and change their history of colonial relations, therefore, is of fundamental importance to understanding contemporary LUP contexts and Indigenous/Settler relations more broadly.

The focus of this research consists of an examination of the process for developing *Bill 191: An Act with Respect to Land Use Planning and Protection in the Far North* in Ontario, and the response by Mushkegowuk Council and its member communities. Following Ontario's announcement to proceed with its Far North legislation and objections raised by Mushkegowuk Council, the Council initiated its own regional LUP process. Both processes emerge from a longer intention to create a framework for LUP in northern Treaty 9 territories within the Province of Ontario. The research also examined the tensions within the Mushkegowuk process, with consideration to the specific challenges faced by the Council as it attempted to realize its vision for regional planning. The following chapter will detail how the research was approached, framed, and executed, with particular attention to how non-Indigenous researchers, such as myself, engage with Indigenous communities with which they have only limited prior experience (see Irlbacher-Fox, 2009).

2.2 Methodological Considerations

This project was designed as a qualitative, interdisciplinary case study. The broad frame for the research was chosen because it provides scope for an investigation of significant and emerging concepts and phenomena from academic, activist, and community perspectives. It further allows me to contextualize analysis using a case study method. The research as such attempts to reveal the thinking and actions of those central to the case study under investigation; particularly how Mushkegowuk Council and First Nations' representatives understood the LUP processes in which they were engaged. Therefore, the methodological issues pertaining to appropriate ways to work with Indigenous communities, how to gather and present information and ideas, and the theoretical lens through which to interpret evidence was of paramount

importance for effective and ethical research. Mushkegowuk Council clearly needed to be involved at an early stage of this research. As such, the framework for the study was further defined by a community based participatory approach that involved the Mushkegowuk Council organization and its member First Nations.

2.2.1 Community Based Participatory Research with Indigenous Peoples

The relationship between researchers and Indigenous communities has often mirrored and reinforced colonial relations (Castleden et al., 2012b; Morgensen; Kovach, 2009; Menzies, 2001; Smith, 1999). This has meant that Indigenous peoples have frequently been treated as objects to be studied and their input treated as data, or they have been marginalized from research altogether despite profound implications for their communities and homelands. Presently there is a new trend towards participatory and community based research when Indigenous communities are involved to ensure more inclusive research practice and better outcomes. Ethical guidelines for research involving Indigenous peoples in Canada now necessitate “partnership approaches informed by community collaboration” (Castleden et al., 2012b: 166). This means that communities and organizations with which researchers wish to work must approve projects, and also shape and sanction or approve research activities (Menzies, 2001).

Community based participatory research is an approach to research that focuses on process, including even the research questions, as much as outcomes (Castleden et al., 2012a). The activities of developing a proposal, executing fieldwork, analysis, and dissemination of research should all be subject to an open dialogue with communities or the participants of a specific project. Community based and participatory processes can provide important opportunities to develop relations, challenge assumptions, and refine projects so that they are more relevant to the

needs and sensitive to the protocols of the communities and organizations researchers are working with. As a methodology, community based participatory research “is an attempt to equitably involve community partners in research, draw on all forms of knowledge and experience, share decision-making responsibilities, and build bi-directional capacity through an iterative process of dialogue, action, and reflection” (Castleden et al., 2012a: 156). It places issues of “social justice, political engagement, non-hierarchical relations, and process-based practice” (de Leeuw et al., 2012: 184) at the forefront of research endeavours. Thus, it rejects “positivist notions of objectivity and the idea that science is apolitical” (Flicker et al., 2008: 107). Researchers must acknowledge the power dynamics in play by working to benefit, rather than objectify, communities.

The need for research to better serve Indigenous interests is one of the major reasons behind the utilization of more participatory and community based approaches. Researchers working with Indigenous communities need to do so on terms that develop mutually beneficial relationships that are “non-extractive” (de Leeuw et al., 2012: 192). This implies that reciprocal relationships need to be fostered with communities and organizations in which researchers conduct their fieldwork. Menzies has further argued for non-Aboriginal researchers to “change their approach so that it becomes part of a process of decolonization” (2001: 21) to provide meaningful contributions. The Assembly of First Nations *Ethics in First Nations Research* publication notes the inherently political nature of information gathering, and calls for researchers to “develop strategies that support an ethical approach to research that furthers First Nations’ sovereignty and self-determination” (2009: 3). Therefore, as it involves Indigenous communities, community based and participatory methodologies are argued to represent a

significant attempt to decolonize research practices as they relate to Indigenous peoples (de Leeuw et al., 2012; Castleden et al., 2012b).

But there is still a significant distinction between participatory or community based research, and that which is community-driven. Community based and participatory research is largely driven by researchers from outside of communities that are the subject of study (Flicker et al., 2008; Castleden et al., 2012b). Researchers also face challenges with the time, institutional support, and financial resources necessary for nurturing strong researcher-community relations (Castleden et al., 2012b). For community-driven research, it may not always be possible, and perhaps inappropriate, to pursue this form without being approached by community representatives in the first place. Therefore, unless a researcher has a prior relationship with a specific community it is unlikely that the research will be community-driven. There also needs to be caution in how community based and participatory research is designed as “the demands these forms of research place on already burdened communities are significant” and may “jar against the actual priorities of a given community at a given time” (de Leeuw et al., 2012: 187). However, participatory and community based approaches can substantially complement objectives and research needs of communities, assist in capacity building, and can lay the groundwork for stronger direction from communities in future endeavours. This in turn may lead to more meaningful and potentially transformative outcomes.

2.2.2 Indigenous Methodologies

While the research is grounded in a qualitative interdisciplinary framework for inquiry, it is also necessarily cognizant of Indigenous methodologies, particularly the critiques of Western academic traditions that often accompany Indigenist writing on the subject. Identifying

shortcomings of conventional or colonial research practice, and ways to address these shortcomings when working with Indigenous peoples, was critical for engaging in both the subject matter and the conduct of fieldwork. Shawn Wilson describes an Indigenous research paradigm as one built on the “principles of relationality and relational accountability” (2008, 6), signifying the grounding in specific cultures and places. Indigenous methodologies incorporate the “cosmology, worldview, epistemology and ethical beliefs” of Indigenous peoples, and need “to be followed through all stages of research” (Wilson, 2008: 15) to fully incorporate Indigenous culture and knowledge. As such, an Indigenous research paradigm does not require legitimization from the Western academy, but operates on its own logics and legitimization (Wilson, 2008). A fully realized Indigenous methodology is, thus, an inherently community-driven project.

For non-Indigenous researchers utilizing a community based approach or providing support for community-driven research, there must be substantive efforts to understand Indigenous approaches to generating knowledge. This requires recognizing the significance of Indigenous Knowledge –including process, interpretation, and accountability –on the terms of the communities we have entered relationships with (see McGregor, 2009). Conventional disciplinary theoretical frameworks grounded in Western traditions are useful for examining Indigenous and Settler relations, but are partial and thus limited for understanding Indigenous experiences. When they are the only lens through which Indigenous/Settler relations are examined, rigid Western disciplinary approaches contribute to colonial relationships by privileging its own authoritative research practices and intellectual foundations.

Margaret Kovach, like Wilson, points out that there are several similarities with Indigenous and qualitative methodologies. Kovach argues that “qualitative research offers space for

Indigenous ways of researching”, but their consideration alongside of each other evokes the “miserable history of Western research and Indigenous communities” (Kovach, 2009: 24). Kovach notes that the call by Indigenous scholars for methodological approaches that respect Indigenous culture and knowledge means that there is not a question of “whether we need to consider Indigenous inquiry, but what approaches to it would look like” (2009: 24-25). This recognition raises the further question of how consideration of Indigenous inquiry might fit into qualitative inquiry (Kovach, 2009). Despite considerable points of connection, their differing epistemological basis means they cannot be linked as synonymous (Kovach, 2009). Thus, consideration of Indigenous methodologies means grounding the work “in a solid understanding of the historic relationship into which it plays”, and enables “a more respectful methodology (that is) internally strengthened in the process” (AFN, 2009: 5). Scott Lauria Morgensen argues that beyond simply changing academic practice, Indigenous methodologies “disturb the metaphysics of colonial rule...and model a way of life that draws Indigenous and non-Indigenous people in interrelationship to work for decolonization” (2012: 806).

The goals of employing Indigenous methodologies, and of using community based participatory research, are substantial in the quest to change power dynamics. They also provide a much broader knowledge base with higher levels of scrutiny. But researchers utilizing these approaches with Indigenous communities must be careful of their expectations from the communities with which they work. The need for the active involvement can sometimes place excessive demands on Indigenous organizations and community members, which may already be stretched. A community’s level of participation likely depends on how much they are driving the process, and if not at all, researchers need to be very patient and adapt projects as circumstances change through their engagement with communities. Therefore, one needs to be mindful of how

long the research process takes –from the relationship-building phase, to research, outcomes, and unforeseen obstacles along the way.

2.3 Design and Conduct of the Research

The fieldwork for this thesis centred on the development of LUP as a priority issue for Mushkegowuk Council. This included the Council's and others reaction to Ontario's Far North Initiative, and efforts to launch the MRLUP initiative. The research takes as its starting point the fact that Indigenous nations have full rights to self-determination—political, cultural and economic—and that these rights exist outside the jurisdictional authority of states. That said, while this is the case in principle, colonial relations predominate making the exercise of these rights in practice extremely limited. The questions pursued in this research do not relate to the legitimacy of Indigenous rights claims, as this is taken as a given, but rather focus on how Indigenous rights are put into practice, their meaning to Indigenous peoples, and the challenges associated therein. Thus, a primary goal of this research is to lend support to Indigenous self-determination by offering a critical assessment of LUP in the Ontario north, and to chronicle the efforts to expand the exercise of Indigenous rights in LUP by Mushkegowuk Council.

2.3.1 Approach, Principles, and Objectives Guiding the Research

The approach of this research was to utilize elements of community based and participatory research in its design, but with attention to the arguments and methodologies of Indigenist writers. These approaches, with much dialogue between them, provided guidance on proper ways for non-Indigenous researchers to engage and work with communities, and for the

focus and objectives of the work. The study does not employ an Indigenous methodology, but instead is nuanced by the arguments of Indigenist researchers. Therefore, although this research was largely conceived from within well accepted academic conventions, the process placed much emphasis on incorporating the authority and contributions of Omushkegowuk peoples with whom I worked with—circumstances that the subject matter demanded in order to substantially incorporate Omushkego perspectives.

The principles and objectives guiding this research began from the author acknowledging the authority of Mushkegowuk Council and First Nations in the region. Any conduct of research in their homelands was done at their discretion. Second, my goal was to involve Council and other participants as much as possible without interfering with their LUP efforts that were already in motion. As Mushkegowuk's regional planning initiative represented a community-driven initiative that likely incorporated Indigenous Omushkego methodologies at some level, the objective of my dissertation research was to provide support for that process. And third, my concern was to respect the contributions of participants. This required providing opportunity for dialogue and clarification of ideas, and clearly indicating their contributions as much as possible in the dissertation.

2.3.2 Rationale for the Case Study

The bulk of research examining co-management arrangements, environmental assessment, and land use frameworks that involve Indigenous peoples in Canada do so in the context of modern land claims or the lack of a historic treaty. Thus, northern Quebec, British Columbia, and the territorial north have been key sites of investigation as pivotal sites for the development of new institutions to govern and manage lands and resources. Historic treaty areas are less

studied as novel institution building has rarely approached the level of government to government interaction evident in some contemporary treaty making processes. Provincial governments regularly point to blanket extinguishment clauses in the written texts of the numbered historic treaties as their rationale to deny recognition of Indigenous jurisdiction beyond reserve lands. However, the provinces have also needed to respond to Indigenous activism and recent court rulings that have established the duty to consult and accommodate¹⁵. The constitutional jurisdiction of provinces over lands and resources is challenged by the exercise of Aboriginal and treaty rights. Along with often weak federal engagement with First Nations and Aboriginal peoples more generally means that the changing context of provincial governments and First Nations relations is in need of investigation.

Ontario's Far North Initiative offers a highly prominent example of a provincial governments' response to the changing political and legal environment. This case study of LUP and process as it is evolving in the Far North of Ontario examines part of a trend in that province, as in other provincial norths, towards stronger mechanisms to incorporate Indigenous peoples into key environmental management and economic development processes. Further, I argue Ontario's approach to the Far North Initiative was typical of the colonial recognition and reconciliation model of addressing Aboriginal and Treaty rights, central to overall argumentation of the dissertation, and one which Mushkegowuk Council was undertaking to challenge. The MRLUP, by contrast, evoked inherent and treaty rights based on a shared governance model where Mushkegowuk's contribution would be significantly shaped by their cultural traditions. LUP, as pursued by Mushkegowuk Council, appeared to be guided by principles that reflected

¹⁵ Whereas the *Haida and Taku River* (2004) decisions asserted the duty to consult and accommodate in the context of lands not covered by treaties, the *Mikisew Cree First Nation v Canada* (2005) decision clarified that the duty also applied to lands 'taken up' under historic treaties (Treaty 8).

the tenets of Indigenous resurgence. Thus, the two inter-related planning initiatives of Far North and MRLUP provided a clear and particularly illuminating context within which to examine the contrast in reconciliation and resurgence praxis.

2.3.3 Community Engagement and Fieldwork

This research was located within the Omushkegowuk homeland, which includes the vast lowland areas to the south and west of Hudson and James Bay's. The area is comprised of several First Nations' communities, who are represented regionally by Mushkegowuk Council. The specific community that this research engaged with consisted largely of several people directly involved or knowledgeable of Mushkegowuk's regional planning initiative. They were for the most part members of First Nations' communities within the broader Omushkegowuk nation, but significantly for this research, were also often part of Mushkegowuk's and Band Councils' administrative and leadership community. For the most part, it was individuals working with the Lands and Resources department at Mushkegowuk Council, although often representing specific First Nations, with whom I discussed this research, reviewed materials, provided documents and comments, and who granted interviews.

I first worked in the Mushkegowuk region in 2006-7 when conducting fieldwork for my Master's degree. That project investigated the utilization of Indigenous Traditional Knowledge in the EA for the De Beers Victor Diamond Project, which highlighted significant problems with the proponent led federal assessment for the first major mine development in the region. I received approval from Attawapiskat First Nation Chief and Council to interview elders, land users, and community officials after several discussions and development of a detailed research proposal with the First Nation's Lands and Resources Director Suzanne Barnes. That research

provided insight into the development pressures facing Attawapiskat and other Mushkegowuk communities, and their attempts to assert themselves in decision-making. The isolation of Attawapiskat in the EA process worked to the detriment of the First Nation community and other members of Mushkegowuk Council who were likely to be affected by the then proposed mine. The need for a broader strategic approach to development, with strong capacities for Mushkegowuk First Nations, including Attawapiskat, in decision-making was clearly evident in the Victor Mine EA process.

When I began research for my PhD dissertation I therefore turned my attention to Mushkegowuk Council. I first meet with officials in the Council's Lands and Resources department in the spring of 2012 about the potential of conducting my doctoral research on their Regional LUP initiative. I also traveled to Moose Factory to discuss the potential project with a representative from Moose Cree First Nation as there would likely be research activities at the level of First Nation communities. From the meetings it was clear that there was interest in supporting the research as several significant planning issues could potentially be examined. The discussions indicated the project would be best served working at the Mushkegowuk Council level, given my interest and their lead role in the regional initiative, and was welcomed because of its potential to support the Council's position in LUP in future negotiations with the province.

Through the summer and fall of 2012 I developed a proposal as I continued discussions with Lands and Resources and Mushkegowuk Council, working mostly with Mushkegowuk Council's Land Use Planning Manager Marlene Innes and Regional Planner Jason Gauthier. I was allowed to attend planning co-ordinator meetings on two occasions: in August in Missanabie Cree First Nation at their annual gathering, and then again in September of 2012 at the 27th Annual Mamowihitowin of the Omushkego in Cochrane, Taykwa Tagamou Nation Territory, to

observe and to discuss my proposed project with the regional planning committee. Following these meetings the draft proposal was revised and submitted to Mushkegowuk Lands and Resources. However, as future provincial funding for the MRLUP initiative was not forthcoming, not long after the September meetings much of the Mushkegowuk staff involved in LUP were laid-off or moved to other positions¹⁶, including Jason Gauthier who went on leave in the fall of 2012, and Marlene Innes who left Mushkegowuk Council for another position in early 2013. The Director of Lands and Resources, Job Mollins Koene, was also moved to a new position within the Council. The changes in staffing in Lands and Resources kept the project on hold until the new Director of Lands and Resources position was filled; however, I did continue to meet with Acting Director Barb Duffin through this time to further shape the proposed research. The proposal was presented to Mushkegowuk's Council of Chiefs by Barb Duffin in July of 2013, and the new incoming Lands and Resources Director Vern Cheechoo asked for time to review the proposal before final approval. I discussed the potential research with Cheechoo through the fall of 2013, and was granted approval to proceed with the project by Mushkegowuk Council in February of 2014, which also fulfilled the conditions for institutional approval by York University's Office of Research Ethics¹⁷.

Once I had secured the requisite approvals, I conducted thirteen formal interviews, and gathered documents related to the Mushkegowuk' regional planning effort held by Lands and Resources staff in Timmins through the spring and summer of 2014. The interviews were generally conducted at participants' workplaces, and included Mushkegowuk Council's and

¹⁶ The capacity issues faced by Mushkegowuk Council are discussed in detail in Chapter 4, and reflect the difficulties faced by Indigenous peoples more broadly as they attempt their own innovations while still responding to colonial impositions.

¹⁷ The ethics approval process at the York University Office of Research Ethics (ORE) included review by the Advisory Group for Research Involving Aboriginal People. Conditional approval was granted on December 11, 2012; however full approval was delayed until Mushkegowuk Council issued a letter on April 3, 2014 noting their approval of this research. The project was renewed for one more year with ORE in May, 2015

Moose Cree First Nation's offices in Timmins, Fort Albany First Nation Band Council offices in Fort Albany, and some Toronto locations as well. Although the First Nation/Mushkegowuk Council dynamics were addressed in most interviews and in the documentation, fieldwork in Fort Albany during August of 2014 allowed for wider input from community leaders engaged with the issues. Altogether, the documentation and interviews addressed LUP processes at the level of Mushkegowuk Council and the province. These sources also highlighted differing contexts and issues for the communities, particularly as they were located south of the Ontario defined Far North divide, straddled the divide, or were located in the Far North planning area.

2.3.4 Research Methods

The primary methods employed for this project included a review of specific fields of academic literature, examination of relevant documentation concerning Mushkegowuk planning, and interviewing Mushkegowuk Council and member First Nations' representatives and community leaders involved with the planning initiative. The methods chosen were intended to gather information on the issue of LUP in Mushkegowuk territory, particularly the context and development of Mushkegowuk Council's regional initiative. The goals were to gain insight into planning issues and examine the objectives from those involved in the process, and relate the Mushkegowuk initiative to broader trends in how Indigenous peoples in Canada understand and act on the governance and management of their homelands. Much of the fieldwork (discussed below) took place from April to August of 2014 at the Mushkegowuk Council offices in Timmins where full time Council staff worked, with additional interviewing in Fort Albany First Nation during August of 2014, and other locations when necessary.

2.3.4.1 Literature

Although often omitted from discussions of research methods, the literature reviewed for the dissertation is included here as the fields of inquiry were methodological choices. The specific literatures conceptually framed the research, and are utilized in multiple parts of the dissertation. There are three general subject areas from which literature was reviewed for the dissertation. First, literature that critiqued recognition and reconciliation approaches to Indigenous rights, and those that articulated an Indigenous resurgence approach were examined, with particular attention to Indigenist scholarship. The growing body of Indigenist scholarship provides significant insights into the governance and management of lands and resources as they involve Indigenous and Settler relations. Second, academic literature in the environmental governance and management field that highlighted issues with these competing approaches was examined. It is from these two fields of literature that the research questions were formed, and both are the focus of Chapter Three for the purpose of developing a theoretical framework. The third subject area was literature that discussed northern LUP processes in Ontario. This included both academic and grey literature, including the Final Report of the Royal Commission on the Northern Environment (RCNE) (1985), Ontario's Living Legacy Land Use Strategy (1999) and material electronically published by the Ontario government on the Northern Boreal Initiative. This literature was examined to establish the institutional development and trajectories of Indigenous engagement, and will be discussed in Chapter 4 as both a preface to and part of an examination of the Far North and Mushkegowuk initiatives.

2.3.4.2 Documents

The documentation gathered largely fit into two interrelated streams. First, documentation relevant to the engagement of First Nations in the Far North initiative and consultation in the lead up to passage of the Far North Act was examined. This documentation was publicly available and accessed online, and included the Hansard hearings and debates of the Standing Committee on General Government in Provincial Parliament over the Far North Act, media coverage, and other academic research that examined issues with the Far North Initiative. This material helped to interrogate the position and the thinking of provincial representatives, and draw attention to the larger political cleavages between Ontario and Indigenous organizations.

Second, an examination of LUP documentation archived by Mushkegowuk Council was central to the case study. I received approval from Mushkegowuk Council to view internally held documentation under the supervision of the Director of Lands and Resources. This included numerous items that detailed both internal and external discussions relevant to land planning in Mushkegowuk territory. Most significant were the minutes or meeting summaries of several conferences and workshops¹⁸, and planning co-ordinators meetings that provide much detail on how planning processes unfolded and the issues that arose. Further documentation included Mushkegowuk Council resolutions; correspondence between the Council, the Ontario government, member First Nations, and other interested organizations. In total, this documentation provided insight into the internal debates among Mushkegowuk Council communities and LUP representatives, the efforts and objectives of the planners and the process of planning, and interactions with the provincial government and others. Together, the two

¹⁸ These included the Omushkego Regional Land Use Planning Workshop (2009), the Planning Together Workshop (2010), the Aski Nana Ga Che Ta Win “Caring for the Land” Conference (2010), the Land Use Planning Summit (2011), and the Mushkegowuk Regional Land Use Planning Team Conference (2012).

streams of documentation provided much material from which to discern the thinking, process, and outcomes for establishing a framework for LUP in Mushkegowuk homelands as it involved First Nations' communities, organizations, and the provincial government. The documentation also provides for two levels of analysis: the more formal, legal, and institutional level where the province was directly involved; and the cultural and critical perspectives from Mushkegowuk planners and others involved at the First Nation and the tribal council level.

2.3.4.3 Interviews

Of the thirteen formal interviews conducted for this project, four were current or former Mushkegowuk Council Lands and Resources staff who have held significant roles in planning, and seven were First Nations' representatives who participated directly in the MRLUP initiative or had knowledge of planning processes and issues. David de Launay, who was the former Assistant Deputy Minister of Natural Resources and chair of the Far North Plan Advisory Council, and Chris Marr, who was the primary local South Porcupine MNR official responsible for Far North planning issues, were also interviewed. Ten of the interview participants were men, and three were women. Interviewing with Council and First Nations representatives did not extend past those working in LUP and in leadership roles in order to stay focused on Mushkegowuk's regional planning process, and to not interfere with the work of community land use planners who were conducting their own interviews in the communities to support LUP. The interviews provided many significant insights from those involved in Mushkegowuk's regional planning initiative in various capacities. These allowed for deeper investigation into integral issues shaping LUP processes.

Interviews followed a semi-structured format guided by specific themes and questions, but were approached conversationally, a method noted by Witt and Hookimaw-Witt (2003) that is recognized as culturally appropriate. All the interviews were in English as the scope of participants did not go beyond those working in a professional capacity where conversing in the English language is the norm, although Cree is widely spoken in the communities and was often heard in the offices I visited. For the interviews, six were audio recorded, with another six consenting to written notes only. In one instance the audio recording failed part way through the interview; therefore both audio and written notes comprise the interview (written notes were always taken as a backup in the audio recorded sessions). Verbatim transcripts or notes were offered to participants, but six participants requested direct attributions only to review for their consent. In only one instance was anonymity requested. Some provided further comments beyond the formal interview as many were part of broader conversations. There were participants who requested and received information about the project beyond the description on the Informed Consent Form (see Informed Consent Form Appendix xx), or reviewed the full research proposal when requested. They offered questions and comments about the project that was helpful for feedback and in familiarizing us with each other. Quotations are directly attributed to participants in order to recognize their contributions unless the interviewee chose to remain anonymous. Direct attribution follows the principle of acknowledging the sources of information and ideas that is fundamental to research, and where the “protection of intellectual and cultural property rights” in Aboriginal communities means “that those who shared the knowledge have to be identified and properly quoted” (Witt and Hookimaw-Witt, 2003: 374).¹⁹

¹⁹ The argument that Aboriginal community members needed to be explicitly recognized for their contributions put forth by Witt and Hookimaw-Witt was informed by their previous research in Attawapiskat First Nation “where the informers and elders asked to be identified whenever we quoted the research data, rather than just being generally acknowledged somewhere in the appendix” (2003: 375).

An honorarium was offered in only one instance as their participation was outside of their waged position. The ability to conduct interviews was limited by the availability of some people, particularly if they were no longer employed directly in planning. The costs of travel through the extensive Mushkegowuk territory was also a limiting factor as several of the communities are only accessible by air.

2.3.5 Analysis

The research questions follow from the argument that current institutional means to address Indigenous rights are falling short of the expectations of many communities, and those communities are increasingly turning towards their own traditions of governance and management for more relevant and effective roles. This argument is explored in Chapter 3 within a framework of recognition and reconciliation approaches by state governments and institutions, and resurgence approaches by Indigenous communities. The analytical questions then delve into the conceptual and practical elements of Indigenous resurgence, and the challenge to conventional reconciliation as it manifests in LUP and the thinking of Mushkegowuk planners. The questions and their scope are as follows:

- 1) What are the hallmarks of Indigenous resurgence identified in the literature, and in what ways are they visible in the MRLUP process? This question examined the rhetoric and objectives of the Mushkegowuk initiative, focusing on the ways in which the asserted goals, rational for the Mushkegowuk initiative, and arguments for the scope, structure, and process of planning reflected resurgence tenants and challenged Ontario's approach.

2) Can the Mushkegowuk initiative be characterized as a shift to resurgent rights praxis as defined in the literature review? This question looked more closely at the actions of planners to ask if they are applying tenants of resurgence within their LUP process, and the obstacles that might be limiting their application.

3) What are the effects of the identified shift in rights praxis on land planning processes and efforts to decolonize the governance of lands and resources in Mushkegowuk traditional territories? This question examined the impact on the process and potential outcomes of planning from the perspective of Mushkegowuk council representatives and participants from First Nations communities.

With the objective of answering the above questions, the analysis largely dealt with the documentation and interview materials in separate chapters.²⁰ Documentation was examined for the cleavages between Ontario's approach to LUP and that of Mushkegowuk communities, with attention to how both provincial and Mushkegowuk planning processes developed. For the Far North Initiative, the consultations leading up to introduction of Bill 191, the process of review and passage of the legislation, and the resulting Far North Act, constitute three stages of the analysis. For the MRLUP initiative, major events and meeting of the regional planning team were tracked and the minutes examined, noting the pressure for planning prior to and the response to Bill 191, and planning activities post Far North Act. The documentation evidence is largely presented in Chapter 5.

²⁰ The interviews with Ontario government officials were considered along with the documentation as they addressed Ontario's involvement with the planning process.

Materials from the interviews are presented in Chapter 6, and were organized thematically to examine significant issues addressed by the participants. As much as possible, the contexts of comments were retained, and the speakers identified so their ideas could be tracked across the themes. This was in order to ensure that speakers were not separated from their ideas and information, and to highlight the variability in the discussion under any particular theme.

The concluding chapter explores the general question of whether self-driven environmental governance or management initiatives by First Nations are an effective innovation that furthers the resurgence of Indigenous nations. It does so by combining the documentation and interview analyses, and considering these in relation to the analytical questions discussed above and developed in the Chapter 3 literature review.

2.3.6 Project Completion and Dissemination

A draft of the full dissertation will be provided to Mushkegowuk Lands and Resources for review prior to the dissertation's defense, and any comments will be addressed in the final draft²¹. Further, Mushkegowuk Council will be sent drafts of any articles for publication for comment that directly arise from the dissertation research. The final dissertation will be presented to Mushkegowuk Council in person, in keeping with the principles of research, along with a report directly intended for the Council, and will be the Council's property to utilize or disseminate as they see fit. The dissertation and other publications, indicated in the proposal as avenues for dissemination of research results, are useful for communicating to a broader audience; however, they do not necessarily speak directly to questions or concerns that Mushkegowuk First Nation communities and Council might have, and for which this research

²¹ The draft of the dissertation to be defended will also be submitted to Mushkegowuk Council.

could be helpful in addressing. Thus, the report to Council will more clearly and concisely convey research results relevant to the regional planning initiative.

2.4 Overview: Strengths and Limitations of the Research

By examining relationship between self-driven environmental initiatives, such as the MRLUP initiative, and the idea and phenomena of Indigenous resurgence, this research will contribute to understanding how First Nations are reasserting their relationships with their homelands. The particular strength of this research, which delves into the perspectives of Mushkegowuk planners and others involved in contesting Far North and building the MRLUP initiative, is that it provides significant insights into how LUP processes are unfolding in Omushkego homelands in the north of Ontario. The documentation and interviews, combined with a review of the literature more broadly, amply explores the contrasts in approach by Ontario and Mushkegowuk Council, and further examines the challenges within the Mushkegowuk initiative. In doing so, attention is drawn to the broader political strategies of reconciliation and resurgence as they influence LUP.

Research by those who are non-Indigenous that takes steps to be informed by Indigenous methodologies and community ways, such as this project, also risk replicating the recognition and reconciliation model of political engagement that this research critiques. But I am not seeking certainty in the sense of absorbing certain considerations and protocols that foreclose future possibilities. Rather, this work represents an attempt at intercultural learning that acknowledges the depth of knowledge that is well beyond my cultural and epistemic traditions. It makes no claim to definitive statements on what LUP should be for Mushkegowuk Council and its member First Nations. However, while this work is not definitive in its claims, it should

be valuable to First Nations, governments, land use planners and academics for clarifying the nature of challenges to planning in the context of this particular case study, and for drawing attention to the approaches of Indigenous communities and Settler governments as they move forward in contestations over lands.

Chapter 3: Theorizing a Resurgent Indigenous Rights Praxis in Environmental Governance and Management

3.1 Introduction

Despite the prevalence of negotiated agreements, consultation and judicial support, dissatisfaction and conflict remains an enduring theme with federal and provincial approaches to addressing Indigenous rights in Canada - categorized as Aboriginal and treaty rights in the idiom of Canadian governmental law and policy. Although Aboriginal and treaty rights are constitutionally recognized, the insistence by Canadian governments and the courts that these rights are reconciled with crown sovereignty and existing constitutional division of powers has meant that Canadian-Indigenous relations remain predominantly colonial (McCrossan and Ladner, 2015). That the colonial relationship continues to dominate is abundantly clear in environmental and resource governance and management contexts as they impact traditional territories. In these contexts, Indigenous/state relations—as they occur in land claims and self-government negotiations, jurisprudence regarding land based rights in the Canadian legal system, and the institutions and practices of environmental management—are structured by colonial caveats that deeply diminish Indigenous decolonization and self-determination aspirations. Indeed, a recurring argument is that rather than achieving a level of decolonial/postcoloniality, the current context of recognition and reconciliation in fact deepens colonial relations as Indigenous communities and nations are assimilated into subordinate positions within the institutional structure of the Canadian state (Irlbacher-Fox, 2009; Coulthard, 2007; Blackburn,

2007; Ladner, 2006; Alfred and Corntassel, 2005; Alfred, 2001; Tully, 2000; Monture-Angus, 1999).

Therefore, there has been increased attention to how Indigenous communities might approach self-determination in ways that do not make recognition and reconciliation with the Canadian state a primary objective. Instead, several Indigenist authors and activists have argued that what should be strived for is the resurgence of Indigenous nations and cultural traditions which are capable of exercising inherent rights as defined in their own laws and traditions (Corntassel, 2012; Simpson, 2011; Sherman, 2008; Ladner, 2006; Alfred, 2005; Alfred and Corntassel, 2005; Wilson and Yellow Bird, 2005; Borrows, 2002). In this way self-determination efforts are refocused “from trying to transform the colonial outside into a flourishing of the *Indigenous* inside” (Simpson, 2011: 17). The resurgence literature has emerged from the theoretical development of an Indigenous paradigm that began with late 1960s political activism in Canada²². The concept of Indigenous resurgence draws attention to individual and community level “reconstruction” and “reorganization” of identities and institutions (Alfred, 2005: 34), from which there are profound implications for addressing land issues. Significantly, resurgence potentially lays the foundation for decolonization and self-determination processes driven by Indigenous communities. It does so by locating the basis from which rights are conceived and put into practice as rooted in the knowledge and experience of particular Indigenous communities. Resurgence encourages communities to look to their own traditions for guidance and act in self-determined ways, rather than depend on the recognition of colonial governments.

²² The reaction to the federal government’s infamous 1969 ‘White Paper’ on Indian Policy spawned highly public reactions, notably the Indian Association of Alberta’s *Citizens Plus*, popularly coined “The Red Paper”, and Harold Cardinal’s *The Unjust Society* (1969).

Thus, in contestations over lands in governance and management initiatives involving Indigenous peoples and Settler governments, we can see two overarching and competing theories of rights in play: the recognition and reconciliation with crown sovereignty model, and the resurgence model premised on the inherent rights of Indigenous nations. The former accommodates Indigenous rights within the existing institutional structure, and is dependent on federal or provincial recognition. The latter arises from the traditions and long-standing relationships of Indigenous peoples with their lands.

However, establishing self-determination in the governance and the management of lands and resources requires engaging with Settler governments, industry, and other interests (such as non-governmental organizations and academic researchers) often in contexts where colonial relations dominate. An enduring question is how to engage in those management initiatives without being reconciled—read assimilated—into the prevailing model of state governance, and assuming only subordinate management roles that do not support the vision of self-determining nations? It is the contention of this chapter that features of the resurgence model, which will be outlined in the following, are visible in Indigenous community and nation-based environmental governance and management initiatives. Further, the principles central to resurgence are necessary for fulfilling strong roles as Indigenous peoples in the environmental management of traditional territories. While recognition remains a critical starting point to addressing rights and environmental management responsibilities, it is insufficient to the task of transforming colonial relations. Recognition can and often does occur without significant structural change in how decisions are made and management of lands transpires. Indigenous efforts need to be buttressed by a broader cultural and political resurgence where the priorities, process, and forms of

management are determined within their communities, and under conditions where the interference by colonial governments is limited.

The goals of this chapter are, first, to outline key features and principles which differentiate an Indigenous paradigm from other scholarship, and to then discuss the concept of Indigenous resurgence. The second goal will be to examine the exercise of Aboriginal and treaty rights in Canada, in which the chapter will compare and contrast recognition and reconciliation approaches with what I characterize as a resurgent rights approach premised on the inherent rights of Indigenous nationhood. The third goal will be to illustrate how recognition and resurgence approaches to rights are manifest in environmental governance and management initiatives impacting Indigenous territories. The chapter concludes with an overview of the main concerns to guide the analysis of the Far North and Mushkegowuk LUP initiatives.

3.2 Features and Principles of an Indigenous Paradigm and the Concept of Resurgence

Academic and policy literature's historic attempts to examine Indigenous cultures, their relations with others, social movements, and roles in environmental management have been dominated by Western generated theories. The resulting theoretical imagining of Indigenous peoples (as primitives, savages, Indians, natives, Aboriginals, etc.) has either been lacking in significant aspects relevant to understanding their institutions, social relations, and worldviews, or has dismissed their relevance altogether and treated Indigenous peoples as anachronisms. However, the theoretical landscape has changed significantly since the 1960s as Indigenous leaders, scholars, and activists have engaged in academic and public discourse, challenging many widespread assumptions and broadening the scope of consideration. This discourse has coalesced into an Indigenous paradigm that is distinct from Western schools of thought, such as

liberal or Marxist traditions, and contains its own diverse theoretical body of concepts and ideas. Engaging with concepts and theories generated within Indigenous philosophies and intellectual traditions, and articulated by numerous Indigenist academics, is viewed by many in the wider academic community as necessary to decolonize the theoretical and methodological foundations for research in Indigenous contexts.

3.2.1 Differentiating an Indigenous Paradigm from other Paradigms or Schools of Thought

The beginnings of an academic articulation of an Indigenous paradigm are largely found within Indigenous and anti-colonial writing in the latter half of the twentieth century. Indigenous writers, activists and political leaders, such as Vine Deloria Jr., Harold Cardinal, and George Manuel in the late 1960s and 70s have been ground-breaking contributors, especially in Canadian and North American contexts, to the development of Indigenist scholarship. The context of Indigenous scholarship has produced a great deal of ambivalence as, on the one hand, Indigenist academics represent and articulate profound colonial resistance; however, on the other, the forms, institutions, and language of scholarly production are colonial constructs out of which Indigenist scholars have needed to navigate and define their interaction (Turner, 2006; Smith, 1999). Thus, it has been critically necessary that Indigenist scholarship define itself and its role in academic institutions (Turner, 2006). Indigenous peoples have often utilized their increasing presence and contributions in scholarly institutions and broader public discourse to work towards the acceptance of an Indigenous paradigm, with theoretical and methodological concerns that separate it from other established schools of thought (Alfred, 2008; Simpson, 2008; Champagne, 2007; Kuokkanen, 2000; Smith, 1999).

For example, Rauna Kuokkanen notes the similarities to postmodernism inherent in Indigenous intellectual traditions, such as the blurring of “boundaries and strict divisions between dualistic notions” (2000: 414). However, she warns of the limitations of Western academic approaches as they “remain within the very framework and forms of knowledge they criticize” (2000: 415). The political project of Indigenous peoples extends to asserting their intellectual traditions in the form of a distinct paradigm that has “a clear social and political agenda”, in which “research has a clear connection to the researcher’s own culture” (Kuokkanen, 2000: 417). Kuokkanen points out that although “some feminist theories and practices also aim at social and political changes in society...their approaches often exclude notions of collectivity as well as land rights which are central elements for Indigenous peoples” (2000: 415; see also Champagne, 2007).

Echoing Kuokkanen, Leanne Simpson is particularly critical of western social movement theories as “most theories of group politics and social movements take the state for granted” (2011: 16), and fail “to recognize the broader contextualizations of resistance within Indigenous thought” (2011: 31). When discussing her peoples’ attempts to learn within Nishnaabeg traditions, Simpson argues they “must stop looking for legitimacy within the colonizer’s education system and return to valuing and recognizing our individual and collective intelligence on its own merits and on our own terms” (2014: 22). Kuokkanen also concludes that Indigenous peoples need to be “independent from Western intellectual structures since a significant part of colonialism is being dependant on modes, structures, epistemologies, and approaches of the West” (2000: 415). Western systems of knowledge can be used for a point of reference, but an Indigenous paradigm is “derive(d) from and is based on Indigenous cultural practices” (Kuokkanen, 2000: 415), and as Simpson points out, Indigenous learning “comes through the

land” (2014: 9). It is this engagement with lands that is central to Indigenous being and knowledge, which cannot be sufficiently encompassed solely through Western modes of knowledge production.

In her seminal text, *Decolonizing Methodologies* (1999), Linda Tuhiwai Smith demonstrates the painful relationship Indigenous peoples have endured with researchers and academic institutions. She notes how research has come to be “probably one of the dirtiest words in the indigenous world’s vocabulary” for its treatment of Indigenous peoples as objects, and for its ties to imperial and colonial expansion (Smith, 1999: 1). However, Smith does not reject the value of research altogether, but argues that Indigenous peoples need to take control of the process as it concerns themselves and their communities (1999). She points to the need for Indigenous theorizing that “is about centring our concerns and world views and then coming to know and understand theory and research from our own perspectives and for our own purposes” (Smith, 1999: 39). Kuokkanen in her assessment adds that an “Indigenous paradigm” raises “questions of relevant research regarding Indigenous communities” (2000: 414), which she views as “research that in one way or another supports Indigenous peoples’ endeavours towards self-determination” (2000: 428), and contributes to “different ways of knowing and theorizing” (2000: 414). As was discussed in the previous chapter on methodology, these principles apply to both Indigenous and non-Indigenous researchers working with Indigenous communities.

Nonetheless, at the core of an Indigenous paradigm are the relationships Indigenous scholars have with their home communities and traditional territory. Kuokkanen contends that “an ‘Indigenous paradigm’ would be a culturally specific discourse based on Indigenous peoples’ premises, values and world views” (2000: 413; see also Champagne, 2007; Smith, 1999). It is a spiritual and intellectual project that claims the “the right to maintain and develop manifestations

of cultural practices” (Kuokkanen, 2000: 412, 413). An “Indigenous paradigm” is inherently tied to self-determination and decolonization struggles (Kuokkanen, 2000), as Indigenist scholars put “the freedom of Indigenous Peoples as their highest political priority” (Simpson, 2008: 15).

The establishment of an Indigenous intellectual presence in Western academic institutions has provided a key cross-cultural platform for dissemination and discussion of Indigenous research and ideas. However, Indigenist academics are guided by the fundamental principle that their theories and methodologies are grounded in the experiences, worldviews, and values of Indigenous communities. Simpson asserts that at “the margins of the Western academy, the Oshkimaadiziig (the new people²³) operate within a web of liberation strategies grounded in the intellectual traditions of their perspective nations” (Simpson, 2008: 14). The recovery and maintenance of Indigenous worldviews, and application to contemporary contexts, is part of emancipatory strategies to disentangle from colonial frameworks and mindsets (Simpson, 2008: 15). Simpson argues that “relationships with the land and the Knowledge Holders of their respective nations” are profoundly influential (Simpson, 2008: 16). Indigenist “work is *embedded* in community” (Simpson, 2008: 17), rather than the community simply providing the subject or the object of study. Kuokkanen argues an “Indigenous paradigm is a concrete use of Indigenous peoples’ knowledge instead of merely recording and archiving it away from daily life” (2000: 426). Further, “it acknowledges the interconnectedness of theory and everyday life” (2000: 426-27), which implies an Indigenous approach to praxis. The primary obligations and identifications of Indigenist scholars thus, are often not to the academic institutions where they

²³ The Oshkimaadiziig are the new people of the seventh fire according to a Nishnaabeg prophecy which frames Leanne Simpson’s *Lighting the Eighth Fire* (2008). She argues this prophecy is the foundation of Nishnaabeg resistance and resurgence whose foremost responsibility is to “pick up those things previous generations have left behind by nurturing relationships with Elders that have not *fallen asleep* (emphasis in original)” (Simpson, 2008: 14).

may work, but with their home communities or nations, and in support of other Indigenous nations more broadly, where self-determined and decolonizing theories are put into practice.

3.2.2 The Concept of Indigenous Resurgence

Resurgence is in part an analytical term that describes the phenomenon of the re-emergence of Indigenous peoples and nations as significant cultural, political and economic actors. It has grown from the reawakening of Indigenous identities that has accompanied Indigenous political mobilization since the 1960s. The resurgence of Indigenous peoples has defied and debunked the “vanishing Indian” narrative that characterized a great deal of Western scholarship in the 20th century (Forte, 2006), and clearly guided assumptions in Canadian government policy into the 1970s. Therefore, resurgence is something in which Indigenous peoples and their allies “collectively produce” (Forte, 2006: 3) as a strategy for empowerment, in which part of that process is the establishment of an Indigenous academic presence discussed above.

However, more than an analytical phenomenon, “resurgence” has come to signify a certain orientation to Indigenous liberation, particularly since Alfred’s articulation in *Wasáse* (2005). In *Wasáse*, Alfred rejects negotiation and collaboration within “the unreformed structure of the colonial state” (2005: 21), and instead argues for a politics of contention and resurgence where “we shift our politics from articulating grievances to pursuing an organized and political battle for the cause of our freedom” (2005: 22). Addressed in a growing body of scholarly literature, resurgence is both evident in and evoked by contemporary Indigenous movements. For example, the Idle No More movement was often framed in terms of resurgence, and was at least as much about re-establishing an Indigenous presence on the land and re-invigorating Indigenous

governance, as it was about protest rallies and demonstrations (Barker, 2015; Walia, 2013). The concept of Indigenous resurgence has become a key frame for Indigenous movements in Canada as well as internationally (Barker, 2014; Alfred and Corntassel, 2005; Simpson, 2008).

The ideas underpinning resurgence connect theory and principles central to the Indigenous paradigm, to strategies for action at the level of Indigenous individuals, communities and nations. In particular, those who advocate for Indigenous resurgence as the foundation for decolonization and self-determination efforts are highly critical of how Indigenous rights are recognized in Canada and internationally (see also Sheryl Lightfoot, 2016). Demands for recognition of Indigenous identities, rights, and institutions have been central in framing Indigenous resistance struggles against the assimilation strategies of state governments (Coulthard, 2007). In Canada, the landmark Calder (1973) decision and constitutional recognition in 1982 ushered in the modern treaty era which recognized continued Aboriginal rights and title. Since Calder a great deal of political energy and resources have been directed at land claims, self-government, and co-management institutions. However, Indigenist and other writers have detailed the persistence of colonial relations in modern agreement making, governance, management, and development processes with state governments (see Alfred, 2005; Simpson, 2008; Coulthard, 2014; Manuel and Derrickson, 2015; Irlbacher-Fox, 2009; Tully, 2000; Nadasdy, 2003; McCrossan and Ladner, 2016). Some argue the failings of federal and provincial policies and processes²⁴ to more fully decolonize relations and support Indigenous self-determination leads to questions about the utility of participating in avenues provided by the state, and to seek alternative strategies to further Indigenous interests (Corntassel, 2012; Coulthard, 2008).

²⁴ The British Columbia Treaty Process (BCTP) that began in 1993 is a particularly glaring example of shortcomings in land claims policies and negotiation processes. BCTP negotiation resulted in large debts for First Nations involved and required the extinguishment of Aboriginal title, and currently only resulted in two finalized Treaties.

Resurgence, then, is premised on Indigenous peoples looking towards their own cultural traditions, institutions, relations and responsibilities in order to protect and rebuild Indigenous nations. Self-determination from a resurgence perspective is necessarily based on some form of re-engagement with traditional culture and institutions of governance. For example, Taiaiake Alfred has argued for Indigenous peoples to “self-consciously recreate our cultural practices and reform our political identities by drawing on tradition in a thoughtful process of reconstruction and a committed reorganization of our lives in a personal and collective sense” (2005: 34). Resurgence as such emphasizes reconnecting with cultural traditions, and turning away from externally imposed frameworks, to motivate the rebuilding of Indigenous communities. Without being rooted in the traditions of specific nations, self-determination efforts risk absorption into dominant economic and political structures, and constitute the extension of colonial relations, not its reversal. Thus, the resurgence model by its commitment to self and community centered action aims to *transform* colonial relations by reasserting *continuity* with cultural and political traditions of specific Indigenous nations.

How ‘tradition’ is defined and employed in community initiatives or resurgence movements is a matter of considerable debate. Joyce Green, for example, points out that tradition can be evoked in order to exclude women and perpetuate patriarchal relations (2007). Pan-Aboriginalism and fundamentalist interpretations of traditions are rejected by resurgence theorists, such as Leanne Simpson who argues they appear to be emulations of Western practices (2008: 16-17). Simpson does not give a specific definition of resurgence as she sees it as a process of community engagement with their lands and traditions that will vary depending on individual and community needs (2011). How resurgence is manifest in particular communities will vary greatly depending on specific historical and contemporary contexts, and

will encounter numerous obstacles stemming from colonial legacies and contemporary realities. Thohahoken Doxtater, for example, considers a study he conducted with the Mowhaks of Kanataron:non (Kanata), commissioned to investigate the possibility of a return to “Indigenous-based governance” (2011: 388). He notes the difficulties with “putting the theory of Indigenous governance into practice” (Doxtater, 2011: 386), and that in the context of 150 years of Mohawk resistance to external authority, they “face the daunting prospect of re-learning how to build consensus among diverse interests” (Doxtater, 2011: 386). While many were interested in, and saw merits to traditional Kanataron:non governance, few felt that the community was ready to take steps towards re-instituting Indigenous forms of governance. The contemporary challenges to reviving Indigenous forms of governance, however, do not preclude or define the success of resurgence movements. What is necessary is that there is significant reflection, discussion and consideration of long-standing community values and ways of doing things, and an attempt to re-engage with what it means to be a member of a particular Indigenous community, and what that means for their relationship to their lands. This may be reflected in both traditionally-based or novel institutions and initiatives of Indigenous communities.

Since colonization embodies both a cognitive and material form of domination (Kuokkanen, 2000; Coulthard, 2007), asserting rights and exercising self-determination must also be connected to cultural resurgence and autonomous decision-making in order to fully challenge colonial relations. Although First Nations in Canada strive to produce improvements in the material conditions of Indigenous peoples, and the exercise of authority over traditional territories, resurgence is premised first on a cognitive decolonization that will enable Indigenous peoples to impact economic and political frameworks imposed on their lands and communities *as* Indigenous peoples (Alfred, 1999, 2005; Kuokkanen, 2000; Coulthard, 2007; Simpson, 2011;

Corntassel, 2012). Alfred argues that the conscious attempt to think past “colonial mindsets” and re-value Indigeneity is a first and necessary step to broader decolonization movements (1999). In *Peace, Power, Righteousness: An Indigenous Manifesto* (1999), Alfred argued that despite the “unquestionable pathos in the material and social reality of most reserves...above all the crisis we face is a crisis of the mind” (1999: xv), particularly as he saw native leadership too often accepting and mirroring mainstream political structures and ideas that did not reflect Indigenous traditions. Alfred advocated for a “self-conscious traditionalism” that “will reinvigorate those values, principles, and other cultural elements that are best suited to the larger contemporary political and economic reality” (1999: xviii). In *Wasáse*, Alfred more fully articulated his conception of Indigenous resurgence as built on a “spiritual foundation...that can affect political and economic relations (2005: 22). He also dismissed his earlier conception of traditionalism, where earlier forms of Indigenous governance were simply resurrected, for not recognizing the changed circumstances of present Indigenous communities (Alfred, 2005). Alfred too implies the need for much flexibility for how Indigenous traditions are utilized in communities as part of resurgence movements.

However, tradition does play an indispensable role in resurgence movements. Traditional or Indigenous Knowledge in its complete and contemporary form is a crucial element (Kuokkanen, 2000: 418) in order for tradition to not be used to perpetuate colonialism (see Green, 2007), and Simpson argues that the revitalization of Indigenous Knowledge is in fact a “necessary prerequisite to Indigenous resurgence” (2008: 19). Traditions certainly extend to spiritual relationships, relationships to the land, values and worldviews, and governance, which are encoded in the stories, ceremonies and languages of particular peoples. Therefore elders or knowledge holders have vital responsibilities to guide and communicate with others in the

community, especially those who occupy significant leadership roles. This is not to imply that resurgence is relegated to the work of elder's groups. On the contrary, engagements in the resurgence movement by youth and young adults in Indigenous communities are also vital for the revitalization of knowledge and traditions. These engagements have taken many public forms, from podcasts and performing artists such as Tanya Tagaq and A Tribe Called Red, to social media communication and the round dances which were a critical part of the Idle No More movement's success (see The Kino-nda-niimi Collective, 2014).

These efforts help address a critical problem inherited by Indigenous peoples today as a result of colonization, which according to Alfred is the "disconnection from what it is to be Indigenous" (Alfred, 2008: 9). The resurgence of Indigenous nations requires reconnection to cultural traditions, values, and worldviews, as well as the defence of homelands (Waziyatawin, 2012). As Dakota scholar Waziyatawin argues, "the systematic disconnection (and dispossession) of Indigenous Peoples from our homelands is the defining characteristic of colonization" (2012: 72). According to Alfred, resistance and revolutionary strategies have failed to produce the desired changes in colonial societies, and "collaboration with colonialism" is a sellout of the people (in Simpson 2008:10-12). Resurgence, on the other hand, means more than mere resistance or reconciliation, although those actions may also be necessitated, as the focus is on one's self and their community first (Alfred in Simpson, 2008: 10-11). At a fundamental level then, resurgence, argues Alfred, is about "our indigeneity coming back to life again" (in Simpson, 2008: 11).

Resurgence, therefore, represents a strategic orientation for the deep decolonization of Indigenous societies. It looks beyond advocating for improved inclusion and incorporation into the institutional framework of state governments. Corntassel asserts that "Indigenous resurgence

means having the courage and imagination to envision life beyond the state” (2012: 89). Dion-Buffalo and John Mohawk argue for Indigenous peoples becoming “non-subjects (1993: 19-20), which Kuokkanen refers to as “self-sustaining subjects” (2000: 420), where they think and act “around discourses far removed from and unintelligible to the West” (Dion-Buffalo and Mohawk, 1993: 19-20). The implication for Indigenous communities is that they should stop seeking recognition and participation in state institutions as a prerequisite for planning and managing their homelands. Instead, they need to rebuild or create their own initiatives that are not delimited by Settler rationalities. Although resurgence movements will ultimately come up against the claims of Settler governments, they are not defined by nor a creature of colonial relations from which Indigenous communities everywhere seek to transcend.

3.3 Indigenous Rights in Canada

Those advocating for the resurgence of Indigenous nations are highly critical of how the politics of recognition has led to assumptions about Indigenous rights and their reconciliation with Canadian sovereignty. Rights in liberal democratic societies are usually conceived in a civic sense as a set of inalienable entitlements granted by nation-states to their citizens that are universally applied, albeit with numerous contingencies. As such, rights are crucial to defining the relationships between governments, citizens, and the rule of law. However, Indigenous rights differ as they stem from pre-colonial nationhood, and are often encoded in treaty relationships. The source of Indigenous rights, as such, are from within Indigenous communities themselves and not dependent on state recognition to exist, although state recognition is a crucial aspect of their effect. From the perspective of Indigenous peoples in Canada, Indigenous rights

are articulated and asserted in defining the nation to nation relationship between Indigenous communities and the Canadian state, but are not created by federal or provincial recognition.

Therefore, there are at least two competing overarching conceptions of Indigenous rights that reflect the broader historical understandings and political motivations of either Indigenous peoples or the Canadian polity. Tully has noted how there is an ultimate contradiction in goals when it comes to Indigenous/Canadian relations, as Indigenous peoples struggle to regain “their freedom as self-governing peoples”, while the long-term aim of colonial administrators has always been “the disappearance of the indigenous peoples *as* (italics in original) free peoples with the right to their territories and governments” (2000: 40). This contradiction, underscored by differences in the conception of rights, also regularly frames environmental governance and management processes. The following sections will examine how rights are imagined differently under recognition and Indigenous resurgence frameworks.

3.3.1 Recognition of Indigenous Rights

Recognition has been a primary goal of Indigenous political mobilization in both national and international spheres for the past 40 years, emerging from the 1970s as the hegemonic expression of self-determination (Coulthard, 2007). Demands for recognition transformed government policy that Glen Coulthard notes was previously characterized as “unapologetically assimilationist”, indicative of the infamous 1969 *White Paper* on Indian Policy, to what is now “couched in the vernacular of ‘mutual recognition’” (Coulthard, 2007: 438). Landmarks, such as the *Calder* decision in 1973 that recognised unextinguished Aboriginal title and ushered in the modern land claims process, and the constitutional entrenchment of Aboriginal and treaty rights in 1982, have signified the recognition of Indigenous peoples as distinct rights bearing groups by

the Canadian state. Numerous Supreme Court decisions, such as *Sparrow* (1990), *R. v. Van der Peet* (1996), *Delgamuuku v. British Columbia* (1997), *R. v. Marshall* (1999), *Haida Nation v. British Columbia and Taku River Tlingit First Nation v. British Columbia* (2004), and the *Tsilhqot'in Nation v. British Columbia* decision (2014) have further defined and placed limits on the recognition of Aboriginal and treaty rights, and the federal government extended its recognition to political rights with the Inherent Right of Self-Government Policy in 1995.

These legal and policy developments reflect Canada's attempt to accommodate Aboriginal rights within its liberal democratic framework. The demands for recognition by Indigenous peoples and other marginalized groups have prompted much debate on how recognition-based models of liberal pluralism can accommodate cultural difference. For example, Charles Taylor's 'The Politics of Recognition' (1992), Will Kymlicka's *Multicultural Citizenship* (1995), and Alain Cairns' *Citizens Plus* (2000), all articulate ways in which the state can recognize and reconcile Indigenous rights. These works are responses to extensive debates about redefining the relationship between Aboriginal peoples and the Canadian state, most strongly represented by the *Royal Commission on Aboriginal Peoples* which produced its report in 1996. Although influential in shaping accommodations in government policy, liberal multiculturalist theories have been criticized for falling short. Most significantly, according to Turner, is that much of the multiculturalist theorizing "(does) not recognize that a meaningful theory of Aboriginal rights in Canada is impossible without Aboriginal participation" (2006: 7). The problems with recognition inherent in multicultural theories is apparent in state sanctioned forums through which Aboriginal rights are put into practice, despite the prevalence of negotiation in which ideally conflicts over recognition could be resolved in mutually beneficial ways (Tully, 2004). Significantly, federal and provincial governments enter negotiations with onerous restrictions on

what can be negotiated and their limitations, and seek to reconcile Aboriginal rights with ‘certainty’ within federal or provincial areas of jurisdiction. It is this logic of Canada’s approach to the reconciliation of Indigenous rights that is a fundamental problem for decolonization movements.

The politics of recognition as it operates in government policy and legal decisions in Canada, rather than favoring the nation to nation conception of Indigenous rights, has tended to shift Indigenous rights into civic frameworks that have broadened to include communities. Thus, Indigenous rights become “reconciled” with Canadian sovereignty in ways that continue to subordinate Indigenous peoples and nations to federal and provincial authority (Ladner, 2006). The weaknesses with operationalizing Indigenous rights, both in Canada and internationally, have led to the reconsideration of rights-based approaches to self-determination that depend on state recognition. For instance, Corntassel asserts that “the rights discourse can take indigenous peoples only so far” (2008: 107) in supporting self-determination. He argues that “strategies that invoke existing human rights norms and that solely seek political and legal recognition of indigenous self-determination will not lead to a self-determination process that is sustainable for the survival of future generations of indigenous peoples”, and that “strategies of *surveillance* and *shame* have not been effective for generating substantive changes in existing human rights norms and customary international law” (2008: 108). Corntassel also points out that the rights discourse has led some states to reframe Indigenous populations as ethnic minorities in order to reduce the rights burden, and deemphasize cultural responsibilities to communities and lands (Corntassel, 2008). Further, state governments have “limited the applicability of decolonization and restoration frameworks for indigenous peoples by establishing ad hoc restrictions” (Corntassel,

2008: 108). These restrictions are particularly onerous in dealing with continuing encroachment on lands and resources by colonial states.

Weaknesses in liberal pluralist forms of recognition have led some commentators to conclude that, as far as it concerns Indigenous peoples, the politics of recognition is more appropriately characterized as the “politics of distraction” (Corntassel, 2012: 91). For example, the recognition of Indigenous rights in Canada is tied to recognition in international arenas, the United Nations in particular, where a great deal of advocacy work has been directed. In the context of the extensive political mobilization leading up to the ratification of the Declaration on the Rights of Indigenous Peoples, Corntassel argues that often “energy is being diverted away from community regeneration efforts and channeled into the global indigenous-rights discourse without any noticeable impacts locally” (2008: 113). He points to the ineffectualness of international enforcement mechanisms that are not binding on the actions of state governments (Corntassel, 2008). Therefore, Corntassel argues that developments in international institutions, particularly the United Nations, represents the “*illusion of inclusion* (italics in original)” as Indigenous rights are framed by states as a subset of individual rights granted by the state and aggregated to specific communities (2008: 115).

Coulthard argues the politics of recognition cannot significantly transform the colonial relationship as “the politics of recognition in its contemporary form promises to reproduce the very configurations of colonial power that Indigenous peoples’ demands for recognition have historically sought to transcend” (2007: 439). For example, in Carole Blackburn’s examination of the Nisga’a treaty, she notes that “negotiators did not reconstruct the rights the Nisga’a had before colonization” (2007: 629). What the Nisga’a treaty did instead, as do land claims and self-government agreements more generally, was “transformed the constitutionally recognized

but technically unknown aboriginal rights of the Nisga'a into a set of knowable rights" (Blackburn, 2007: 629), which are reconciled with Canadian sovereignty and the institutional framework of the Canadian state. This process highlights the limitations of recognition based models of Aboriginal rights as they serve to legitimize state sovereignty and the institutional status-quo (Blackburn, 2007; Coulthard, 2007; Corntassel, 2012).

While states are willing to give political recognition and a degree of autonomy to Indigenous communities, governing authority over homelands and natural resource development are greatly resisted by state governments (Corntassel, 2008). In addition to separating political/legal recognition of limited Indigenous autonomy within the existing framework of host states from jurisdiction over homelands and natural resources, the right discourse as it has been framed by states and global organizations has further perils for Indigenous self-determination (Corntassel, 2008). Corntassel (2008) and Alfred (2001) argue that the focus on political and legal recognition in Canada has produced self-government agreements where First Nations will ultimately need to sell off resources at an unsustainable rate in order to fund their responsibilities under the agreements, given the small amounts of traditional territories over which they have jurisdiction.

Therefore, while recognition of the rights of Indigenous peoples has and continues to be a major focus of Indigenous political activism, the limitations and "misrecognition" (Taylor, 1994: 25) of their rights by settler governments, such as Canada and the provinces, has tended towards accommodation instead of transformation of the colonial relationship (Coulthard, 2008; Corntassel, 2008; Day and Sadik, 2002). Recognition based rights, while they have been provoked by extensive Indigenous political mobilization, still flow from state governments, who

unsurprisingly are unwilling to substantively address unjust colonial relations in ways that cast doubt on the dubious sovereignty and legitimacy of states themselves.

3.3.2 Rights and the Resurgence of Indigenous Peoples

The dominant rights discourse is premised on state-sanctioned recognition and granting of rights. As Corntassel argues, rights as such “are derived from state-centric forums while Indigenous nations’ responsibilities to the natural world originate from their long-standing relationships with their homelands” (2012: 92; see also McCrossan and Ladner, 2016). From Indigenous perspectives, responsibilities is often the key framing of social relations, and those social relations include other animals, lands, waters, ancestors, and future generations. Resurgent rights would thus stem from long-standing relationships and concomitant responsibilities to homelands, rather than “re-gifted rhetoric from artificial states” (Corntassel, 2012: 92). A right in this context then is not something you get as an individual, but a responsibility one is compelled to fulfill (Corntassel, 2008; Simpson, 2011). Corntassel argues that the limitations of the rights discourse needs to be overcome by “shift(ing) indigenous political mobilization efforts from rights to responsibilities” (2008: 116). Exercising responsibilities would therefore be a part of any resurgence movement, including that Indigenous peoples possess an inherent right to uphold responsibilities as stewards and protectors of their lands.

In contrast to the recognition and reconciliation model of Aboriginal and treaty rights, rights that support the resurgence of Indigenous nations do flow from rights prior to colonization, as well as from historical treaties as understood by Indigenous peoples. Resurgence based rights would theoretically emphasize relationships with homelands and other nations, and also their

right to rebuild relationships, knowledge, and lifeways that have been greatly impacted by colonization. Resurgence based rights would also be asserted to support and defend Indigenous driven decolonization and self-determination efforts, and are a far more useful framing of Indigenous rights in community initiatives than the legalistic rights achieved through recognition. They also need to be practiced in order to be meaningful. That is, principles by which Indigenous communities deem integral to their identity, relationships, and survival need to guide the actions of individuals and organizations. As Alfred points out, “the principled causes”, vital to Indigenous survival, are rarely “legalized and set up as acceptable forms of political engagement by the state” (2005: 180). Hence, the exercise of resurgence based rights cannot depend on sanction by state governments to reconnect Indigenous communities with their homelands and traditions, or for developing priorities and courses of action involving their traditional territories. While the legalistic sense of rights negotiated in Land claims, self-government, and other agreements largely delimits the rights Canadian governments will recognize, they do not preclude the exercise of inherent rights in ways that make sense to communities themselves.

As resurgence based rights are not dependant on external recognition, they do not need to conform to demands that are often premised on essentialized or static conceptions of Indigenous peoples by colonial governments, the courts, or the broader public. The demands of recognition often impede, divide, and delimit self-determination efforts by placing improbable standards by which to judge Indigeneity. Bonita Lawrence (2012) notes the difficulties of cultural resurgence through her examination of the deep divisions between status and non-status Algonquins in Ontario, which have been exacerbated by comprehensive land claim negotiations that began in 1992. In order to gain recognition as Algonquins with federal and provincial governments in the

quest to be included in the land claim, which is a given for the few with federally recognized ‘status’, many non-status Algonquins “are forced to claim that they possess a seamless (pre-colonial) font of cultural knowledge” (Lawrence, 2012: 124). Lawrence argues that “in doing so, (non-status Algonquins) deny the legacy that they *have* (italics in original) inherited, which outsiders cannot recognize as Indian because it is not dressed in beads and feathers” (2012: 124).

This argument reflects what others have also stressed; that is, the need to resist dogmatic, superficial or narrow approaches to tradition (Simpson, 2008; Doxtater, 2011). Essentialist approaches to tradition are in part produced by the demands of non-Indigenous peoples so they can recognize what they imagine constitutes Indigenous culture, and in particular, fulfill requirements by state governments and the courts to validate Indigenous claims, a process that Carole Blackburn refers to as “fetishized tradition” (2007: 629). A resurgence approach to rights eschews this outward display and defense of Indigeneity for external recognition, and instead provokes conversation and action defined and delimited by Indigenous communities themselves.

Further, Corntassel argues that “indigenous self-determination needs to be rearticulated on indigenous terms as part of a sustainable, community-based process rather than narrowly constructed political/legal entitlements” (Corntassel, 2008: 116). Political/legal recognition has assisted in creating space in colonial states for limited participation and self-administration; but, in and of itself does not necessarily enable self-determination. This is because the focus on recognition often gives “little consideration to the environment, community health/well-being, natural resources, sustainability, and the transmission of cultural practices to future generations as critical, interlocking features of an indigenous *self-determination process* (italics in original)” (Corntassel, 2008: 116). Corntassel argues that “a process of indigenous self-determination is more than a political/legal struggle—at its core are spiritual and relational responsibilities that are

continuously renewed” (2008: 117). Corntassel therefore proposes the idea of “*sustainable self-determination* (italics in original) as a benchmark for the restoration of indigenous livelihoods and territories and for future indigenous political mobilization” (2008: 109). Considering the continuing encroachment by extractive resource development and degradation of Indigenous homelands, Waziyatawin asserts that “it is crucial that we re-institute land practices that re-connect us with our lands” to defend and restore the “integrity of our homelands” (2012: 74). The right to a sustainable and self-determined future in the homelands of Indigenous nations is something that Indigenous peoples need to defend by simultaneously engaging in “both the resurgence and resistance elements of a decolonization movement” (Waziyatawin, 2012: 74).

Indigenous communities, by defining their own needs and aspirations, revitalizing their relationships and responsibilities in their homelands, and working towards sustainable and self-determined futures in their homelands, are in essence exercising their right to exist as Indigenous peoples on their own terms. This right may be recognized in the Canadian and international rights discourse, but actions to make the right effective has fallen well short of the expectations of Indigenous peoples. However, Alfred and Tomkins also describe self-determination as a “self-actualizing notion: it exists if First Nations believe it does and comes into reality when they act as nations” (2010: 6). The exercise of resurgent rights can be seen as substantive efforts to actualize self-determination in keeping with the values and traditions of Indigenous communities. There are strong implications for how Indigenous peoples approach governance and management initiatives if based on a praxis underpinned by resurgence. Indeed, it suggests that they undertake their own initiatives to manage lands, and resist state initiatives and other encroachments that follow the orthodox recognition and reconciliation approach to Aboriginal participation in environmental management.

3.4 Environmental Governance and Land Management

The land is fundamental to Indigenous decolonization movements, which are often premised on reconnecting with lands in physical and spiritual ways, and for self-determination which requires revitalized roles in the governance and management of traditional territories. Therefore, advocating for cultural, political, and economic rights in relation to land is necessary to defend Indigenous interests and aspirations. In Canada Indigenous communities have and continue to direct extensive efforts to have their rights recognized and made effective by negotiating land claim and self-government agreements, building co-management institutions, or engaging in government initiatives, such as LUP. Federal and provincial governments enter these negotiations and institutional arrangements in recognition of Aboriginal and treaty rights, and attempt to reconcile these rights with state sovereignty and the constitutional division of powers between federal and provincial governments. These new institutions and initiatives are all designed to incorporate Aboriginal roles in the governance and management of traditional territories.

As such, the frameworks for and practice of environmental management is largely guided through state institutions that are firmly entrenched in the recognition and reconciliation approach previously discussed. However, the extent to which vehicles of federal and provincial recognition define and set limits on self-determination, and the exercise of Indigenous rights in the governance and management of their homelands, is only partial. There is a need to reframe the analysis to the multiple ways Indigenous communities are exercising self-determination in their territories through cultural revitalization, strategies of resistance, and rebuilding their own governance processes and institutions (see Simpson, 2008; Walker et al., 2013). Understanding motivations, goals, and values of particular Indigenous communities, and examining how they

are expressed and operationalized in governance and management processes affecting traditional territories, is necessary to grasp the depth of decolonization and self-determination efforts. This is also key to examining the shifting context of negotiation with state governments and other interests over lands and resources. The following will examine problems with the recognition and reconciliation approach as it applies to environmental management, with specific focus on LUP to show enduring colonial relations relevant to the dissertation's case study. Then, the shift towards community driven initiatives by First Nations which exercise inherent rights will be discussed, particularly as these initiatives appear to demonstrate the tenants of resurgence in response to the limitations of recognition. My contention is not to suggest particular communities simply follow one approach or the other, but rather that elements which are characteristic of Indigenous resurgence are reshaping the terms and means by which Indigenous communities engage with Settler governments, organizations, and peoples to manage their territories.

3.4.1 Recognition in Environmental Governance, Lands and Resource Management

The broadest vehicle for the recognition of Indigenous rights within environmental management is the inclusion of Indigenous Knowledge—often referred to as Traditional Knowledge, Aboriginal Traditional Knowledge, or limited to Traditional Ecological Knowledge or TEK—within management processes. Indigenous Knowledge usually enters management processes through the participation of elders and land users in co-management institutions, Traditional Knowledge studies, or participation by Indigenous peoples in environmental hearings related to development projects. However, these processes have frequently been criticized for weak connections to decision-making or the ability to influence higher level governance, and the

abstraction and separation of Indigenous Knowledge from Indigenous communities (Bowie, 2013; McGregor, 2009; Stevenson, 2006; White, 2006; Spak, 2005; Nadasdy, 2003).

Institutional processes, such as land claims, environmental assessments and the functioning of co-management boards, have also been criticized for obfuscating colonial relationships to which these efforts are arguably undertaken to transform (see Nadasdy, 2003). For example, the experience of First Nations in the Yukon Territory following negotiation of the Yukon Umbrella Final Agreement (UFA) in 1993 has, according to David Natcher and Susan Davis, “led neither to ideological nor to structural reform” (2007: 272). They argue the lack of reform is evident in that the devolution of resource management to First Nations governments following the UFA still resulted in a centralized and top-down system, “with land manager remaining largely isolated from First Nation members” (Natcher and Davis, 2007: 274). The continued dominance of distant territorial administrators was further evident in how LUP mandated by the Yukon UFA has unfolded. For example, the land use plan recommended by the Peel Watershed Planning Commission in 2011 and supported by four First Nations in the region was not accepted by the Yukon Government, who then unilaterally embarked on a further public consultation process (Staples et al., 2013). Paul Nadasdy has also noted that the UFA created 14 distinct First Nations’ territories that don’t reflect historic Indigenous socio-political organization in the Yukon (2012). He argues this has given rise to “ethno-territorial entities” (Nadasdy, 2012: 523) with sharp distinctions that can “override relations of kinship and reciprocity” (Nadasdy, 2012: 524). Post land claims resource management and LUP in the Yukon demonstrate the persistence of colonial relations in the implementation of land claims agreements.

Tyler McCreary and Richard Milligan point to contemporary resource extraction permitting processes that recognize “Indigeneity as a set of delimited practices abstracted from

colonial history” by “privileging Indigenous traditions of subsistence over those of territorial governance” (2013: 8). They demonstrate how this process works to erase Indigenous jurisdiction in their examination of the Joint Review Panel hearings into the Northern Gateway Pipeline, evident in how the proponent of the Northern Gateway Pipeline framed its Aboriginal Traditional Knowledge study (McCreary and Milligan, 2013). McCreary and Milligan contend that the study conflates cumulative cultural impacts with environmental impacts, which “is free of reference to the cumulative impacts of colonialism on Indigenous sovereignty” (2013: 8). Further, they argue that the need for including assessments of Indigenous or Aboriginal Traditional Knowledge in regulatory environmental processes “tacitly assumes colonial dispossessions happened because Indigenous peoples were not recognized”, where in fact the “recognition of Indigeneity has always played a supplementary role to colonialism and development” (2013: 9). Both historical and modern treaty processes demonstrate the symbiotic relationship of recognition, colonialism, and development as Canadian governments have recognized the rights of Indigenous peoples largely for the purpose of pursuing their own resource extraction and settlement objectives.

Co-management institutions have provided more direct influence on decision making and de facto levels of co-governance, if not always formal levels of decision-making capacities (see White, 2008). Most often established in the context of land claim negotiations and agreements, co-management has been plagued by problems, such as sector or species specific approaches, competition with other government priorities (Mulrennan and Scott, 2005), and the bureaucratic and scientific requirements of state managers often marginalize Indigenous modes of governance (Smith, 2013; Natcher and Davis, 2007; Stevenson, 2006). They have also been marked by strongly skewed gender participation in favor of men (Natcher, 2013). Despite these problems,

Indigenous communities have continued to negotiate co-management arrangements as a pragmatic means to expand their role and authority in their homelands, even though fundamental disagreements in Aboriginal rights and jurisdiction remain (Goetze, 2005; Laidlaw and Passelac-Ross, 2012). However, the leverage First Nations have with respect to unresolved land claims does not exist for those in historic treaty areas (Laidlaw and Passelac-Ross, 2012). Provincial governments are highly reluctant to relinquish any of their constitutionally derived authority in lands and resources, to which they assume that beyond limited hunting and fishing privileges First Nations' have largely "extinguished" their rights in historic treaties.

3.4.2 Land Use Planning and Indigenous Peoples

The issues with environmental management broadly are often amplified in land planning contexts. Although there is limited literature from the field of planning that examines contexts in Indigenous communities, the literature that does exist demonstrates significant tensions between the goals of state directed processes, and "Indigenous aspirations for a more fundamental reconfiguration of their political and spatial relationships (Barry and Porter, 2011: 2) (see also Barry, 2012; Booth and Muir, 2011; Youden et al., 2010; Hibbard et al., 2008; Porter, 2006; Lane, 2006; Lane and Corbett, 2005; Sandercock, 2004). Literature that examines Indigenous involvement in planning process beyond that specific to the field of LUP also points to the incongruence between state and Indigenous priorities, as well as to the means by which Indigenous communities have achieved some success in asserting their role in governance processes. Often, this is in relation to particular political mobilizations or novel efforts at knowledge integration (see Murray and King, 2012; Jones et al. 2010; Stevenson and Natcher, 2009; O'Flaherty et al., 2008).

Land-use planning as it involves Indigenous peoples almost always occurs in the context of intense development and conservation pressures where federal, provincial and territorial governments look to implement orderly development and conservation regimes²⁵. Pressures related to resource development and environmental protection often come from Indigenous communities themselves, as well as from external priorities, and set the stage for the perceived need for land-use planning by both First Nations and Canadian governments. The literature on LUP involving Indigenous peoples usually assumes that a primary focus for Indigenous communities is the recognition of their rights by state governments and industry, and the reconciliation of their rights through some form of Indigenization of state planning regimes. Booth and Muir note that orthodox environmental and LUP commonly undertaken by governments in Canada with First Nations rely “simply on models derived from non-Indigenous cultural precepts imported virtually wholesale onto a First Nation’s culture and lands” (2011: 422). They do note the emergence of a limited field of “Indigenous planning”; however this form of planning is “poorly articulated, poorly understood, and limited-in-practice theory within the non-Indigenous world of planning” (Booth and Muir, 2011). This is not only because Indigenous planning, since it rests on entirely different cultural lenses and political traditions, is a very different exercise than planning undertaken by Settler governments (Booth and Muir, 2011). As Libby Porter argues, “modern planning is constituted within colonialism itself” and is “a product of colonial relations” (2010: 3). Therefore, although both First Nations and the federal and provincial governments in Canada need to be engaged in land planning, the form planning

²⁵ This was the case with Ontario’s Far North Land Use Planning Initiative, which will be discussed in detail in Chapter 4, as it was with Quebec’s Plan Nord (2011), which was a major attempt to implement a development strategy in the northern regions of the province agreeable to Cree and Inuit leadership. LUP is also a significant element of comprehensive land claims agreements that are intended to address Indigenous rights, development, and conservation issues.

should take—both in the management framework and the governing structure—are often entrenched points of contention (see Table 1).

Table 1: Comparison of Colonial and Indigenous Planning Features

Feature	Colonial Planning	Indigenous Planning
<i>Purpose</i>	Reconciles Indigenous rights within the existing structure of the colonial state designed to expedite resource extraction.	To enable self-determined and sustainable Indigenous communities.
<i>Position of Indigenous peoples in decision making</i>	Included as stakeholders or as part of advisory bodies where final authority rests with state governments.	Contribute and consent to all planning decisions.
<i>Knowledge</i>	Western Science and ideologies supplemented with a reductionist approach to Indigenous Knowledge.	Indigenous Knowledge, values, and worldviews central to all aspects of the planning process.
<i>Methods</i>	Prescriptive and static land use designations that support the administration of lands by distant bureaucracies.	Flexible and holistic approaches governed by local communities.

Specifically, the idea common to planning by Settler governments that inclusion as a stakeholder is an acceptable mechanism for recognizing rights does not reflect Indigenous nationhood (Porter, 2006; Von der Porten and de Loë, 2013). Stakeholder recognition treats Indigenous peoples on par with other communities or interests in management contexts, and places the state as a neutral arbitrator²⁶ (Hall, 2013). This form of inclusion also fails to recognize “the extent to which an Indigenous domain is always operating...alongside modern

²⁶ In Ontario, the Lands for Life planning (to be discussed in more detail in Chapter 4) that took place between 1997-99 addressed Aboriginal and treaty rights with mere stakeholder roles, and as such the regional organizations of all Ontario First Nations refused to participate.

legal and administrative processes” (Porter, 2006: 389). The problems with casting Indigenous peoples in stakeholder roles are compounded by the fact that sufficient or secure funding for Indigenous participation in state initiatives is a significant and consistent barrier (Booth and Muir, 2011). Indigenous communities have demanded that they be treated as governance partners in land planning and other lands and resources issues; however, recognition of a government to government relationship in planning with Indigenous peoples in Canada remains uneven at best.

LUP is particularly contentious because it is at the heart of nation building processes. Treatment of Indigenous peoples as stakeholders in federal or provincial planning initiatives supports a continuation of colonial nation building, whereas nation building in and among Indigenous communities is a self-determined decolonizing project. Porter argues that “the culture of the practice of planning” (2006: 390) as a profession and management tool needs to be analysed as its “genealogy is colonial and its work a fundamental activity to the ongoing colonial settlement of territory” (2006: 391). Marcus Lane and Michael Hibbard put forth the notion of “transformative planning” where “Indigenous agitation and agency are indispensable to precipitate increased (and sometimes grudging) responsiveness from the state”, and where Indigenous peoples “take hold of the planning role—building alliances, managing resources and mediating decisions” (2005: 182). However, efforts at external collaboration in planning are limited in their incorporation of Indigenous priorities, and can deepen colonial penetration when Indigenous communities have not formulated their own frameworks for planning and conditions for negotiation. State and industry recognition of Indigenous rights, as well as from other external communities and actors, is certainly crucial to any attempts by Indigenous communities to manage their lands and resources. But the depth to which Indigenous conceptions of planning

are recognized by federal –and provincial governments in particular –are inadequate to support a robust vision of self-determination unless Indigenous communities can also assert themselves as a strong political force.

3.4.3 From Participatory to Lead Roles in Planning Initiatives: Resurgent Rights in Praxis?

Environment and resource management initiatives by first Nations are often undertaken as part of a broader self-governance strategy in which nation building and the exercise of inherent rights are the driving force. Incorporation into state environmental management initiatives in ways that insufficiently recognize Indigenous authority and jurisdiction, and require engagement largely on non-Indigenous terms, is antithetical to decolonization and Indigenous self-determination. Despite the recognition of distinct roles for First Nations by federal and provincial governments, communities have needed to develop their own self-governance capacities in relation to environmental management. In some instances, Indigenous communities have unilaterally developed initiatives, shifting their roles in environmental management from participation in the institutions of the state, towards government to government (or nation to nation) arrangements²⁷. Significantly, where Indigenous participation is framed by internal initiatives to set priorities and assert values, greater influence on the governance and management of their territories often occurs (Davis, 2009; McGregor, 2009; Takeda and Røpke, 2010; Jones et al, 2010; O’Flaherty, 2008; Goetze, 2005; Papillon, 2008; Bowie, 2013). There is a need to further examine the role these efforts play as an exercise of self-determination beyond

²⁷ For example, the Turning Point and subsequent Great Bear Rainforest initiatives of the alliance of Coastal British Columbia First Nations significantly changed the dynamic of LUP and management in the region from that which was determined and directed by the province, to government to government relations (see Davis, 2009; Takeda and Røpke, 2010; Jones et al, 2010).

how Indigenous worldviews should be considered, or the effects of Indigenous initiatives on state recognition of Aboriginal rights, which are common framings in environmental management and planning literature.

Movement towards ‘government to government’ or ‘nation to nation’ relations is tied to strategic orientations by Indigenous communities premised on nation building. The movement from a model based on absorption into the institutional framework of the Canadian state, to one framed by bilateral negotiations between two political entities, is in part the product of intense political mobilization based on Indigenous assertions of rights to their homelands. For example, resistance by the Cree of Eeyou Istchee (northern Quebec) to the Great Whale phase of the James Bay Hydroelectric Project in the early 1990s—supported by a growing transnational environmental movement and diminishing economic conditions for hydroelectricity exports—resulted in cancellation of the project in 1994 (Mulvihill, 1997). Following Great Whale’s cancellation, the Grand Council of the Cree continued to challenge to the Quebec government over implementation of the JBNQA. Conflicts over forestry management, and decades of litigation stemming back to the treaty’s signing, forced a deeper reconsideration of the Cree/Quebec political relationship (Salée and Lévesque, 2010). The resulting Paix de Braves agreement in 2002 between the Cree of Eeyou Istchee and the Quebec government was explicitly framed as a government to government agreement. The Paix de Braves agreement was to rectify shortcomings in the implementation of the James Bay and Northern Quebec Agreement (JBNQA) by providing significant and stable funding, while opening the door to greater Cree control over forestry management. Restructuring the relationship between Cree and the Quebec government to one characterized as government to government²⁸ also put an end to numerous

²⁸ Some observers have questioned the characterization of the *Paix des Braves* as a government to government agreement. For example, Gabrielle Slowey argues it is in essence an economic agreement that ensures consultation,

legal charges against Quebec for non-implementation of the JBNQA, which were a significant obstacle to Quebec's development plans for the north. The Grand Council of the Crees and the Quebec government subsequently established the Cree-Quebec Forestry Board which formally recognized joint governance (Wyatt, 2008). Through both negotiation and co-operation with federal and provincial governments, and by transnational resistance and judicial challenges when necessary, the Cree in northern Quebec have asserted themselves as a nation in decisions affecting their homelands.

Cree political mobilization in Eeyou Istchee in resistance to external pressures –and the expanded conditions of co-operation they have commanded –must be understood as a manifestation of Indigenous resurgence. While the recognition and reconciliation approach is clearly also framing relations, it cannot account for the still growing political influence of the Cree that is unmistakably supported by a cultural resurgence. For example, Daniel Salée and Carole Lévesque argue that, while the *Paix des Braves* does not change the extinguishment clause of the JBNQA, it does enable “a central and determining role in the decision-making process regarding land management” (2010: 110). But what Salée and Lévesque find most important is that the framework for Cree involvement in land management “allows them to ensure that their particular philosophy of land use—the socio-cultural meaning they attach to the land—will be given prominence” (2010: 110). Interestingly, Salée and Lévesque criticize current critical perspectives on self-government and recognition, much of which is articulated by resurgence advocates. They argue that a characterization of Indigenous/settler relations as “locked in an unflinching, colonial and imperial dynamic” (Salée and Lévesque, 2010) in which the state always has its way dismisses complexities of relations on the ground. However, Salée

but not “autonomy within existing parameters of Canadian federalism” (2007: 167). However, despite the limitations, the agreement certainly signals a change in discourse regarding the political relationship between the Cree and Quebec governments.

and Lévesque also note the merits of this literature as encouraging emancipatory politics outside of dominant institutions “aimed at reconnecting with the heritage, values, languages and ways of knowing of their ancestors” (2010: 105). It is arguably these elements, asserted as integral to the resurgence of Indigenous nations, which are activated and direct Cree negotiation with Quebec that may in part explain success in negotiating arrangements with the state. Salée and Lévesque’s criticism stems from the perception that analysis focused on the continuance of colonial relations trivializes hard won achievements by Indigenous communities.

While the Cree of Eeyou Istchee in some respects represent the more orthodox path to asserting rights –that is by leveraging for better arrangements through political and judicial activism –a more recent trend has been for communities to embark on unilateral initiatives. As resurgence is premised on a turn within Indigenous communities away from dependence on state-centric participation to revitalized Indigenous governance, it also entails a re-examination and re-articulation of what it means to be Indigenous and a peoples (or nation) in a way that informs and guides contemporary initiatives. The success of Indigenous initiatives to manage their lands depends as much on their resonance at the community or nation level, as they do on the ability to affect external frameworks imposed on their lands. In particular, self-driven initiatives indicate a change in approach to exercising rights. This is evident within formal co-management arrangements, such as the institution of the Cree tallyman as stewards in the JBNQA, but is not reliant on formal agreements to occur. Similar to the Cree in northern Quebec, First Nations British Columbia achieved central roles in land planning processes that have also been characterized as government to government (Takeda and Røpke, 2010). However, in BC attempts at modern treaty frameworks through the BC Treaty Process have progressed very slowly. The absence or slow progression towards a treaty or comprehensive

land claim agreements has not deterred many First Nations from asserting their rights to decision-making in their territories. The emergence of First Nations as significant partners in governance processes in BC, evident first in Clayoquot Sound and particularly strong in the Great Bear Rainforest contexts, has significantly altered the governance of resource management in the province (Low and Shaw, 2011).

For example, the Haida Nation and the BC government initially only agreed to disagree over authority and jurisdiction to the lands of Haida Gwaii (Laidlaw and Passelac-Ross, 2012). The Haida proceeded with land management initiatives based on their own assumptions of legitimacy, which appears to be a strong example of resurgent rights put into practice. The *Haida Land Use Vision* released in 2005 was a foundational document for their engagement in land planning. The document was an outcome of the Turning Point initiative established in 2000 by north and central coastal BC First Nations, in which they explicitly set out to be their own agents of transformation as they dealt with the BC government's land planning process (Simpson, Storm and Sullivan, 2007). The Haida evoked their traditional concept of *yah'guudang*, or "respect for all living things" to frame their land use vision, and directly challenged both forest industry and conservation agendas. In doing so, the Haida have positioned themselves at the centre of decision-making regarding their territories. They have negotiated numerous agreements with the province of BC despite maintaining disagreements over issues of ownership and jurisdiction (Laidlaw and Passelac-Ross, 2012), thus avoiding agreeing to any form of rights extinguishment.

Other First Nations in historic treaty areas have also undertaken their own planning initiatives. In these cases, there is often even less pressure for federal and provincial governments to adequately address Indigenous rights due to their assumptions regarding

extinguishment clauses in historic treaties, and the constitutional authority of provinces over lands and resources. Planning initiatives in these circumstances are necessary to fill the gap between First Nation's conceptions of their rights, and federal and provincial recognition. For example, West Moberly First Nations established the Mountain Dunne-za Planning Initiative in 2004 to address environmental pressures and lack of protection for their way promised by Treaty 8 (Booth and Muir, 2011). As such, West Moberly has turned towards its own cultural traditions to produce a community driven plan on its own terms. Pikangikum First Nation in northern Ontario also embarked on its planning initiative in the Whitefeather Forest, with its beginnings dating back as far as 1996. In Pikangikum's case, they worked with the Ontario Provincial government and other interests in collaboration to establishing a framework for forest management, in which the overall vision is set out in their 2006 land use strategy, *Keeping the Land*. Although Pikangikum's efforts do not entail turning away from the institutions of the state, they do involve a commitment to make Indigenous worldviews and their particular relationship with the Whitefeather Forest meaningful to its management (Bowie, 2013).

Indigenous self-governing initiatives reflect a fundamental tenet of the resurgence approach, which is the need to work outside participatory avenues provided by the state. Through self-driven environmental management initiatives, Indigenous communities in Canada are putting into practice the idea that re-connecting with lands and cultural traditions, and asserting their inherent rights, is a more robust exercise of self-determination, and will lead to more profound nation building than strategies that primarily focus on reconciling their rights with crown sovereignty. As such, Indigenous environmental management initiatives that arise from internal nation building and are reflective of resurgence processes can be seen as the praxis of resurgent rights.

3.5 Conclusions

This chapter has argued that the principles of resurgence are critical to understanding Indigenous engagements with environmental management. Indigenous resurgence as a personal, cultural, and political strategy of reinvigorating Indigenous worldviews, ways of being, and modes of governance stands in contrast and a challenge to the recognition and reconciliation approach characteristic of Canadian governments' treatment of Indigenous rights. The analysis of how these approaches appear and operate in LUP conflicts needs to examine both the broader substance of settler governments' and First Nations' engagement on planning issues, and the more particular cultural imperatives and personal assessments of LUP as a means to support the objectives of Indigenous peoples. The former requires: examining how rights are employed in setting the foundation and obligations for planning; the institutional structure, which can be fully a creature of settler governments, more representative of a partnership or a nation to nation relationship; and the basis for decision-making in LUP processes. The latter requires: examining how traditional governance, knowledge, and management practice and discussed and employed; the involvement of communities and the thinking and actions of representatives; and the rebuilding of Indigenous nations, including the relations amongst peoples and their lands.

Chapter 4: Land Use Planning in Ontario's North and the Homelands of the Mushkegowuk Cree

4.1 Introduction

First Nations in the north of Ontario have pressured the provincial government for formal LUP since at least the time of the Royal Commission on the Northern Environment (RCNE) in the late 1970s and early 80s. The RCNE was struck to address the lack of public and Indigenous peoples' involvement in development decisions affecting the north of Ontario. Since that time various planning processes have taken place, with the Lands for Life and the Far North initiatives constituting significant and extensive planning processes for the north of Ontario. However, First Nations' ability to drive planning to meet their needs remains significantly curtailed in northern provincial planning frameworks. Conflict between government planning priorities, development and conservation interests, and First Nations' treaty rights remain a fixture in the governance of lands and resources in the north of Ontario. Further difficulties are encountered by First Nations as they seek ways to restore cultural traditions in the governance and management of their homelands.

These problems further impede Indigenous planning aspirations in contexts where so-called historic treaties structure contemporary relations with provincial governments in Canada. Post-Calder land claims all have specific lands and resources management provisions that guarantee at least some control for Indigenous signatories. Co-management frameworks that institutionalize government to government relations have become the norm in regions with settled land claims. Indigenous peoples have utilized the land claims process to ensure they have

a role in decision making and the management of their territories. Conversely, First Nations in British Columbia where the B.C. treaty process has stalled, largely due to the nature of the terms dictated by federal and provincial governments, have parlayed the absence of treaties and their mandated land surrenders into political strength. Several noteworthy agreements have bolstered government to government relations in lands and resources management despite the parties not agreeing on the scope of each other's jurisdiction²⁹. The Tsilhqot'in decision by the Supreme Court (2014)³⁰ only strengthened the title claims of First Nations who have not negotiated treaties with Canada.

The weakest roles in the governance and management of lands and resources among recognized First Nations or Aboriginal peoples are often experienced by historic treaty partners. Indigenous peoples who agreed to early treaties routinely argue they did so with the understanding that they were about sharing lands; however, federal and provincial governments have taken the position that treaty lands were surrendered. Reserves were granted back as a benefit of the treaties, and Provincial governments have asserted their constitutional authority over lands and resources, largely limiting the recognition of Aboriginal and Treaty rights to reserve lands.

With the launch of the Far North Initiative in 2008, Ontario recognized a greater role for First Nations without addressing the political impasse over treaty rights. The Far North Initiative was significant in that it extended First Nations' participation in management and decision-making processes involving their traditional territories. The initiative nonetheless fell short as it

²⁹ For example, the Haida Gwaii Management Council established in 2011 with joint provincial and Haida representation is responsible for logging and resource development in Haida territory, and the Tsilhqot'in Strategic Engagement Agreement Respecting Land and Resource Management (2014) works under government to government principles in advance of defining Tsilhqot'in title and outside of the British Columbia treaty process.

³⁰ The Supreme Court of Canada ruled 8-0 on June 26, 2014, to uphold Tsilhqot'in Nation title to 1,750 square kilometres of their historical territory.

did not necessarily expand First Nations' authority to determine the frameworks for LUP or be the final arbitrators of planning and development decisions. First Nations of the Mushkegowuk Council in the Hudson and James Bay region of northern Ontario, therefore, proposed their own approach. The Mushkegowuk Regional Land Use Planning (MRLUP) initiative was intended to produce a collective vision and plan for member communities. The initiative of Mushkegowuk Council represents a larger shift in rights praxis by Indigenous communities in Canada where assertions of inherent rights, which supersede colonial rights frameworks, are the legitimizing force. The frameworks offered by Canadian governments for Indigenous participation in environmental governance and management that are in recognition of constitutional Aboriginal and treaty rights—and fulfill federal and provincial requirements to consult and accommodate aboriginal peoples—are in many circumstances insufficient to the nation to nation, or government to government, expectations of Indigenous peoples. As a result, Indigenous communities appear to be taking more proactive approaches to their rights assertions in embarking on their own environmental management initiatives. The limitations with Indigenizing state institutions means that it cannot be taken for granted that state led management processes will address the needs and goals of Indigenous peoples, and reflect nation to nation relations.

The previous chapter made the argument that there are two competing overarching approaches to addressing rights in the governance and management of lands: recognition and reconciliation with state sovereignty, and the resurgence of Indigenous nations. This chapter examines this conflict by interrogating provincial and Indigenous LUP approaches in northern Ontario involving the traditional territories of the Mushkegowuk Cree. Specifically, the chapter will examine how Indigenous rights were understood and put into practice through the MRLUP initiative, as this initiative directly challenged, or attempted to expand, the conception of rights

reconciliation imposed by the Ontario government. With the passing of the legislative component of the Far North Initiative entitled *An Act with Respect to Land Use Planning and Protection in the Far North* in September of 2010, since then referred to as the Far North Act, enduring problems with Ontario's approach to recognizing and reconciling Indigenous or Aboriginal rights in its northern land planning policies were repeated. The chapter makes the argument that the MRLUP initiative is representative of a shift in Indigenous rights praxis. These initiatives aim to provide more robust foundations for realizing community goals than can be achieved solely through participating in state institutional processes. Thus, the shift is necessary to counter weaknesses in federal and provincial frameworks for addressing land-based Aboriginal and treaty rights in Canada.

The chapter will first examine Treaty 9 as it constitutes the formal relations between First Nations and Canadian governments in the north of Ontario. Early LUP issues in the Ontario Far North that led to the establishment of a Royal Commission to investigate development and conservation in the northernmost part of the province will also be discussed, as will the land planning initiatives of the Ontario government prior to Far North. This period is characterized by an expanding colonial administration of the Ontario north based on the provincial government's assumption of rights extinguishment with narrow forms of recognition. Second, the launch of the Far North Initiative and passage of the Far North Act in 2010 will be examined. This phase marked a dramatic turn on the part of the Ontario government from very weak recognition of Aboriginal and treaty rights to central roles for First Nations. However, planning continued to be plagued by the problem of reconciling Indigenous rights with Crown sovereignty. Then finally, the origins, goals and process of the MRLUP initiative will be examined. Of particular focus will be the challenges that Mushkegowuk land use planners faced

as they attempted to take advantage of increased recognition of Aboriginal and treaty rights in the lead up to and after the passage of Far North Act. By asserting and acting on inherent rights and Omushkego interpretations of Treaty 9, Mushkegowuk Council through its MRLUP initiative attempted to shift the framework for environmental governance and management in Omushkegowuk territory.

4.2 Land Planning and Colonial Relations in the North of Ontario

Indigenous communities historically played little role in determining Ontario's land planning beyond their reserve lands entitled by treaties. Decisions about Indigenous homelands, in both planning and development, have routinely been made without their input or consideration. This has led to numerous conflicts between First Nations, the Ontario government and resource development companies, and contributed to devastating impacts on the health and economies of First Nations' communities. In northern Ontario, mining and forestry interests, as well as the conservation priorities of the provincial government, tend to drive decision making. This has left little room for First Nations to address their interests in provincial planning processes –an issue that was brought into sharp relief as Ontario attempted to more fully incorporate the north into provincial planning regimes and the Ontario economy over the last several decades. The colonial relations that mark Ontario's continuing encapsulation of the provincial north are evident in the distancing of First Nation's from decision making in land planning that impacts their homelands.

4.2.1 Treaty 9

The foundation for Ontario and First Nations relations in the north largely rests on historic treaties, with Treaty 9 covering much of the Far North region³¹, including the homelands of Mushkegowuk Council First Nations. First signed in Osnaburgh at the headwaters of the Albany River in July of 1905, the Treaty 9 commissioners negotiated agreements with First Nations in the north of Ontario south of the Albany River through the summers of 1905 and 1906 (Long, 2010). Following the extension of the Ontario border to its present limit at Hudson's Bay in 1912, adhesions to Treaty 9 were also negotiated in 1929-30. Divergent aspirations for treaty making and with the interpretation of Treaty 9 between First Nations and the governments of Ontario and Canada, have regularly led to conflict.

The relationship from the beginning was built on cross-purposes that were incompatible to the outcomes both parties sought to ensure. For Ontario, Treaty 9 represented the formal mechanism to extinguish Indigenous rights to their territories. Prior to the signing of Treaty 9, legal precedents had granted the Ontario government almost complete authority over treaty lands. The Judicial Committee of the Privy Council in 1888 affirmed a Supreme Court of Canada ruling in the *St. Catherine's Milling and Lumber* decision involving lands in Treaty 3 territory that granted Ontario control of non-reserve lands and resources (Long, 2010). Ontario further argued successfully in *Ontario Mining Company v. Seybold* (1901) that Indigenous peoples did not have rights to minerals on reserve lands (Long, 2010). With sweeping authority over lands and resources recognized by the Supreme Court, Ontario was represented at negotiations for Treaty 9 to ensure their resource development aspirations were unencumbered

³¹ The Far North Region of Ontario also encompasses part of Treaty 5 lands within the province.

by the Treaty and the granting of reserve lands—priorities enshrined in the text of Treaty 9 (Long, 2010).

However, Cree and Ojibway peoples present at Treaty 9 negotiations argue they made agreements to share the land, and that they never agreed to surrender their homelands. Indigenous communities in Treaty 9 territory petitioned both Canada and Ontario for a treaty. They sought protections from the incursions of settlement and development that were significantly affecting the southern part of Treaty 9 territory, and for treaty annuities that others in neighbouring territories with prior treaties were already receiving (Long, 2010; Hookimaw, 1997). The agreements made by Indigenous peoples at Treaty 9 negotiations were an assertion of their rights to which they saw the treaty as an acknowledgement (Hookimaw, 1997). It was not the extinguishment of their rights that the written document expresses, a concept that was unlikely to have been adequately communicated by the commissioners (Long, 2010; Hookimaw, 1997).

Thus, the treaties were intended by Indigenous peoples in the north of Ontario to provide benefits, opportunities, and ensure peaceful co-existence. It was not expected to subject themselves and their lands to administration by Canada and the province. Nonetheless, it was following the Treaty 9 Adhesions that Indigenous forms of governance began to perilously break down (Cummins, 1992). This was particularly so with the purposeful erosion of traditional family territories in favor of increasing regulation as Ontario endeavoured to assume authority over land tenure (Cummins, 1992). Ontario's attempt to regulate tenure and land use eventually developed into a system of traplines. Based on a network of beaver preserves established by the Hudson's Bay Company in conjunction with the federal and provincial governments, Ontario instituted the Registered Trapline System in 1948 (Tsuji et al., 2011; Cummins, 1992). Both the

beaver preserves and the registered trapline system were intended to “supplant the system of family-based traditional lands...with the system of assigned territories” (Tsuji et al., 2011: 40). Although trapline allotments were somewhat congruent with traditional family territories, many rejected the system as an unwelcomed administrative intrusion of the provincial government (Cummins, 1992). The result has been a legacy of anger towards the Ontario Ministry of Natural Resources (MNR), who was empowered to implement and administer the system. The conflation of traditional family territories and stewardship with the trapline system has also obscured flexible Cree conceptions of “territoriality” with the Ontario government’s preference for “fixed boundaries and rules” (Cummins, 1992: 132) to govern land use. The issues of traditional governance and trapline administration complicate current community based LUP as those responsible and the governance structure for land stewardship from community perspectives is often contested.

The period following the signing of Treaty 9 and the adhesions were marked by growing intervention and regulation by federal and provincial governments. The southern part of Treaty 9 territory saw significant development that marginalized Indigenous communities and damaged their lands. With no formal mechanisms to affect decision making, the ability of Indigenous peoples in the north of Ontario to see their interests reflected in planning and development was non-existent. The northernmost part of the province remained largely undeveloped, but the interventions of Canadian governments and impacts from settlement and resource extraction in the south made Indigenous ways of life increasingly difficult. Rather than protecting their future, the Indigenous partners to Treaty 9 were deeply threatened by their marginalization from decisions affecting their territories that followed the agreement.

4.2.2 West Patricia and the Royal Commission on the Northern Environment

For the Far North, particular attention was brought to the issue of LUP in 1977 when the provincial government embarked on a five year planning initiative in northwestern Ontario (Marshall and Jones, 2011). Efforts to incorporate the district north of Lake Nipigon and west to the Manitoba border were part of broader strategic planning for all northern districts (Fahlgren and Ontario, 1985). The ensuing West Patricia Land Use Plan was an early attempt to resolve land-use planning issues in the largely undeveloped northwestern region (see Figure 3). However, the plan was highly controversial and opposed by First Nations in the region due to the land allocated to the forestry company Reed Paper Ltd. (Marshall and Jones, 2011; Burlando, 2012; Driben, 1986). Reed Paper proposed a pulp and sawmill operation sustained by the “last, large, uncut forest in the province” that was “unparalleled by its magnitude” (Driben, 1986: 46). The Ontario government granted Reed Paper the right to harvest timber in the tract in a 1976 Memorandum of Understanding despite the fact that wastes from its pulp and paper operation at Dryden had caused mercury pollution in the Wabigoon River. Contamination of the Wabigoon led to severe health impacts on the communities of Whitedog and Grassy Narrows First Nations who depended on fish from the river system (Shkilnyk, 1985; Driben, 1986). The West Patricia Land Use Plan was indicative of Ontario’s government and industry planning process with no recognition of Indigenous rights or interests.

In opposing the forestry allocation, the Grand Council of Treaty #9 (later changed to Nishnawbe Aski Nation in 1983) had the support of environmental groups with whom they had already campaigned against Reed Paper for its earlier activities (Burlando, 2012). The allied opposition between environmental and Indigenous organizations against the West Patricia Land Use Plan prompted the Ontario government to establish the RCNE in 1977. With a mandate to

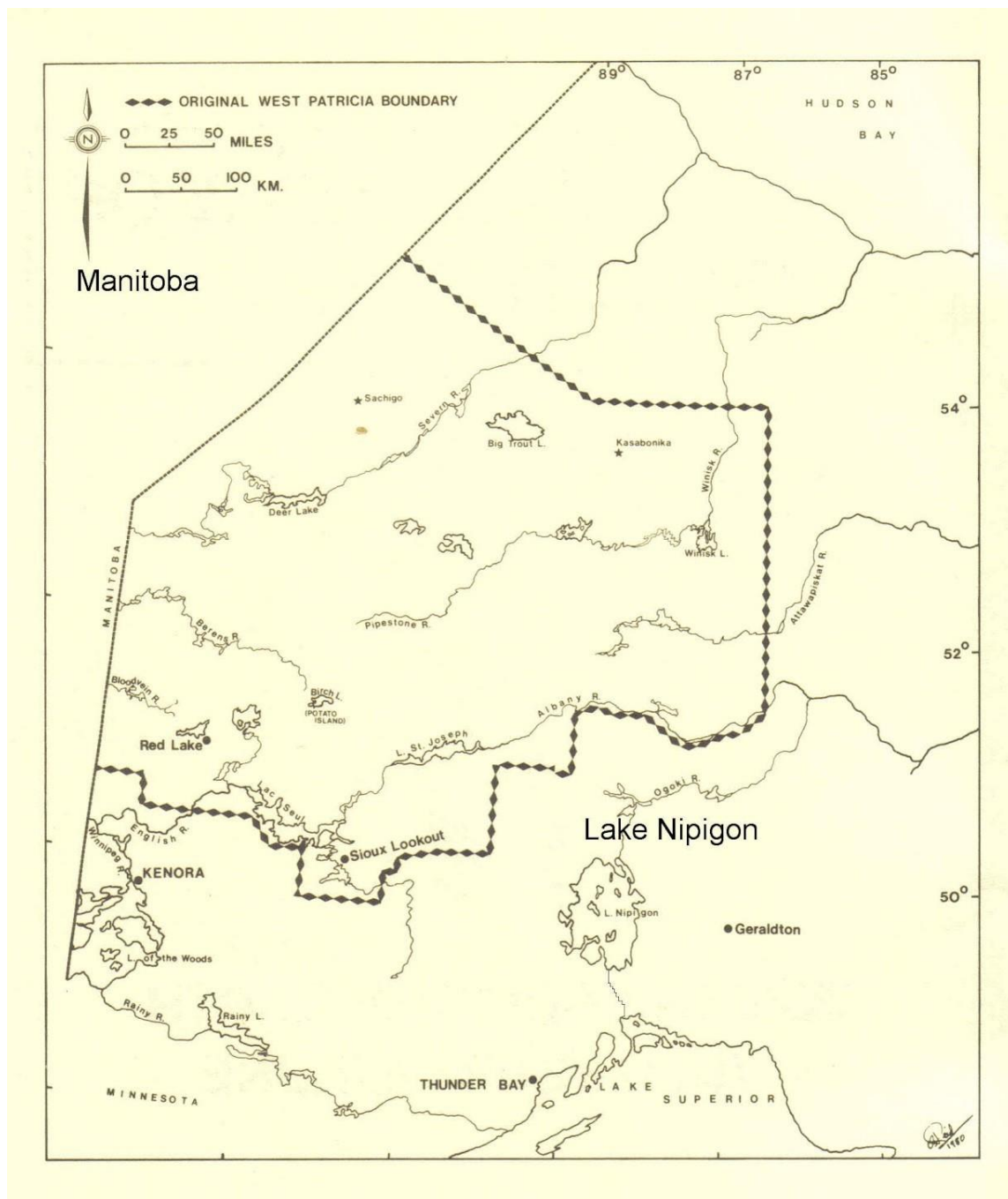


Figure 3. The West Patricia Land Use Plan area. Source: Fahlgren, J. E. J., and Ontario (1985). *Final Report and Recommendations of the Royal Commission on the Northern Environment.* Ontario Ministry of the Attorney General.

examine issues affecting the northern half of the province north of 50 degrees longitude, the Commission's creation suspended forestry development in the Far North region (Fahlgren and Ontario, 1985; Burlando, 2012). The Ontario MNR did complete the West Patricia Land Use Plan in 1982, but the plan was never implemented. The Report of the RCNE recommended that the West Patricia Land Use Plan be scrapped for, among other reasons, representing a process that:

reinforced, rather than allayed, the legitimate complaints of northerners, particularly native northerners, that they lack power to significantly influence the decisions being made about the course of northern development in government and corporate board rooms elsewhere; northerners made it plain that simply being heard is not good enough (Fahlgren and Ontario, 1985).

Thus, the lack of a process to substantively incorporate community input was concluded by Commissioner J.E.J. Fahlgren as an obstacle to moving forward with planning and economic development in the north. Prior to the release of the RCNE Report the provincial government also developed Strategic Land Use Plans for the Northwest and Northeast Planning Regions in 1980, and approved district guidelines for the Cochrane, Kapuskasing, and Hearst Districts in 1983 (NBI, 2001). These broad scale planning directions, however, did not address community level LUP needs (NBI, 2001), and plans remained incomplete for the Moosonee District, which included the Hudson and James Bay Lowlands (Fahlgren and Ontario, 1985).

The Final Report and Recommendations of the Royal Commission on the Northern Environment (1985) devoted considerable attention to the issue of LUP in the north. The Report indicated that Fahlgren's interest in "resource-based development" led him to consider two options regarded as complementary (Fahlgren and Ontario, 1985: 8-1). One was the MNR Crown lands resource planning process for the north, and the other was "a comprehensive approach for planning by northern communities themselves with the objectives of affirming their

own development priorities” (Fahlgren and Ontario, 1985: 8-1). The Report noted that northerners generally considered that “the north has become an economic colony of the south”, and that Indigenous communities were particularly overwhelmed by external pressures (Fahlgren and Ontario, 1985: 8-1). The RCNE Report recommended that “they and other northerners need to specify “their own development goals, objectives and priorities”, and “devise planning programs of their own in which all northern interest groups having a stake in northern development can take part” (Fahlgren and Ontario, 1985: 8-1). The RCNE Report subsequently detailed a framework for “comprehensive community planning by native communities” (1985: 8-1), along with the key recommendation to “establish a single, specific legislative base” (Fahlgren and Ontario, 1985: 8-27) for planning north of 50.

The work of the Fahlgren with the RCNE was commendable for expanding the scope of the inquiry from a concentration on Treaty 3 lands, as instigated by the West Patricia Land Use Plan, to include Treaty 9, and for devoting substantial resources for First Nations and organizations to be involved (Driben, 1986). However, the appointment of Fahlgren, a former mining executive, was met with scepticism by First Nations’ leadership. Relations were further strained when Fahlgren initially refused to grant the Grand Council of Treaty 9 standing in the hearing process, to which the Council reacted by refusing to take part in the hearings after the Ontario Courts backed their inclusion (Driben, 1986). Further, the Commission sidestepped Aboriginal and Treaty Rights issues, despite their recognition in the newly patriated Canada Act and the Canadian Charter of Rights and Freedoms in 1982. Instead the issue of First Nations’ land use was addressed on “strictly on economic and humanitarian grounds” (Driben, 1986: 61). Thus, the work of the Commission fell far short of the expectations of First Nations as many key issues remained unresolved or unexplored. Any comprehensive and inclusive approach to LUP

remained stalled in Ontario north of the 50th parallel until the Far North Initiative would later revive the RCNE recommendations.

4.2.3 Lands for Life and Ontario's Living Legacy Land Use Strategy

While planning and development in the northernmost regions of Ontario fell off the political priorities for the provincial government following the RNCE Report, reforming Crown land planning elsewhere in the province rose on the agenda in the 1990s. Ontario lands to the south of the 51st parallel underwent a comprehensive LUP process called Lands for Life instigated by the Conservative Mike Harris government, and led by the MNR. The Lands for Life process ran from 1997-1999, including public hearings that began in September of 1997 and ended in June of 1998 (Ballamingie, 2009). The process culminated with the creation of Ontario's Living Legacy Land Use Strategy and the tripartite Forest Accord agreed to by the forest industry, conservation organizations, and the province. The intent of the Lands for Life process was to respond to pressure from environmental groups for stronger protection in northern Ontario, while still supporting northern resource extraction. The specific goals were: to complete the parks and protected areas system; provide certainty of access and supply for the forestry and mining industries; to designate areas for the tourism industry; and the goal of providing sport hunting and fishing opportunities was later added (Cartwright, 2003). The initiative was a surprising acquiescence to environmental concerns from a government that otherwise was perceived to view environmental regulation as an impediment to its economic priorities.

However, the Lands for Life process, which instituted LUP that enshrined protection for 12% of Crown lands and committed the remaining 88% to primary resource extraction

northward to what at the time was regarded as the limits of commercial forestry, gave only marginal recognition to the distinct standing of First Nations (Ballamingie, 2009; Weis and Krajnc, 1999). Crafted without significant input from First Nations, the process for planning under Lands for Life lacked any substantive recognition of Aboriginal and treaty rights, and provided no role in decision-making for First Nations despite the considerable implications for traditional territories (Ballamingie, 2009; Weis and Krajnc, 1999). Aboriginal peoples were instead treated as stakeholders whose participation was not considered necessary by the province in order to move forward on LUP. Due to their weak roles, all four Aboriginal Provincial Territorial Organizations, which included the Association of Iroquois and Allied Indians, the Union of Ontario Indians, Grand Council of Treaty 3, and Nishnawbe Aski Nation (NAN), withdrew from the Lands for Life process in 1998 (Burlando, 2012). Indigenous leadership in these organizations cited the lack of proper consultation with their member communities, and failure to recognize the government-to-government relationship (Burlando, 2012). In fact, Patricia Ballamingie argues that the questions that the Harris government intended public consultation to answer ensured that “the only acceptable outcomes for First Nations were denied by the government”, which meant “their engagement would have legitimated an outcome unfavourable to their interests” (2009: 84). In other words, participation would have meant accepting the role of just another stakeholder, and implied consent to a process that deepened the colonial relationship. Therefore, as Weis and Krajnc pointed out, the resulting Lands for Life process was marked by the “complete exclusion of First Nations peoples from the planning process and the failure of the settlement to increase their land and managerial rights”—issues that were “almost completely absent from the public debate on Lands for Life” (1999).

Very weak recognition of Aboriginal and treaty rights continued in the Living Legacy Strategy, announced in March of 1999 along with the Forest Accord. Roles for Indigenous communities amounted to little more than promises to hear the concerns of First Nations and Metis organizations, and consider minor accommodations before Ontario would make final decisions. The locations of protected areas were decided by the MNR in closed door discussions with their Forest Accord partners who represented large forestry companies and the Partnership for Public Lands coalition of environmental organizations (Ballamingie, 2009). Even with the expansion of protected areas, the vast majority of Crown lands remained available to resource extraction (Ballamingie, 2009). The result of the Lands for Life process for the affected First Nations has been subjection to “a land use strategy that was completed without their consent, and that enabled access to development—including protected areas—on their lands” (Burlando, 2012: 111). Where collaboration with environmental organizations helped block the granting of forestry rights and the West Patricia Land Use Plan in the 1970s and 80s, the Partnership for Public Lands complicity with industry and the MNR in the Lands for Life program alienated First Nations from the process³². LUP reform ensured future conflicts with First Nations as provincial priorities dominated planning decisions, and strained relations with environmental organizations as they too ignored the rights and interests of First Nations to expedite their own priorities. It has left a legacy of conflict and mistrust as Indigenous peoples in Ontario have regularly needed to resort to direct action to protect their lands.

³² Whereas in other contexts First Nations and environmental organizations have been key allies (see Davis, 2009, for examination of costal Indigenous/environmental groups relations on the British Columbia), the particularly poor track record of relations in northern Ontario is unique (see Burlando, 2012).

4.2.4 The Northern Boreal Initiative and the Northern Tables Process

Despite poor consideration of the interests of First Nation's communities in the Lands for Life process, Indigenous peoples north of the planning boundary continued to press Ontario to work in partnership on LUP. Planning in the mostly undeveloped north took on greater urgency with the mining exploration boom that began in the 1980s. Mineral exploration resulted in the opening of two major mining operations—the Goldcorp Musselwhite gold mine in 1997, and the DeBeers Victor diamond mine in 2008. Increasing attention on the Far North as a mining frontier continues through today with the so-called Ring of Fire (Wawangajing) dominating discussions of northern development in Ontario. In addition, pressure for economic development in the north has increased as Ontario's place as an economic engine of Canada slipped, becoming a receiver of equalization payments from the federal government for the first time in 2009 (Gardner et al, 2012). First Nations have long been calling for infrastructure to support community development, and the mining industry has lobbied for infrastructure to support development of its operations. The Far North also saw greater attention as an area of significant concern to environmental organizations who valued its largely undeveloped character, particularly for species protection and as a carbon sink to help offset the impacts of climate change.

Launched by the MNR in 2000, the Northern Boreal Initiative was a modest attempt to provide a more inclusive avenue for land-use planning in First Nation's territories, in areas of potential commercial forestry north of the Living Legacy lands (NBI, 2001) (see Figure 4). The Northern Boreal policy framework supported a community based LUP approach in partnership with the provincial government (NBI, 2001). Community based planning shifted the focus of planning from imposed external decisions that were made without substantive community input;

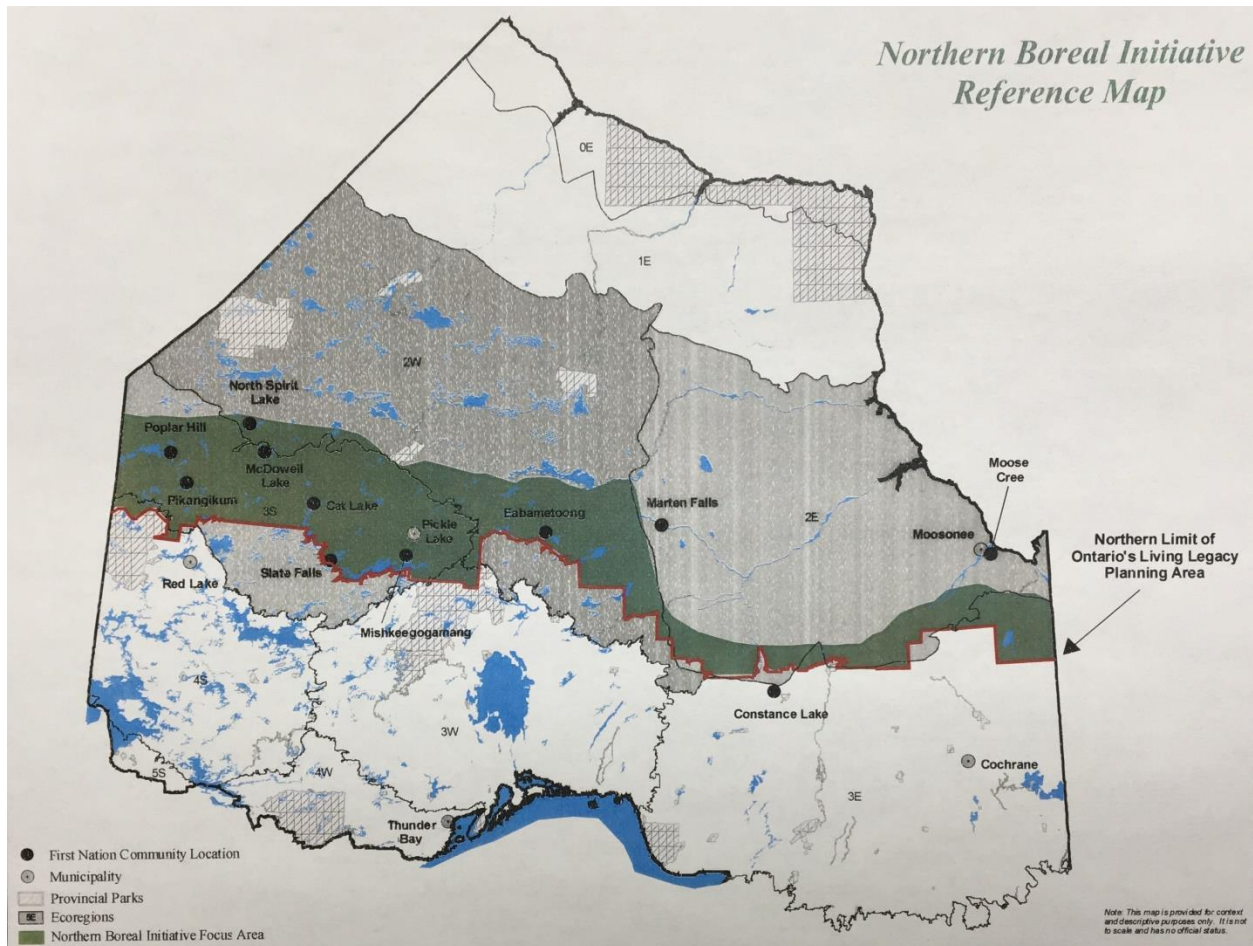


Figure 4. The Northern Boreal Initiative focus area (shaded green). Source: Northern Boreal Initiative (NBI) (2002).

to processes that better incorporated the active participation and choices of communities (Mannell et al., 2013; Burlando, 2012; Booth and Muir, 2011; Glover et al., 2008; Hibbard et al, 2008; Lane and McDonald, 2005; Lane and Corbett, 2005). The Northern Boreal Initiative defined its approach to community based LUP as “founded upon sharing responsibilities, applying local knowledge in decision-making, and full consultation” (NBI, 2002: 1).

Nonetheless, the experience of community based planning in practice has often reflected some of

the same characteristics as conventional state-driven planning process. Governments can effectively retain control of community based models of environmental management by controlling the parameters for management (Booth and Muir, 2011), and by controlling the funding arrangements that communities need to access in order to fulfill their roles (Lane and McDonald, 2005; Lane and Corbett, 2005).

Given that community based planning under Northern Boreal was a Government of Ontario initiative, there was much concern amongst First Nations that the new process would not serve their interests. The initiative, like previous LUP initiatives, was developed without First Nations' input, leaving communities "skeptical and distrustful" of the new process and its implications (Casimirri, 2013: 8). A major impetus for the Northern Boreal Initiative was to offset the loss of timber supply from protected areas established in the Lands for Life process, and LUP in the Far North was committed to in the 1999 Forest Accord (Casimirri, 2013). The Forest Accord called for "orderly development" north of the Lands for Life planning area contingent on full agreement with affected First Nations (Casimirri, 2013). With the Ontario government setting the agenda, Northern Boreal was initially criticized by NAN for sidestepping treaty rights. However, NAN later supported the initiative as negotiations with the Ontario government became marked by bilateral, government-to-government relations at the Northern Tables (discussed below) (Burlando, 2012). Despite the fact that Ontario introduced Northern Boreal, First Nations in the north did see "the potential for more meaningful collaboration and partnership development" (Casimirri, 2013: 8) with the provincial government, given the dismal experience with Lands for Life. With the Northern Tables and a community based LUP process, the possibility appeared to be present to shift planning from a colonial administrative framework to something more reflective of shared decision-making as agreed to in the treaties. Pikangikum

First Nation had already begun its Whitefeather Forest Initiative in 1996 and started working with Ontario under Northern Boreal's community based planning provisions in 2001. Several other First Nations communities in the region also began exploring community based LUP in conjunction with the Northern Boreal Initiative.

Broad scale planning and development issues remained a concern for all interests in the north. The Northern Tables –originally one table –were officially launched in 2006 by NAN and the Ontario government as a forum for wide ranging issues affecting economic development and the well-being of northern First Nations (Ontario, March 21, 2006). According to then Minister of Natural Resources David Ramsey (who was also the Minister Responsible for Aboriginal Affairs that did not have its own stand-alone ministry until the following year), establishment of the Northern Table “fulfills one of Ontario's key commitments under the New Approach to Aboriginal Affairs” (Ontario, March 21, 2006). Several technical tables were added to deal with more specific issues, including one for LUP. The planning table worked on developing a joint initiative between NAN and the province in which “community-based, and community-led, land use planning (would) be simultaneous with broader scale planning” (NAN, October 2, 2007). NAN in its newsletter noted they were considering what to name the joint planning initiative under what was now the plural Northern Tables process, and considered Ontario to be onboard with a partnership approach to planning (NAN, October 2, 2007).

However, the community based approach and bilateral negotiating framework of the Northern Boreal Initiative was opposed by conservation organizations. The Canadian Boreal Initiative launched a framework for boreal forest conservation in 2003 in which they identified the goal of protecting at least 50 percent of the boreal forest in Canada. They and other supporting environmental organizations argued for a more comprehensive approach that would

ensure the protected areas target of 50 percent could be met. The Sierra Club of Canada published a Report Card on forestry in Ontario in May of 2006, in which it gave the Northern Boreal Initiative a failing grade, characterizing it as a “piecemeal approach” (in Burlando, 2012: 297). The situation in Ontario differed from that of BC where environmental groups were highly supportive of First Nation’s rights and responsive to the development needs of First Nations communities. Conflicts over resource management in Clayoquot Sound demonstrated to environmental groups the need for respectful collaboration with First Nations as “an essential, and potentially powerful, element in crafting lasting solutions” (Low and Shaw, 2011). The model for collaboration developed in Clayoquot Sound carried over into other campaigns, most notably in the Great Bear Rainforest where BC’s logging practices were successfully challenged (Low and Shaw, 2011). But in Ontario, conservation organizations were suspicious of the economic development priorities of First Nations. Therefore, despite the improvement in bilateral negotiations at the Northern Tables, they began to be undermined as environmental organizations bypassed negotiations with First Nations, and directly lobbied the province “to undertake broad-scale land use planning policy in the Far North Region” (Burlando, 2012: 126).

When the original time frame for the Northern Tables expired, NAN agreed to continue bilateral negotiations with Ontario, rebranded as the Oski-Machiitawin Dialogue. For NAN, the change in name was to signal increased emphasis on government to government negotiations founded on Treaty relations (Burlando, 2012). NAN also demanded that the province stop issuing resource development licenses and permits within its territory until a mutually agreed framework could be negotiated. The province agreed to the Oski-Machiitawin Dialogue, but not to a moratorium on resource development. Thus, conflicts over development in the north continued to put a strain on negotiations. The tables were suspended in April of 2008 by NAN

Grand Chief Stan Beardy following the arrest of KI First Nation's Chief and Council on March 17 for actions against mining exploration by Platinex in their territories. KI had been sued by Platinex for \$10 billion and had incurred debts of over \$700, 000 defending its territories in court (Peerla, 2012). They were jailed for refusing to obey a court order that prohibited KI First Nation members from interfering with mining activities in their territory after KI withdrew from the legal process that was bankrupting the First Nation (Peerla, 2012). The Northern Tables process recommenced in May of 2008 following the release of KI First Nation's members; however the KI and Platinex dispute, coupled with simultaneous conflicts between Ardoch First Nation and Frontenac Ventures in south eastern Ontario that also resulted in arrests, and continuing conflicts in Grassy Narrows territories, signaled the need for deeper legislative changes in how Ontario approached resource development. The conflicts also demonstrated the substantial limitations of provincial recognition of Indigenous rights to adequately support the ability of First Nations to affect decisions impacting their homelands.

4.3 The Far North Initiative

Faced with these pressures, the Ontario provincial government launched the Far North Community Based Land Use Planning Initiative in July of 2008. The stated purpose was to direct economic development, support conservation, and address Aboriginal and treaty rights through community based land use plans in the massive 450,000 square kilometer far north region—an area that represents over forty percent of the province (MNR, 2011). Modernizing the Mining Act and developing a framework for resource benefit sharing was also promised. The centerpiece of the initiative would be development of the Far North Act, first introduced as Bill 191 that enabled the community based LUP process. Drawing somewhat from the community-

centered planning framework of the Northern Boreal Initiative, it was also presented as a distinctly different planning process than what had occurred previously in the south as the concerns of First Nations were considered central to planning processes. The announcement was met with optimism from First Nations, with NAN Grand Chief Stan Beardy calling it “good news for the people of Nishnawbe Aski, as it will require that First Nations be fully involved in resource development in our traditional territory” (in Wawatay News, July 24, 2008). However, the support evaporated with the introduction of Bill 191 as First Nations and their organizations argued the proposed legislation worked against a partnership approach to planning. The following examines the Far North Initiative process as the legislation was developed and subsequently passed as the Far North Act by the Ontario legislature.

4.3.1 The Consultative and Legislative Process

Following the Premier’s announcement launching the Far North Initiative, two advisory groups were established to support the initiative and the development of legislation. First, the Far North Plan Advisory Council began meeting in September of 2008, and included representation from conservation organizations, forestry and mining industries, and was chaired by the Assistant Deputy Minister of Natural Resources David de Launay (FNPAC, 2009). The Far North Science Advisory Panel was later established in December of 2008, comprised of experts with the mandate to “provide scientific and technical advice on how to achieve the government’s vision for the Far North” (2010: 2). Neither group explicitly included Indigenous representation, and both reported directly to the MNR. Thus, rather than a planning partnership, the early development of Bill 191 placed First Nations on the sidelines, leaving recommendations for their roles in planning in the development of legislation to others.

Therefore, when Bill 191 was introduced to the provincial legislature on June 2, 2009 for first reading, it was drafted without direct involvement by Indigenous organizations or communities. This was seen by NAN as a betrayal of the Oski-Machiitawin Dialogue at the Northern Tables, where two years of work on a framework to guide legislation was still incomplete (Gardner et al., 2012). Further, NAN argued that the accomplishments at the Tables were not reflected in Bill 191 (Gardner et al., 2012). In order to placate anger from First Nations, the provincial government assured those affected that there would be greater opportunities for consultation in the development of the legislation, beginning with an expanded Standing Committee hearing process after the first reading. First Nations and their organizations envisioned their role as crucial for developing the framework for planning in partnership with the province. However, the Standing Committee process for Far North treated First Nations and NAN as stakeholders. The Standing Committee meetings in the summer of 2009 that were intended to consult with the public and Aboriginal communities were not held in any First Nations' communities located in the Far North, and dates overlapped with NAN executive Council elections³³. Thus, Indigenous communities affected were granted limited opportunities with few concessions to comment on, but not design Bill 191.

The hearings in 2009 demonstrated strong support for the Bill by environmental organizations, as it included the 50 percent protection pledge. It was this same protection pledge that both mining and forestry industry associations drew attention to in their opposition the proposed legislation. However, both industry and conservation representatives were in agreement that there needed to be stronger mechanisms in place for First Nations' participation in LUP decision making. The support for increased roles for First Nations reflected the need for

³³ The Standing Committee on General Government met during the summer of 2009 to discuss amendments to the Mining Act (Bill 173) and the newly introduced Far North Act (Bill 191). Hearings were held in Toronto (August 6), Sioux Lookout (August 10), Thunder Bay (August 11, and Timmins (August 13).

industry and environmental organizations to be responsive to Indigenous demands for both public messaging and legal requirements. In fact, many of the presenters attempted to justify their contentions and recommendations in terms of how they reflected the interests and demands of First Nations. For example, the Ontario Forestry Industry Association (OFIA) representative Scott Jackson claimed that rather than “our opportunities”, he qualified Far North planning “first and foremost as First Nations opportunities” (in Standing Committee, Aug. 6, 2009: G-818). The OFIA supported the Advisory Committee’s recommendation for the establishment of a board with equal First Nations and government representation to oversee planning. Canadian Boreal Initiative (CBI) representative, Larry Innes, argued that the Far North Initiative announcement needed to be understood within the context of the 2007 United Nations adoption of the Declaration on the Rights of Indigenous Peoples (Standing Committee, Aug. 6, 2009). Thus, the principle of “free, prior and informed consent” (in Standing Committee, Aug. 6, 2009: G-841) enshrined in the Declaration needed to be recognized in the legislation. Innes’ contention was that Bill 191 did not “give First Nations the leadership role that is required in determining what areas are to be developed and what areas are to be protected” (in Standing Committee, Aug. 6, 2009: G-842). Innes, like OFIA, argued that the mechanism for planning needed to be the establishment of a board that would “facilitate a consensus outcome that respects, obviously, the paramount interests of a community” (Standing Committee, Aug. 6, 2009: G-824). The model for planning proposed by OFIA and CBI, and recommended by the Advisory Council in which both organizations took part, was for a regional board to facilitate planning and take decision making out of the hands of ministerial discretion.

NAN in its presentation condemned the legislation outright. Grand Chief Stan Beardy indicated that the Nishnawbe Aski chiefs-in-assembly gave the direction “to take all steps

necessary to stop the bill from becoming law” (Standing Committee, Aug. 6, 2009: G-828). They, along with the Grand Council of Treaty 3, expressed that the hearings did not qualify as consultation as the process treated First Nations and their organizations as stakeholders. However, several representatives from First Nations’ communities were giving qualified support for the Bill. They too objected to their treatment as stakeholders in the hearing process, but most of the communities who did present at the hearings were willing to proceed if a government to government partnership approach was incorporated into the Bill. But the fact remained that the majority of First Nations communities in the Far North did not present at the Standing Committee hearings, and those that did were highly critical of the process. The timing, location, and capacity of communities to respond all created barriers to their participation, and as then Attawapiskat Chief Theresa Hall noted, the format of committee hearings created cultural barriers as well (Standing Committee, Aug. 13, 2009).

Mushkegowuk Council Grand Chief Stan Louttit in his presentation prefaced historic commitments in the Rupert’s Land 1869 protection pledge and Treaty 9 while holding a copy of George MacMartin’s –Ontario’s Treaty 9 representative –recently uncovered diaries (Standing Committee, Aug. 13, 2009). Louttit noted that Mushkegowuk Council decided at the previous year’s general assembly to produce a regional plan led by member First Nations (which will be discussed in detail later in the chapter). Bill 191 posed problems for their planning initiative by splitting the territory and allowing claim staking and mineral exploration to continue as usual before land use plans were complete (Standing Committee, Aug. 13, 2009). Rather than dismissing the pledge to protect 50 percent of Far North lands, Louttit recognized the pledge as a favorable indication of Ontario’s willingness to limit resource development. Of the target, he indicated that “Mushkegowuk may agree to more or less protected areas in their territories, but

this cannot be imposed by the province before the planning process begins” (Louttit in Standing Committee, Aug. 13, 2009: G-984). Thus, the spirit and intent of the Rupert’s Land protection pledge and Treaty 9 is what Louttit argued was needed to guide their relationship with Ontario in planning, which was not reflected in Bill 191 at the time (Standing Committee, Aug. 13, 2009).

The Ontario government did take the initiative to host the Planning Together Workshop prior to the second reading from May 4-6, 2010, organized by the MNR in Thunder Bay, Ontario. The event was significant for sharing of information and assertions of political positions. Still, many of the representatives of First Nations’ communities and organizations repeated in their addresses that their participation in the conference did not constitute consultation. The Workshop saw presentations by Constance Lake, Pikangikum, Cat Lake and Slate Falls, and Pauingassi/Little Grand Rapids First Nations, who were each already advanced in their own separate LUP negotiations with the province, and the Science Advisory Panel gave a presentation summarizing its findings. The Workshop was opened by keynote addresses from NAN Grand Chief Stan Beardy, and from MNR Deputy Minister David De Launay. Grand Chief Beardy drew attention to the supposed partnership that the Far North Initiative promised. He noted that when the Far North announcement was made, the term partnership was used to suggest First Nations would be in the driver’s seat, but that changed to “a significant role” (in Ontario, May 4-5, 2010: 7). Beardy acknowledged that NAN had consulted with the province at the Northern Tables, albeit an unfinished endeavor. But Beardy did not consider that consultation sufficient as the Standing Committee had not held hearings in Far North communities. Thus, he echoed the widely held sentiment that the legislation was premature with many issues in need of attention. For example, Beardy argued that the concept of overlapping areas was inappropriate and should be changed to shared areas. This issue was more than simply

semantics, as coming to agreements on shared lands would require significant time and numerous First Nations working together. The issue, which is integral to the governance of traditional territories, is overlooked in the first draft of the Bill where overlapping territories is presented as a technicality within the process of planning. Beardy further argued that the \$30 million budgeted at the time was far from adequate, and makes the claim that the money largely was spent on assembling a bureaucracy for the Far North, with only \$5 million going to communities (in Ontario, May 4-5, 2010). Beardy concluded his address by remarking that people have worked unsuccessfully on planning issues since the “failed West Patricia Land Use Plan”, and that “only our people will make this work and only if they have authority and jurisdiction over the lands” (in Ontario, May 4-5, 2010: 7). Thus, from Beardy’s vantage point, significant investments and a stronger framework to ensure first Nation’s role in decision-making were needed before LUP legislation could advance.

MNR Deputy Minister David De Launay in his address agreed with Beardy that fundamental points of disagreement remain between NAN and Ontario (in Ontario, May 4-5, 2010). However, he pointed to future consultations that were expected to occur in the legislative process to address differences, and asserted that the Bill would change from its present form to reflect that consultation (in Ontario, May 4-5, 2010). For example, frameworks for protected areas under Far North legislation needed to be worked out, and De Launay assured participants that protected areas under the legislation would not necessarily be parks as more culturally relevant forms of protection would be developed (in Ontario, May 4-5, 2010). These protected areas would certainly require more flexible regulations to allow for traditional activities, changing ecological conditions, and priorities of First Nations. But the issue of how First Nations could protect their homelands and support traditional practices –the cornerstones to

practicing treaty rights –through Ontario’s LUP process, which assumes extractive resource activities will drive economic development in the Far North, was not clear to First Nations. But what was clear is that First Nation’s territories in the Far North were immensely valuable to both resource development and environmental protection advocates. For example, the Science Advisory Panel in its preliminary findings noted that in the Ring of Fire there were 35,386 staked claims in March of 2007, which ballooned to 90,579 by March of 2010, placing tremendous development pressures on the region. Further, the Panel noted that the value of carbon stored in peatlands by their estimate was \$1.5 trillion, but did not raise the question of how to translate that value into the economies of First Nations and Ontario.

Following the first round of Standing Committee hearings and just prior to the second reading, a motion was passed in the Legislative Assembly of Ontario to allocate four days of hearings in the First Nations’ communities of Slate Falls, Webequie, Sandy Lake, Attawapiskat, and in the municipality of Moosonee adjacent to Moose Cree First Nation (Gardner et al., 2012). These hearings were to constitute Aboriginal consultation following the second reading. However, the hearings this time were scheduled at the same time that Mushkegowuk and Matawa Councils were holding their general assemblies in Chapleau, despite the Ontario government being informed of the conflict before the scheduling motion was passed (Gardner, et al., 2012). As a result, the hearings were cancelled without rescheduling, and Bill 191 passed second reading on June 3, 2010, and advanced to the third and final reading without any further consultation, and at no point did hearings take place in First Nations located in the Far North (Gardner et al., 2012). Thus, the expanded opportunity of public hearings after first reading became the only opportunity for First Nations and their organizations to present to the Standing Committee. The Planning Together workshop remained the last significant gathering for all

affected communities to discuss Bill 191, and the further consultations De Launay referred to never happened. This greatly limited the already weak framework for Far North First Nations to respond to the legislation.

In early September of 2010, as Bill 191 approached the third and final reading with its passage seemingly inevitable, Mushkegowuk Council hosted the Aski Nana Ga Che Ta Win “Caring for the Land” Conference in Timmins. The conference was the last chance for Mushkegowuk Council and communities to meet together and with the Province before the clause by clause reading and consideration of final motions on Bill 191 commenced. Exchanges at the conference indicated that Mushkegowuk Council and the province remained far apart on major issues, and the process that was flawed from the start remained a primary source of opposition. Despite Ontario’s assurances that the Bill recognized Aboriginal and Treaty rights, Mushkegowuk leadership remained unconvinced. The minutes quoted Grand Chief Stan Louttit, who argued that “the Ontario Government does not have the foggiest idea of what Aboriginal and Treaty Rights are”, and “to simply say we recognize Aboriginal and Treaty Rights, is just not good enough” (in MC, September 16-17, 2010: 16-17). He also asserted that it is not up to the government to define those rights, and First Nations that exercise those rights can help expand on the legislation (MC, September 16-17, 2010). Louttit clearly saw the imminent legislation as a missed opportunity to for Ontario to implement shared decision-making that reflected the oral agreements of Treaty 9.

Ontario countered with the argument that planning as outlined in Bill 191 was dependent on First Nations’ approval, ensuring their interests would be served. Linda Jeffery, Minister of Natural Resources at the time, is noted in the minutes as stating, “it must be made clear that this Bill (Bill 191) must be read through the lens of your Treaty Rights and the rights guaranteed to

you in Section 35 of the Charter of Rights and Freedoms” (in MC, September 16-17, 2010: 27).

She further argued that in making First Nations’ approval a legal requirement to move forward with LUP in the Far North, “the first time in Ontario’s history that the government is prepared to make this type of commitment...is a good first step” (in MC, September 16-17, 2010: 27).

Jeffrey recognized that “First Nations have protected these lands for generations and you have a sacred trust to protect the land for future generations” (in MC, September 16-17, 2010: 28).

Jeffery indicated that Ontario was proposing changes to Bill 191 that would clarify that First Nations would lead work on the Far North Land Use Strategy with Ontario, and review permitted uses in existing parks and in future protected lands to better reflect traditional activities and interests (in MC, September 16-17, 2010). She also recognized the right of First Nations to decide where and when projects will proceed –but did not say they could decide *if* projects proceed –which could occur concurrently with LUP (Jeffery in MC, September 16-17, 2010).

The Bill would clarify that community based plans have legal standing over other policies affecting land use. The province was also proposing changes to the Joint Body that would oversee planning and make recommendations to government, which on final reading would be made up of 50% each of First Nations and Ontario Government representatives.

The changes to the legislation outlined by Jeffrey were intended to address the concerns of First Nations; however, tribal organizations had not yet formally consulted with the Minister. The Matawa and Mushkegowuk Chiefs prepared a statement the previous day for Jeffrey without knowledge of the proposed amendments. In light of the Minister’s comments, they asked for postponement until they could have further consultation, and Jeffrey responded that a draft of amendments would be sent out for comment. The exchange reinforced the notion that while Ontario might be listening, it was making all the decisions on the legislated framework on its

own –not in partnership with First Nations or with Mushkegowuk Council. Ontario was in full control of the legislative process despite the rhetoric by the province that Bill 191 is intended to create a partnership.

The Standing Committee met for final considerations on Bill 191 from September 13-15, 2010, amid First Nations' protests supported by northern mayors and both opposition parties, with all calling for the Bill to be recalled (McLaren, 2010). The promised second round of consultations never did occur, and the perception was common among those in the north of Ontario that Bill 191 catered to southern priorities. It is only at the final round of debates that the Standing Committee directly raised the issue of Ontario's jurisdiction under the treaties. MPP Gilles Bison pointed out that "First Nations don't accept that they've ever ceded the land", and thus, the question of "who in the end has paramountcy over the decisions of what happens in the land" needed to be resolved before planning could begin (Standing Committee, Sept. 13, 2010: 102). The final considerations contained many statements about the strength of First Nations' roles in Bill 191, with Jeffery asserting "it's historic and it's a different way of doing land use planning" (Standing Committee, Sept. 13, 2010: 120). The Chair of the Standing Committee, David Oraziatti, even went so far as to affirm that "the First Nations that are our partners in this province and have jurisdiction over this territory, who are here today, are the individuals who should be making the decisions around their land use planning" (Standing Committee, Sept 15, 2010: 127). Clearly the rhetoric of the committee had come a long way from its beginning where even the attendance of First Nations was not deemed necessary; however, the ability of Bill 191 to enshrine the principles of partnership and recognition of Treaty rights and Indigenous jurisdiction was still largely suspect.

The Ontario legislature passed the Far North Act on third reading on September 23, 2010, despite the inability of the provincial government to address significant criticism from Aboriginal leadership. First Nations community representatives from across the north argued that consultation processes were incomplete and did not constitute free, prior and informed consent, and that the veto power of provincial ministers did not acknowledge their Aboriginal and treaty rights. Strongly opposed by NAN, Grand Chief Stan Beardy asserted just prior to it passing that Bill 191 violated the Treaties (9 and 5) and disrespected First Nations jurisdiction. Beardy asserted that “we will continue to work on local land use planning initiatives based on our jurisdiction. If Bill 191 passes, NAN will NOT recognize it” (in Burlando, 2012: 134). Colonial relations remained embedded in the Far North Act even though planning is community based. It is the province that has set the parameters within which communities can participate, and holds veto power over community decisions, meaning that planning is still characteristic of a state directed top-down hierarchical process. Within this model for environmental decision-making, Indigenous communities are restricted in their planning options, and they played little part in setting the overall vision and strategy for the initiative.

The Standing Committee on General Government was clearly an inappropriate mechanism to address Indigenous concerns. The structure of the committee that allowed for 15 minute presentations to an authoritative panel of provincial MPPs unmistakably placed Ontario in the position of sole decision-maker. Travel to First Nations communities would not likely have changed that dynamic where Committee members held all the authority. In fact, the Committee, with noted dissent by MPP Gilles Bisson, in opening the August 6th hearing in Toronto was unfazed by the inability of many First Nations and their organizations to attend. To the Committee, as long as they had made some effort to involve First Nations’ communities, such as

through live streaming, that was sufficient –their actual participation was unnecessary. But the unwillingness of the committee to even consult with First Nations on scheduling galvanized the Bill’s appearance as a unilateral and colonial instrument of the Ontario government to gain control over Indigenous homelands. Despite this, Committee hearings were defended by Bill Mauro as adequate consultation to move forward with the legislation. This form of consultation was deemed insufficient at best by First Nations’ communities and organizations. Ontario’s position was that through their engagement with NAN at the Northern Tables, the legislative process, and ongoing meetings and workshops organized by the MNR, they had fulfilled their duty to consult and accommodate on the legislation. Further, consultation would occur at the community level in the future supported by the Far North Act. However, direct consultation on the substance of the Far North Act in partnership with First Nations’ peoples was largely non-existent. Instead of a co-planning regime based on treaty partnerships formalized in both Treaty 9 and Treaty 5 territories in the Far North, the Far North Act provides for community based planning within the institutional hierarchy of the Ontario government. In this sense, although much more expansive, Far North was seen as a regression from the partnership approach developed under Northern Boreal and at the Northern Tables.

4.3.2 Land Use Planning Under the Far North Act

With the passage of the Far North Act in September, and its enactment on October 25, 2010, the framework for LUP that the Province of Ontario would support and enforce was now set for the Far North region. The Far North Act continued the trend of legislation, such as the Green Energy Act (2009), the Mining Amendment Act (2009), and the Provincial Parks and Conservation Reserves Act (2006), which saw Ontario explicitly recognize Aboriginal and treaty

rights (McLeod et al., 2015). Rights have been primarily addressed in non-derogation clauses, but the Far North Act also legislated specific arrangements with First Nations which surpass the stakeholder positions that has largely defined past participation. The Far North Act specifically addresses joint planning processes between Ontario and first Nations' communities in a rights context, recognizing the basis of First Nations' roles in planning as more than the goodwill of the government.

Revisions to the Act that were a result of the Standing Committee hearing process included the explicit recognition in the purpose of the Act of Aboriginal and treaty rights, and the vision statement for a joint planning process between First Nations and Ontario,. The target of protecting 50% Far North lands from development remained as an objective of the Far North Act, but without specific mechanisms or requirements for that goal to be met. While this can be interpreted as removing mandatory protection targets from community plans to at least partially address First Nations' opposition to the declared goal, it also removes protection limitations from specific development initiatives, such as the Ring of Fire. The result is that the Far North Act would be unlikely to impede Ontario's development priorities for the Far North no matter how extensive.

One of the major components of the Far North Act is the outline for the process of establishing a "Joint Body" to oversee Far North planning. The Act gave a six month window for First Nations to indicate their interest in entering discussions with the Minister of Natural Resources on the establishing a Joint Body that would be comprised of an equal number of First Nations and from the provincial government representatives. The Joint Body's role would be to recommend to the Minister policy statements on Far North planning, and give advice on "development, implementation, and co-ordination of land use planning in the Far North"

(Ontario, 2010: Sec. 7). It would also potentially be responsible for allocating funding and managing dispute resolution processes. Thus, the potential Joint Body would hold a significant role in overseeing planning and development under the Far North Act. But the Act did not make the establishment of the Joint Body mandatory –only if Ontario and participating First Nations could agree, otherwise the functions would remain with the MNR.

In conjunction with establishing a Joint Body, the Act gave direction for the development of a “Far North Land Use Strategy” (Ontario, 2010: Sec. 8). The Strategy was expected to “assist in the preparation of community based land use plans” under the Far North Act, and to “guide the integration of matters that are beyond the geographic scope of the planning area” for individual community based plans (Ontario, 2010: i). The strategy would establish the regulations for amending community based plans, and set the categories of land use designations for both development and protected lands. The Act indicated that the Joint Body may make recommendations on the Strategy as one of its primary functions. But as the Act did not require the Joint Body to be established for the Minister to proceed with developing the Far North Land Use Strategy, there were no assurances that First Nations would be directly involved.

The process for developing community based plans outlined in the legislation would begin with establishing a First Nation and Ontario “Joint Planning Team” to develop a terms of reference and subsequent draft land use plan (Ontario, 2010: Sec. 9). There are also mechanisms to recognize planning initiatives that were already underway, with Pikangikum’s Whitefeather Forest *Keeping the Land* Strategy explicitly mentioned in the legislation as constituting a community based land use plan under the Far North Act (Ontario, 2010). Community based plans were required to specify land use designations, which the Strategy would prescribe once developed. The Act did allow for First Nations to include more culturally relevant

considerations in developing their Community based plans in addition to what was prescribed by the Act. The plans would take effect once all First Nations' councils that were party to a specific plan passed a resolution indicating their approval, and the plan was granted approval by the Minister of Natural Resources.

As LUP has moved forward in the context of the Far North Act, it has remained the province's contention that the Act is a step forward in a renewed relationship that began to be substantively developed following the divisive Lands for Life initiative. The MNR viewed planning under Far North as an extension of a process that began with the Northern Boreal Initiative. The commitment by the province to revenue sharing, revisions to the mining act, and community based LUP legislation announced in 2008 greatly expanded what the Northern Boreal Initiative began. The MNR's Chris Marr stated that he took a pragmatic view of community based planning, as "how it works on the ground is important, not necessarily the wording of the Act", which has generated much of the political confrontation (May 7, 2014). Marr argued that it was the communities driving decisions in community based plans, and that they were exercising much more control than the Act necessarily suggested (May 7, 2014). He noted that communities which had begun planning negotiations with the province under Northern Boreal were further ahead in the Far North process, but most First Nations' communities in the Far North region were working with the province at some level (Marr, May 7, 2014).

There was much conceptual agreement between first Nations and Ontario on what the Far North Act tried to accomplish. Significantly, the Act instituted a joint process between the Crown (represented by the government of Ontario) and First Nations, led by First Nation communities and requiring joint approval, and utilizing both Western Science and Indigenous Knowledge to inform decision making. This is a dramatic change in First Nations' engagement

with planning processes that have occurred in the south. Because of the substantial improvement in their roles, several First Nations have initiated planning with Ontario under the Far North Act, with three completed land use plans thus far³⁴. It is significant that the emphasis in drafting the Far North Act shifted from addressing environmental protection to addressing First Nations' participation. Some environmental organizations supported this shift, particularly those who had long standing relations with northern First Nations, such as the Canadian Boreal Initiative and the Wildlands League, despite their earlier lobbying of the province for the 50% protection pledge. David de Launay noted that the Advisory Council to the Far North Initiative came a long way towards understanding the concerns and demands of First Nations, and helped craft more nuanced legislation (May 30, 2014). As such, much of the documented discourse in the Far North process demonstrated significant efforts at recognition and reconciliation of First Nations' rights and interests.

Nonetheless, First Nations' continued to be guarded and skeptical of provincial motivations. The view remained widespread that First Nations were being subjected to the provincial legislation in violation of their inherent and treaty rights. Thus, a great deal of resentment and mistrust continued to characterize relations between Indigenous peoples and the Ontario government, despite First Nations proceeding with LUP with Ontario for pragmatic reasons. One of the highlighted benefits of the Far North Act is that it proposes planning frameworks that requires the consent of both First Nation (or First Nations) and the Minister. This gives the appearance that planning would not be imposed without First Nations' consent in accordance with the standards of free, prior and informed consent in the Declaration on the Rights of Indigenous Peoples. However, the Minister of Natural Resources retained the power to

³⁴ Pikangikum First Nation completed a community based land use plan in June of 2006 prior to the Far North Act, and plans were finalized under the Far North Act for Cat Lake/Slate Falls, Pauingassi, and Little Grand Rapids in July of 2011. Six other terms of reference for LUP have been negotiated with communities.

override any plans, and proceed with the Ministries own planning in the absence of community based plans. Further, strategy and implementation decisions remain with the MNR if they and cooperating First Nations cannot come to an agreement. Thus, rather than guaranteeing First Nations that plans won't be imposed, the Far North Act could place communities in the position of choosing to either agree to Ontario's terms or be shut out from planning decisions altogether. In this manner, the Far North Act makes First Nations very vulnerable to planning priorities and decision making imposed from outside their communities.

The intention of the Ontario government may be to only invoke such disclaimers as 'ministerial override' in the Far North Act when reasons surpass "a very high threshold", according to David de Launay (May 30, 2014). However, what these disclaimers do is ensure Ontario's priorities will be paramount when there is conflict with fundamental priorities of First Nations. Therefore, in very short disclaimer clauses two fundamental debates are arguably resolved in Ontario's favor—that is Ontario is able to assert supreme authority over territory and decision-making, and the economic driver of future development in the Far North will be resource extraction. Ontario's conservation agenda is very much tied to mitigating the impacts of resource extraction, and as such, are part of the same process. It is the problem of who has final authority to exercise decision making, and the process of crafting priorities and management frameworks that prompted resistance by Indigenous communities and organizations in the Far North planning region. The Far North Act legislated a framework for development decision making and LUP that would be tightly controlled by Ontario through the MNR. Dissenting First Nations and organizations potentially could be shut out from development decisions impacting their homelands if they refused to work within the parameters Ontario had constructed.

4.4 The Mushkegowuk Regional Land Use Planning Initiative

LUP in the Far North initially promised to be a radical departure from previous planning exercises in the province. Planning, as envisioned by First Nations and their organizations, was to be characterized by government to government partnerships founded in the spirit and intent of the treaties. It was within the context of a potential planning partnership with Ontario that Mushkegowuk Council began to formalize a regional process. Leading up to and within deliberations over the Far North Act, Mushkegowuk Council developed and began to implement regional planning as part of a larger nation building process that would be inclusive of the homelands of all its member communities (see Figure 5). Following the passage of the Act, Mushkegowuk continued to work with the province under the new legislation. However, the challenges of realizing a vision for regional planning led by Mushkegowuk communities and supported by the province were significant. The following section tracks the development of the MRLUP process, and identifies key debates and contentious issues that arose between Mushkegowuk Council and the province, as well as between Mushkegowuk Council and member First Nations.



Figure 5. The Mushkegowuk homeland (Mushkegowuk Aski) shaded in purple. Source: Mushkegowuk Lands and Resources (August 10, 2012). Draft Terms of Reference: Mushkegowuk Regional Land Use Plan.

4.4.1 The Impetus and Early Development of a Regional Planning Process

Contemporary efforts to revitalize LUP practice by Mushkegowuk Council date back to 1998 when Council passed the *Protocol on Land Use* resolution (MC, 1998). This was the first resolution that addressed a LUP process, where the development of a protocol for land use was needed to resolve internal conflicts and foster cooperation among Mushkegowuk First Nations. Resource development pressures, with staking and mineral exploration activities rising significantly in the north since the 1980s, were concerning to First Nations that had little experience with extractive resource industries. Further, the planning regime arising from the Lands for Life process was threatening the homelands of Mushkegowuk First Nations in the southern part of the territory as there were very weak mechanisms for Aboriginal participation. A region-wide protocol would allow for the sharing of resources and information, reducing the isolation of individual First nations.

That Mushkegowuk First Nations intended to take a unified approach and reassert themselves as a nation was further clarified with the crafting and release of the Draft Omushkego Constitution in 2002. The Draft Constitution continued the transformation of Mushkegowuk Council into a governing entity that began with the election at large of Grand Chief and Deputy Chief in 1998. Omushkego nation building was further solidified by the 2007 *Mushkegowuk Declaration of Unity*, which pronounced that:

This Assembly hereby declares and affirms the unity of the Omushkego Inninu including the protection, maintenance and enhancement of the characteristics which identify us as a unique and proud Omushkego Nation as well as the reinstatement of our inherent right to practice traditional governance within our Omushkego homelands (in MC Resolution 2010-09-10).

With the Declaration, Mushkegowuk First Nations asserted that the goal of strengthening the Omushkego Nation would guide their actions, and that revitalizing traditional governance was part of that process.

It was in the context of efforts to rebuild the Omushkegowuk nation that the idea of developing a full regional land use plan for Mushkegowuk territories began to take hold. In September of 2005 the Council passed a resolution on *Resource Development and Land Use Planning* in which Mushkegowuk supported community based LUP within its territory, and was given direction to “undertake discussions with the Province of Ontario and other parties regarding an appropriate co-process which respects Mushkegowuk land rights and control” (MC, Sept 22, 2005). The MNR, which had already been working with First Nations north of the Lands for Life planning area on a limited basis under the Northern Boreal Initiative, appeared supportive of Mushkegowuk’s interest in LUP. Thus, in order to explore the idea of a joint process, Mushkegowuk Council and the MNR co-hosted an “informal think-tank” (MC, November 5, 2008) on LUP in February of 2006, which is where the elements of regional planning for Mushkegowuk began to take shape.

There was clearly pressure on Mushkegowuk to define its role in planning as negotiations with the province were happening at the Treaty 9 level with NAN, and at the First Nation community level under the Northern Boreal Initiative. At the time Mushkegowuk and the MNR held their think-tank on planning, Moose Cree First Nation was already engaged with the province in Northern Boreal planning negotiations. NAN was leading the drafting of a framework agreement on planning with the province through the Northern Tables process, although Mushkegowuk was also a participant at the Northern Tables. First Nations with lands in the southern Living Legacy planning region were facing major impacts on their territories and

were sidelined from development decision making. Mushkegowuk Council needed to assert itself in LUP in order to support its nation building goals as uneven development processes were creating cleavages between communities.

The Council made a significant step to entrench itself as a regional governance entity later that year as Mushkegowuk put forward an agreement in principle among its member First Nations on the *Mushkegowuk Resource Development Protocol* (2006). Formalizing the goals of the 1998 Resolution, the Protocol set out a process by which resource development proposals could be tracked and assessed at the Council level so that communities were better informed about developments occurring region wide. The Protocol operated under the following principles: pursuing resource development “consistent with Mushkegowuk values, traditions and laws”; authority based on Aboriginal, Treaty and inherent rights; accountability was to the land and the people through a process transparent to all; and that the Mushkegowuk people were united in their approach to resource development (2006). The Protocol also identified Mushkegowuk Council as a coordinating governance body where decision-making authority was intended to rest with individual First Nations communities. The challenge for Mushkegowuk Council, acknowledged both here and in the 1998 *Protocol on Land Use* resolution, has been to define its role as a governing structure without usurping decision-making authority of Aboriginal and Treaty 9 rights holders and member First Nations’ band councils.

But as Ontario failed to address problems with the actions of resource development companies in advance of a framework agreement at the Northern Tables, First Nations were becoming increasingly frustrated with the process. The conflict between Platinex and Kitchenuhmaykoosib Inninuwug First Nation epitomized the deteriorating relationship with resource developers in the north, and prompted NAN to break off talks with the province. With

the Oski-Machiitawin dialogue at the Northern Tables suspended following the arrests of Kitchenuhmaykoosib Inninuwug Chief and Council members, there was little interaction with the province. Thus, Mushkegowuk and other regional organizations were not privy to discussions within the Ontario government about how they were strategizing to proceed with a northern LUP process.

Thus, First Nations were not clear on the intent of the provincial government when it unilaterally announced its Far North Initiative in July of 2008. Optimistic for the potential of significant funding and support for First Nations, but needing to assert its own role in LUP, Mushkegowuk Council responded by formally introducing its own planning initiative. The MRLUP initiative was to set LUP priorities of Mushkegowuk member First Nations, and to engage in the planning process with the Ontario government. The Regional Initiative was also imagined to cross into both the Living Legacy planning area and the Far North, encompassing the homelands of all Mushkegowuk communities. Mushkegowuk felt it was necessary to ensure its member First Nations worked together to protect their collective interests in planning. The initiative was shaped through three Tribal Council Resolutions. Mushkegowuk Council Resolution 2008-11-13, *Territorial Mapping and Land Use Planning*, resolves that Mushkegowuk First Nations “with the support and coordination of Mushkegowuk Council, are committed to developing community led processes to map the entire Mushkegowuk territory”. The resolution further indicated the expectation that Ontario would fund the Mushkegowuk process, given the province’s mandated support for community based LUP through the Far North Initiative. The two other council resolutions specifically addressed mining activities (Resolution # 2008-11-25) and resource development activities (Resolution # 2008-11-29) in Mushkegowuk homelands. Thus, although the Far North Initiative was condemned by First Nations and their

organizations for unilaterally setting targets for protected lands, the more immediate concern for Mushkegowuk was to assert the Council's and First Nation's communities jurisdiction over mining and other resource development in their territories.

Mushkegowuk communities felt they needed a regional land-use plan for several reasons. Significantly, many land planning issues, such as potential roads, energy infrastructure, and wildlife migration and habitat were broader scale issues than the territories of single First Nations communities, and required regional co-ordination. The regional approach of Mushkegowuk Council also addressed calls from environmental organizations and planning professionals for more comprehensive planning. The regional approach in particular allowed for planning road and energy transmission corridors, and for addressing potential impacts on caribou migration. It also provided a framework for clarifying the issue of shared territories, which otherwise would be dealt with on a community by community basis, and possibly subjected to later challenges. But perhaps most importantly, the significance of LUP for nation building was clear to the Council of Chiefs at Mushkegowuk who wished to work as a nation and to address internal conflicts amongst themselves. The need to work collectively was particularly evident in the wake of the approval process for the Victor diamond mine that saw Attawapiskat isolated and other Mushkegowuk First Nations often shut out of deliberations. Thus, the process of regional planning could attempt to resolve tensions and competition between Mushkegowuk First Nations communities, allow for more effective management of broad scale issues, and provide a stronger bargaining position with the province. Ideally, the Regional Initiative would create a co-operative and a collective vision for planning in Mushkegowuk territory in a nation-to-nation partnership with Ontario.

Instigation of the MRLUP initiative marked for the first time a tribal council in Canada set out to formalize a collective LUP processes that involved several First Nations. While intended to co-operate with the Ontario government, the initiative was designed outside of federal and provincial processes intended to address Indigenous participation and treaty rights. The Council initiative was envisioned as a self-determined and First Nation community driven process, which contrasted with Ontario's community based view of planning. Authority for decision-making in the regional initiative was intended to rest with First Nations' communities, not the Council, or in the case of the provincial process, the Ontario government. It was nevertheless considered compatible with the direction established by the province through the Northern Boreal and Far North Initiatives, and as such, Mushkegowuk Council requested funding from Ontario for mapping and developing community based plans (Gardner et al., 2012). The Far North Act indicates that amalgamations of First Nations could potentially initiate their own collective planning process; however, Ontario had also made it clear that the government was focusing its attention on individual First Nation community based planning to address Aboriginal and treaty rights. Thus, while the door was open to Mushkegowuk's nation-based approach, a regional plan could only come together as far as individual member First Nations and Ontario supported the process.

As the development of a regional plan began to move past the conceptual stage Mushkegowuk Council organized a planning workshop in January of 2009. The purpose of the workshop was to bring together and share information on LUP among Mushkegowuk First Nations, with the aim to "begin to develop Omushkego specific principles and strategies which could be used to guide community-based land use planning in the entire region" (MC, January 19-20, 2009). Much of the discussion centred on a draft Framework Agreement that was in

negotiation between NAN and Ontario at the Northern Tables, and expected to be produced in the near future. Further consultations were expected on the Framework Agreement that would guide planning, and participants recommended a regional workshop to review and “ensure broad discussion and participation of a range of people in addition to political leaders” (DPRA, 2). Jobe Mollins Koene, the Lands and Resources Director for Mushkegowuk Council at the time, noted that they expected the Province to draft legislation based on the framework agreement once it was finalized (DPRA, 2009). Chris Marr, who represented the MNR, assured participants that legislation would only be put in place once the MNR and the communities were in agreement (DPRA, 2009). However, differences in opinion between NAN and the province would soon result in a breakdown in negotiations, and the Northern Tables coming to a standstill in February (Ontario, May 4-5, 2010).

The expectation of Mushkegowuk participants at the workshop was that they would work closely with the province and other partners in LUP, with First Nations’ communities in control of the process. Mushkegowuk Council would act in support of communities and coordinate the various community level plans into a singular regional plan. Community working sessions at the planning workshop strongly emphasised that LUP must be community based, which aligned with the direction Ontario was taking, but also emphasised that First Nations could work collectively on common interests with Mushkegowuk Council facilitating the process (DPRA, 2009). However, doubts remained that land planning would fully recognize the decision making authority of communities, but would instead be determined by regional organizations and the province. A workshop participant noted that the involvement of First Nations’ Chiefs in decision making was not sufficient, as planning needed to involve the people “and the link is lost there” (DPRA, 2009: 9). Concern was also raised that Omushkego homelands did not correspond to

Ontario's proposed Far North boundaries. The worry among participants was that Far North could potentially drive deeper divisions between northern and southern planning areas within Mushkegowuk, and as such, the territory needed to be taken as a whole. Thus, despite the misgivings over Mushkegowuk Council's role, community representatives acknowledged the collective approach as necessary to protect their interests.

But when talks stalled at the Northern Tables, discussion about planning for the Mushkegowuk region also fell silent between Mushkegowuk Council and the province (Mollins Koene, April 24, 2014). Thus, the process for consulting First Nations and their regional organizations in crafting potential legislation for the Far North began to fall significantly short of expectations. When Ontario announced it was intending to go ahead with legislation on LUP for the Far North, First Nations and their political organizations, including Mushkegowuk Council, were caught off-guard. The expected partnership that was dependent on first negotiating the Framework Agreement with NAN had fallen through with Ontario's unilateral decision to introduce legislation. The move by Ontario also threatened Mushkegowuk Council's attempt to pursue a regional approach for all its member First Nations as the agenda for planning was about to be set by the province. The introduction of Bill 191 into the Ontario legislature on June 2, 2009 represented a return to imposed planning and development priorities of the province on First Nations in Ontario.

4.4.2 Response to Bill 191

Despite the premature introduction of planning legislation, there was some cautious optimism that the framework for the bill would still be worked out in consultation with First Nations. However, that possibility appeared to diminish as the Standing Committee hearing

process began to unfold. Mushkegowuk Council responded with a pair of resolutions in late August of 2009, after the Standing Committee held hearings earlier in the month. The first, a *Response to Ontario Bill 191: The Far North Act* (Resolution # 2009-08-08), noted the impacts on Mushkegowuk governance and the division of their territories as a result of Bill 191. The resolution also asserted that Mushkegowuk would not accept Bill 191 until there was adequate consultation and dialog to address their concerns. The resolution specifically pointed to the division of territory, allowing the continuation of staking and exploration activities without First Nation consent, the consolidation of power over planning under the MNR, the arbitrary protected area goal, and unclear funding provisions as major problems for Mushkegowuk communities. Mushkegowuk Council indicated its intention to lead a coordinated response to the Bill by its member First Nations.

The second resolution on *Provincial Funding for Land Use Planning* (Resolution # 2009-08-21) made no mention of Bill 191. This resolution noted that Ontario had expressed interest in improving relations with First Nations, and committed to supporting the efforts of First Nations in LUP. Mushkegowuk had committed to planning for all their traditional territory at the Annual Assembly in 2008, and expected Ontario to back their initiative given its interest in supporting LUP. The resolution also noted that Council submitted a detailed work plan and budget, but had received no response from the province since gaining a previous verbal commitment. With the resolution, Mushkegowuk Council reconfirmed their commitment to planning, and called for Ontario to adequately fund their process without regard to the limitations of the potential Far North legislation.

Thus, Mushkegowuk continued to discuss LUP with the province and work on the framework for the regional initiative, but in the context of impending legislation that could

significantly impact the planning process. In the spring of 2010 for the first time Mushkegowuk Council hosted a meeting for planning coordinators from each community, along with provincial government officials and potential funders. The hope here was to clarify expectations for a planning framework moving forward; however, tensions were high as some community representatives continued to worry about being sidelined from the process. There were many questions about the structure, scope, and funding for regional planning, and how regional planning might impact planning at the First Nation community level. Specifically, there was concern amongst some community representatives that planning would be taken over by Mushkegowuk Lands and Resources staff or dominated by Moose Cree, the largest of the Mushkegowuk First Nations (MLR, March 30-31, 2010). While Mushkegowuk Council representatives indicated that the role for Lands and Resources was to support communities in undertaking their own LUP, the coordinators expressed that there was still much uncertainty and resistance to Mushkegowuk's regional process within their communities.

With Mushkegowuk Council viewed by those in the communities with cautious skepticism for its role in the regional planning process, the Council's initiative was further undermined by Ontario's planning preferences. Provincial representatives indicated their priorities were to engage individual First Nations in community based planning. Ontario's approach to planning would be "led by communities", and all involved in planning would have the opportunity to define the process in their chosen way (Chris Marr in MLR, March 30-31, 2010). It was further stressed by Ontario representatives that planning enshrined in legislation would create a legal document and give it weight against other legislation (MLR, March 30-31, 2010). However, it appeared Ontario was side stepping several significant issues, such as Ontario's division of Mushkegowuk territory into north and south planning regions. One Mushkegowuk

representative noted that confusion as to the MNR's mandate gave him the impression that "there are two MNR's" (Archie Nolan in MLR, March 30-31, 2010) –one north and one south of the Far North boundary –which had the effect of creating two planning systems in play. Allowing the MNR to determine which areas would and would not be considered was unacceptable to many community representatives, but Ontario was unwilling to budge. The division of Mushkegowuk territory into two different planning regions by Ontario created a significant impediment to collective planning efforts, and diminished prospects for southern communities to address the planning regime already in place.

But disagreements with Ontario and the MNR over how planning should proceed were further aggravated by limited and uncertain funding from the province. A small amount of funding for LUP to date was distributed through NAN and divided amongst all 31 First Nations in the Far North, and through an Ontario skills training fund. However, funding was not equitably distributed among communities (MLR, March 30-31, 2010), and given the massive undertaking that LUP throughout the Far North entailed, the funding that was promised to date was "a drop in the bucket" to perform necessary work (Ed Sutherland in MLR, March 30-31, 2010). At the spring 2010 meeting hosted by Mushkegowuk Council, even the MNR's representatives, Chris Marr and Mike Cartan, expressed that they fully recognized problems with funding (MLR, March 30-31, 2010). They suggested First Nations put pressure on senior management to change the process and possibly pass a Band Council Resolution to that effect (MLR, March 30-31, 2010). The southern communities were without MNR funding altogether, and instead were working out an arrangement with the Ministry of Northern Development, Mines and Forestry (MNDMF)³⁵. In fact, relations with MNDMF were seen as more straight-

³⁵ The Ministry of Northern Development and Mines had forestry added in 2009 (Ministry of Northern Development, Mines and Forestry). The mandate for forestry in the north was then returned to the Ministry of

forward as compared to the uncertainties of working with the MNR and Far North (MLR, March 30-31, 2010).

Following the March 2010 meeting the MNR did commit funding for exploring the possibilities for regional planning from April 1, 2010, to September 30, 2011 (Mollins Koene, 2011). With support from the new MNR funding, the regional planning coordinators met collectively on three more occasions through the spring and summer of 2010 in the lead up to the Aski Nana Ga Che Ta Win (Caring for the Land) conference hosted by Mushkegowuk Council, which was to address resource development and LUP in Mushkegowuk territory. At the conference, which took place mere days before final motions on Bill 191 were set to be debated by the Standing Committee, the coordinators noted their intention to remain unified in their pursuit of a regional plan, which they insisted would be based on community perceptions and desires. The coordinators' vision articulated at the conference was backed by a Mushkegowuk Council Resolution on Land Use Planning on September 16th. The resolution reaffirmed the Mushkegowuk Declaration of Unity, and asserted their inherent rights to traditional governance within Omushkego Inninu homelands. The resolution, thus, "declares our intention to undertake land use planning for the entire Omushkego homelands, including the related portions of James and Hudson Bays, leading to the development of a regional land use plan" (MC Res. 2010-09-10). The resolution set out the terms under which Mushkegowuk Council intended to proceed with planning in its territories: planning would be based in member First Nations and respect Omushkego rights; they agree to share with each other and with Mushkegowuk Council; Indigenous Knowledge would remain in the ownership of individual First Nations, but would be shared freely between First Nations; and the Province needed to withdraw Mushkegowuk

Natural Resources in 2011. Most at Mushkegowuk Council referred to the ministry as MNDM (Ministry of Northern Development and Mines) regardless of the name changes, and both are used in this dissertation depending on the context.

territories from mineral staking until LUP was complete or the Council requests staking to be restored in general or specific areas.

Thus, Mushkegowuk Council remained determined to assert their framework for LUP in their territories despite the impending legislation. The intent was to base regional planning on internal governance principles where decision making would be directed by community members, given that they are the holders of Treaty 9 and inherent rights. Coordinators representing each First Nation were expected to assist in developing a unified plan for the entirety of Mushkegowuk territory, and collectively they would negotiate with the province. This process, while structured in contemporary institutions, including the *Indian Act* artifact of band councils, was argued by the Council to reflect Omushkego governance traditions as elders, family heads, and other community members would have a role in directing the decisions and actions of their political leadership and representatives engaged in planning. But although the soon to be Far North Act had room to support Mushkegowuk's goal of a regional plan, it was clear the priorities of Ontario and Mushkegowuk differed. The Council and its Lands and Resources department were in a vulnerable position with limited financial and technical capacity, and limited authority to act on behalf of its membership.

4.4.3 Post Far North Act Regional Planning

Once the Far North Act passed third reading and was about to receive Royal Assent, Mushkegowuk Lands and Resources and the community coordinators considered how they would move forward with planning within the new legislative environment. Although they remained steadfast in their objection to the process that resulted in the Far North Act, as well as the lines of authority in the Act that gave ultimate decision making to the Minister of Natural

Resources, there were potential opportunities to take advantage of flexibilities in the legislation. There was also hope that, with the legislation passed, significant funding for regional planning would be forthcoming, and would include the lands and First Nations currently south of the Far North boundary. But Mushkegowuk Council's position was only as strong as the collective support of its member communities, which the new legislative framework threatened with its emphasis on a community based approach that could potentially isolate non-cooperating First Nations.

The need to maintain a unified approach was stressed by Mushkegowuk's legal counsel. The Council's lawyer Murray Klippenstein, through a conference call in October of 2010, urged Mushkegowuk First Nations to continue to work in unity and not let the Act divide them between territories covered under Far North and the Ontario Public Lands Act. He suggested they proceed "under protest" (MLR, October 21, 2010), and that a group application for Far North funding, rather than requests by individual communities, would be advantageous. Klippenstein also noted that boundaries would have to be defined in the creation of a plan; therefore, the issues of shared territories and joint use needed to be worked out to demonstrate unity and the creation of a singular plan. A Joint Planning Team, which would represent Mushkegowuk as a whole, rather than separate First Nation/MNR teams, was recommended by Klippenstein as the best way forward (MLR, October 21, 2010). There was also consideration of how the Far North Land Use Strategy would be developed, in which there were doubts that the MNR would welcome Mushkegowuk representation. The coordinators stressed that, in addition to individual First Nations, Mushkegowuk Council along with Matawa and NAN should be on the joint body (MLR, October 21, 2010). The major issue of stopping of claim staking while land use plans

were developed was again raised, along with the possibility of launching a legal challenge. To this end, a test case on the strength of the treaty diaries was considered.

The Coordinators came together for a two day meeting in November where they discussed ways forward with the regional process. The meeting minutes note that Mushkegowuk Council had sent a letter to the province indicating that, although they did not accept the Far North Act, they were willing to work with the province to address their planning needs (MLR, Nov. 16-17, 2010). Therefore, they would participate with the MNR and work with the legislation, albeit under protest as suggested by legal counsel. But they stressed their need for funding, and made it clear to the province that they wanted representation on relevant planning boards and other bodies. The meeting minutes detailed what Mushkegowuk wanted to see from a Joint Planning Team with the Province, and noted that all Mushkegowuk First Nations needed to initiate the planning process individually to enable their participation (MLR, Nov. 16-17, 2010). It was expected that there would be equal representation between the Council and the province at a minimum, with possible representation from each First Nation to work towards a Terms of Reference, a Draft Plan, and a Land Use Plan. The intention to include southern First Nations in the regional planning process was again reiterated, as was the goal to include the marine waters of Hudson and James Bay, regardless of the multiple jurisdictions involved. Grand Chief Stan Louttit sent a letter in support of the coordinators' position to Minister Jeffery dated Nov. 19, 2010, asserting that "we recognize Ontario has no jurisdiction over the lands and waters of James and Hudson's Bays", nonetheless; "we would like to inform you that the land use planning process will also encompass those areas as well" (in MC, June 7-9, 2011). Thus, Mushkegowuk Council made it clear that they intended to take a very broad approach to planning that would

encompass their entire homelands, and were not willing to be limited by externally imposed jurisdictional boundaries.

In addition to the scope of regional planning, there was still much uncertainty as to how information would be shared among First Nations and gathered at the Council level. A protocol for giving and sharing data with Mushkegowuk had yet to be developed, and communities differed on how much information they were willing to provide. For example, Taykwa Tagamou First Nation gave the Mushkegowuk Environmental Research Centre permission to provide all data collected on its behalf to Mushkegowuk Council, but Moose Cree balked at the suggestion they provide all the planning data they had collected (MLR, Nov. 16-17, 2010). Moose Cree had invested much into their LUP, which was considerably further advanced than the other communities. Therefore, Moose Cree representatives were not willing to simply let Mushkegowuk Lands and Resources take the lead. There was also the question of how much information to share with neighbouring First Nations and tribal councils. This concern was most significant with Matawa where there needed to be close communication as any developments in their homelands within the Ring of Fire would have direct impacts on Mushkegowuk territories.

Coordinators further noted at the November meetings that they needed to create a formula to share in the benefits of resource development among Mushkegowuk First Nations, in accordance with the September resolution on Unity in Resource Development. It was argued that more joint negotiations on new projects could produce better outcomes, and avoid First Nations being left out of development decisions and benefits as was the case with the Victor mine approval process. Along with both development and planning processes, the importance for southern communities to be involved was repeatedly stressed at co-ordinator meetings. As one of the coordinators noted when they met again in February, the full regional plan was “a tool to

get control over the entire land base” (MCLR, Feb. 23-24, 2011). Without the southern communities involved the regional plan would only be partial and would significantly compromise Mushkegowuk’s unity and nation building aspirations.

Although Mushkegowuk Council envisioned one regional plan for their homelands, two processes were diverging –one for lands in the Far North region and another for lands to the south. The MNR was unwilling to open discussion on including lands south of the Far North divide in the new legislative framework, and was only offering potentially \$300-400 thousand for regional planning with Mushkegowuk, which was far short of the expectations from coordinators on what undertaking effective planning would cost (MLR, Nov. 16-17, 2010). When the coordinators met again in February of 2011, the minutes noted that they were close to an agreement with the MNR on funding planning for the year, and were pressuring Minister Jeffery for multi-year agreement. But with the MNR’s refusal to consider all Mushkegowuk territory under the Far North Act, communities in the south were directing their attention towards MNDMF despite the fact that it had no mandate for LUP. The southern communities were arranging for MNDMF funding for values mapping³⁶ that would be considered against future resource development activities. An agreement had been made in which MNDMF was to fund values mapping for two and a half years, with a data sharing agreement still to be finalized. The southern communities were hopeful their values mapping could contribute to Mushkegowuk’s regional planning, despite the MNR’s refusal to consider the south under Far North.

Mushkegowuk was also attempting to find funding sources beyond government to lessen their

³⁶ The mapping of Aboriginal values by Ontario government ministries considers cultural or heritage values that can be spatially identified, such as burial sites, ceremonial places, or location of culturally significant resources. As Deborah McGregor points out, the spatial requirements are often at odds with Indigenous values as they are not necessarily limited to where an event occurs (a specific location)” (2013: 422). This was a point of contention with Missanabie Cree First Nation who were successful at gaining a broader interpretation of Aboriginal values in the protection of the Manitou Mountain area (see Chapter 5, p. 31-32).

needs for provincial support. For example the Ivey Foundation was invited to come and tour the land with the hope that they could contribute both money and expertise, and Ivey representatives expressed interest in working with the regional plan. However, the Ivey Foundation and other environmental organizations were viewed with distrust by some, stemming from their support for the Far North legislation.

Mushkegowuk organized another summit on planning in June of 2011. Grand Chief Stan Louttit noted that the wished for long term funding arrangement was still not in place, raising concerns that funding would be sporadic and negatively impact their ability to plan effectively. However, the four southern First Nation communities had signed a Contribution Agreement in March with MNDMF for values mapping. The term of agreement, as discussed by Pierre Lefebvre from MNDMF, was to run from March 2011 to September 2013 with \$1.5 million in funding (in MC, June 7-9, 2011). Thus, MNDMF was committed to substantially higher funding for values mapping—a component of LUP—for the four southern communities than indications were of potential funding for the entire regional plan from the MNR. The confusion between MNDMF and MNR over funding and jurisdiction, which was further complicated by Nunavut’s jurisdiction in Hudson and James Bays, was also creating obstacles for Mushkegowuk’s vision. Kashechewan First Nation’s Deputy Chief William Sutherland, noticed the contradictory messages they received, and commented that

MNDMF has jurisdiction out in the Bay, but the MNR claims it has none? Yet at the same time, we have MNR landing at Akimiski Island, trying to chase our hunters away...Attawapiskat First Nation has been using those islands for survival for a long, long time and they must be included in their land use plans (in MC, June 7-9, 2011).

Thus, both financing and jurisdictional issues with planning were fragmenting Mushkegowuk territory and frustrating their vision for planning.

It was clear that relations between Ontario and Mushkegowuk were strained. For example, an Elder present at the Summit indicated that it was not possible to have open and honest discussion with government people at the table (MC, June 7-9, 2011). The issue of sharing information with the provincial government was also raised by one of the planning coordinators, who as a group had little trust in the motivations of the MNR (MC, June 7-9, 2011). The Council was also focusing its attention on a potential lawsuit backed by evidence in the recently unearthed diaries of Ontario's Treaty 9 representative (MC, June 7-9, 2011). According to Louttit, Ontario had refused to discuss the diaries of Commissioner MacMartin, which indicated that promises were made to Mushkegowuk peoples during Treaty 9 negotiations which were not reflected in the written documents (MC, June 7-9, 2011). Consideration was given to quoting the oral promises in a community based land use plan as a way to challenge Ontario's position on Treaty 9. The coordinators were aware that the Minister of Natural Resources would not approve any such inclusion, but felt it might open the door for a Judicial Review (MC, June 7-9, 2011).

However, perhaps the largest offence to participants was Ontario's assumption that they had the authority over decision-making in Mushkegowuk homelands. In responding to a discussion on problems associated with protecting burial sites in the new Mining Act, Elder Dan Kooseses of Kashechewan First Nation asserted:

Our Elders have always said every inch of the land that we walk on is ancestral grounds. Our lands are sacred. They teach us about life. When I hear the words protected lands, protect them from what? They're the contaminators. Three hundred years of co-existence and we don't know that yet? (in MC, June 7-9, 2011).

Further, Kooseses added that it is "sad that we still feel the need to ask the Government of Ontario for their permission to conduct business and economic development in our own territory. All the

legislative requirements contend they have the final say” (in MC, June 7-9, 2011). Kooses comments reflected the deep frustrations of many who saw the province utilizing resource management and development initiatives to tighten their control of the region.

Therefore, it was imperative that Mushkegowuk retake control of their planning initiative. Mushkegowuk’s Lands and Resources Director at the time, Job Mollins Koene, noted at the June summit that community coordinators were now looking to move into planning after meeting on a regular basis over the last two years where their focus was on data collection (MC, June 7-9, 2011). Mollins Koene’s overview of their planning initiative pointed out that Mushkegowuk approached the Province as far back as 2004 to seek funding for LUP and mapping. He noted that they had preliminary meetings with policy advisors, but that the province began the Northern Tables process with NAN shortly thereafter, and this past January the Province introduced the Far North Act, “their land use strategy” (Mollins Koene in MC, June 7-9, 2011). The introduction of the Far North Initiative continued the trend of increasing distance between Mushkegowuk and the province. Mollins Koene stressed that their strategy was outlined in Resolution 2010-09-10, and “the intention is to undertake land use planning” in the form of a regional plan for Mushkegowuk peoples (in MC, June 7-9, 2011). He thus argued that “as technicians, their focus is not the Far North Act, but the direction they received from the Assembly” (Mollins Koene in MC, June 7-9, 2011).

In contrast, the MNR’s Director of the Far North Branch, Dianne Corbett, argued that the legislation was based on input from First Nations, and was willing to move forward on regional planning with Mushkegowuk. Therefore, the MNR considered previous preliminary discussion with Mushkegowuk, and more significantly, negotiations at the Northern Tables, as sufficient consultation on which the Far North Act was crafted. Corbett stated that the “Framework

Agreement of Principles and Process” to guide LUP in the Far North developed at the Northern Table in 2007, and a 2008 report on the areas of consensus –two items of agreement between NAN and the province that were just short of being signed off –substantially guided the development of the legislation (in MC, June 7-9, 2011). Corbett indicated that the MNR had recently made an offer to discuss next steps with Mushkegowuk, and had provided funding to all northern communities to begin gathering background information and hold community meetings. Corbett also tried to reassure participants by making the claim that planning areas were “just an area for the purposes of land use planning; it’s not giving up traditional rights to do anything outside that planning area” (in MC, June 7-9, 2011).

However, given that planning areas would circumscribe what activities can take place within specific areas, and the goal of the Far North Act is to plan the entire Far North region, there would eventually not be any areas outside a planning area. Therefore LUP would absolutely impact traditional rights, as it already had in the legislated Far North Act. Thus, Mushkegowuk and the province were moving forward with regional planning, but in an atmosphere of mistrust and uncertain support for the initiative, despite assurances from MNR representatives. Louttit’s closing address noted that the “important land use planning work must continue” while the Chief’s work at the political level to try to address the Treaty relationship (in MC, June 7-9, 2011). “If it means land use planning (under the Far North Act), then so be it. We do so, under protest, and proceed with caution” (Louttit in MC, June 7-9, 2011). With few other avenues to finance planning, Mushkegowuk Council felt they had little choice but to work with Ontario under the Far North Act.

4.4.4 Drafting the Terms of Reference for Regional Planning with Ontario

With the MNR and Mushkegowuk Council agreeing to work together on a regional plan under the Far North Act, the two parties began discussions on drafting a terms of reference that would set the framework for the Mushkegowuk Regional Land Use Plan. In September of 2011, Mushkegowuk Council gave formal direction to negotiate the terms of reference with the Province of Ontario through Resolution No. 2011-09-12. The resolution also established the Regional Land Use Planning Team composed of Community Coordinators, a Regional Elder, and a Regional Land Use Planner. Thus, the regional plan entered its second phase, and the second year of a three year agreement in principle for funding support from the MNR.

Although the two parties agreed to work together, Mushkegowuk's planning team needed to make clear that the Regional Land Use Plan would be their own creation, and not simply an extension of Ontario's Far North planning. The Vision Statement drafted by the Regional Planning Team, therefore, speaks directly to Omushkegowuk traditions, and asserts:

The Omushkego are united through kinship, language, culture, history and traditional governance practices. Omushkegowuk rights to our lands and resources have existed since time immemorial and belong to us and to our children into the future without end. Our relationship to the land is an integral part of our cultural, spiritual and economic existence and we are a part of this land. We will use Omushkego Knowledge and the traditional values and teachings of our grandfathers to guide our stewardship responsibilities for the management of the land above and below the ground, the water, the air and animals, fish and the birds that will sustain our way of life for future generations (MCLR, Oct. 18-20, 2011).

The coordinators noted that "the regional plan will be a living document" (MCLR, Oct. 18-20, 2011), and as such, will guide future relations with their lands. Their intention also remained to make a regional plan that was not a composite of individual plans. Therefore, individual First Nation's plans needed to be compatible with the regional plan. Adopting a consistent methodology for land use and occupancy studies was identified as a priority for coordinators and

the foundation for a unified regional plan (MCLR, Oct. 18-20, 2011). Mushkegowuk planners consider a prescribed approach based on a workshop by planning consultant Terry Tobias on Indigenous LUP. Tobias' approach hinges on translating Indigenous occupancy and land use through thematic mapping, derived from interviews with community members, in terms that will satisfy governments, industry, and the courts (Tobias, 2009, 2000). Tobias' method was dismissed as an outright template, but still recognized as a useful reminder of good practices (MCLR, Oct. 18-20, 2011). The planners instead argued that they needed to develop their own unity and their own methodology through consultations with the elders, and this meant including their own language for what they perceived as a true Mushkegowuk process (MCLR, Oct. 18-20, 2011). Although some communities did have experience conducting planning research, coordinators recognized that their self-determined process would take more time and expense (MCLR, Oct. 18-20, 2011).

To begin the process of conducting land use and occupancy studies for the Mushkegowuk wide plan, the planning team developed a questionnaire to be distributed by the coordinators in their communities. There were also training exercises scheduled for utilizing GPS technology and conducting mapping interviews. The responsibility largely fell on the coordinators to ensure planning at the Mushkegowuk level was meeting community expectations. Thus, the coordinator positions were very demanding as they need to connect local level planning to regional planning where the capacity and political dynamics within communities varied considerably. For example, Attawapiskat's co-ordinator noted difficulties finding office space and keeping planning on the political agenda (MLR, January 17, 2012). The coordinators felt they needed more support from the group, and utilizing internet video conferencing for weekly meetings was proposed (MLR, January 17, 2012). In February of 2012, Mushkegowuk Lands and Resources

released its Community Traditional Knowledge Data Collection Manual to assist their coordinators. The manual included forms and checklists for traditional knowledge collection, which included surveys, recording interviews and mapping exercises. The manual further indicated the demands that were being placed on Mushkegowuk planners. The data collecting process required skills in the use of coding in maps and interviews, procedures for ensuring accuracy, and managing the interview process. Coordinators were expected to conduct a demanding interview process that would generate a great deal of information. Convincing community members to participate was similarly a challenge as the demands placed on those interviewed were also high.

Mushkegowuk planners met with the province again at the end of February and early March of 2012 for a three day conference. Overall the agenda of the conference was more technically oriented to the application of planning, rather than process and politics. It was from this point that substantive work on the Terms of Reference for Mushkegowuk regional planning began to take shape, led by Jason Gauthier representing Mushkegowuk and Chris Marr from the MNR. However, tensions were soon again to surface when co-ordinators met for two days in June without the MNR, who were unable to attend the June meeting (MLR, June 26-27, 2012). Funding agreements with the province for meetings were contingent on MNR officials being present, and Ministry representatives were upset that coordinators went ahead with the meetings without them. But the coordinators were resentful of the MNR's attempt to control the planning process through funding, with one of the coordinators arguing that Ontario's "behavior shouldn't be tolerated" (MLR, June 26-27, 2012). The perception of Mushkegowuk planners was that the MNR was too involved and too controlling of the regional process. Mushkegowuk Lands and Resources was pressuring the province for a block transfer funding agreement that would go to

each community, which would allow communities to decide how they wished to allocate the funding. But instead the MNR was essentially considering requests on an item by item basis, meaning they had very tight and seemingly arbitrary control over the spending of Mushkegowuk planners.

The regional planning effort was also encountering problems at the community level. For example, Fort Albany's coordinator Meshan Sutherland noted the volatility of support for LUP in his community as people in higher administrative and elected positions changed (MLR, June 26-27, 2012). He indicated that many in his community desired to do planning on their own without MNR involvement, but the need for funding was forcing them into Ontario's framework (MLR, June 26-27, 2012). Missanabie Cree's coordinator Archie Nolan argued that it was absurd that they were working with MNDM while the northern communities worked with the MNR, despite the fact that the majority of the economic development interests were in mining (MLR, June 26-27, 2012). His impression was that "there is something missing" and that the Ontario ministries were not being forthcoming about their intentions (Archie Nolan in MLR, June 26-27, 2012). The work on LUP in Attawapiskat was stalled altogether. The coordinator for Attawapiskat, John B Nakogee, noted that files were sitting in boxes since they moved offices and that they couldn't accommodate the workload (MLR, June 26-27, 2012). He further noted the confusion over planning processes, and contended that "the Elders are lost; they don't understand the act of land use planning" (John B in MLR, June 26-27, 2012). The vagaries in the planning process –from who was leading, how to proceed with the work, and the support for planning at local levels –were making it difficult for planning coordinators to move the project forward.

Further impacting Mushkegowuk's ability to assert its role in planning was the projected establishment of a joint body by Ontario to oversee Far North planning. On August 8, 2012, the provincial government released a Draft Options Paper on Establishing a Joint Body under the Far North Act, produced by the Far North Joint Body Working Group. The Working Group recommended a 16 member committee be established, composed of eight members of First Nations and eight appointed by Ontario, with two co-chairs and an independent facilitator. The role of the committee would be to advise on the Land Use Strategy and policy statements, as well as possibly allocate funding to communities, as indicated in the Far North Act. The joint consensus on establishing a joint body seemed to suggest First Nations agree to Ontario's terms or be subject to Ministerial override. The accountability of the Joint Body would be to the Minister, not First Nations whose interests and input are simply respected, despite the claim to a "bottom-up approach" (FNJBWG, August 10, 2012: 4). It was clear that Ontario continued to view the role of First Nations as one of support for its LUP priorities.

Conversely, Mushkegowuk's vision for planning was one where Ontario supported its process, and where decision-making rested with First Nations' communities. Work on the Terms of Reference did advance to a first draft, which was negotiated primarily by Jason Gauthier representing Mushkegowuk Council and Chris Marr from the MNR. However, the draft stalled as the feedback planning representatives were receiving from First Nation community members was that they were being too accommodating to the MNR's position (Gauthier, June 11, 2014). Mushkegowuk's planning team rejected the first draft of the Terms of Reference in favor of their own revised version. The perception was prevalent among the communities that the first draft largely originated with the MNR, and as such, was in need of more community input. Revisions by Mushkegowuk to the Draft Terms of Reference, thus, recast Ontario's role to one of support

for Mushkegowuk defined and created planning –a community driven process facilitated at Mushkegowuk and supported through information and funding by Ontario (MCLR, August 10, 2012). Further, the revised draft used the language of “homelands”, and not simply “traditional territories”, and again included James and Hudson Bay (MCLR, August 10, 2012). Thus, it appeared that Ontario and Mushkegowuk Council were working at cross-purposes and intractable positions in planning.

The divisions resulted in a breakdown in negotiations, and the MNR was a no-show at a scheduled meeting with coordinators in Missanabie in August of 2012. The planning team from Mushkegowuk was expecting to go over their response draft Terms of Reference with the MNR, and were angered by their refusal to come to the table. The MNR did not explain their absence at the time, but speculation was that they were upset with both the rejection of the first draft Terms of Reference, and with Mushkegowuk’s planning team proceeding with the June meeting when MNR representatives were unable to attend. Despite the need for MNR financing, Mushkegowuk’s planners resolved to proceed regardless of provincial support (MCLR, August 14, 2012). The Coordinators met again in September at Mushkegowuk’s AGM without the presence or support of Ontario. The regional initiative had been proceeding without MNR funding since April 1, 2012, and the viability of the initiative was at risk with Ontario not at the table (MCLR, September 11, 2012). A specific reason that the MNR would not accept the re-drafted Terms of Reference was Mushkegowuk’s insistence that all communities be included in the regional process (MCLR, September 11, 2012). The committee agreed that they must continue to work in a unified manner, and asserted that they would proceed with planning with or without the MNR (MCLR, September 11, 2012). But without Ontario funding, Mushkegowuk was forced to suspend efforts at regional planning and lay off staff, and could not

support community coordinators. As a result, there were no coordinator meetings in 2013 as Mushkegowuk pressured Ontario for more funding in the context of a provincial election campaign. The Regional Initiative resumed under a one year funding agreement in the summer of 2014, albeit with reduced expectations. A reduced meeting schedule that would only include Far North communities was all that the MNR would fund. The unified regional plan that Mushkegowuk Council had hoped for would remain elusive as planning was to proceed in a much more limited fashion.

4.4.5 Assessing the Impediments to Mushkegowuk's Regional Approach

As is evident in the above discussion, development of Mushkegowuk's regional land use plan faced distinct challenges both internally and from the Ontario government. In particular, the desire to integrate all Mushkegowuk First Nations communities into a regional plan was hindered by Ontario's two distinct planning regimes in the north, which in no way considered the territories of Indigenous peoples. For the territories of Taykwa Tagamou, Missanabie and Chapleau Cree First Nations in the south, planning remained governed by previous legislation that Ontario indicated it was unwilling to revisit. The Southern planning districts and the Far North region have also divided Moose Cree territory. Thus, LUP for Moose Cree lands remain largely governed by the Ontario Public Lands Act in the south, and by the Far North Act in the north along with Fort Albany, Kashechewan, Attawapiskat and Peawanuck. Mushkegowuk Council was forced to recognize these planning regimes as a given in order to negotiate with Ontario for greater control and to access funding.

In addition to the north-south divisions, the Far North Act's priority on community based planning posed further problems for Mushkegowuk Council's ability to form a regional plan.

The scope of the work involved in undertaking regional planning in Mushkegowuk was enormous. Mushkegowuk First Nations' homelands cover a massive territory, and planning meant negotiating agreement between all member First Nations and with the Ontario government. There were also substantial start up, capacity development and support costs. In comparison, the negotiation and production of a single community based land use plan with only two parties to the agreement can take a decade or longer. In reflecting on the difficulties of negotiating a regional plan with Mushkegowuk Council, Chris Marr from the MNR noted that they "tried the regional approach for a long time, but it fell apart" (May 17, 2014). The reasons, he argues, are "probably because it's so big (Mushkegowuk territory)", and that direction under the Far North Act "couldn't accommodate southern communities" (May 17, 2014). Further, the Ontario government "had to work at the community level" because the membership of First Nations are the rights holders, not Mushkegowuk Council (Marr, May 17, 2014).

Thus, there were clear pragmatic reasons for Ontario to place its primary focus on community based planning in an attempt to implement its priorities in the Far North. Bilateral agreements with communities meant Ontario could focus on communities where there were needs for a land use plans to facilitate development, give less priority to areas where development pressures were low, and sidestep –or undermine –broader agreements among First Nations. Communities that cooperated with Ontario were rewarded with greater involvement in decision-making. For example, First Nations representation on the Joint Working Group, established to inform the development of the Far North Land Use Strategy, were largely drawn from communities who were actively planning with Ontario. Further, if open disagreements appeared amongst First Nations, Ontario could place itself as an arbitrator and decision maker in resolving those conflicts. Marr did note that there were good reasons in his view for some kind

of regional coordination for landscape level planning issues, but that the community based plans needed to be “stitched together, like chapters in a book”, which is how Marr indicated Grand Chief Stan Loutitt characterized the way Mushkegowuk might continue to work towards a regional plan (May 17, 2014). However, the idea of making the regional plan a composite of individual community based plans was explicitly not what Mushkegowuk Council intended at the outset. Mushkegowuk’s vision of community driven planning for the Omushkegowuk nation envisioned a much deeper level commitment and cooperation amongst its member communities.

Planning was also heavily dependent on provincial government funding. This resulted in the initiative stalling in 2013 when provincial funding was not forthcoming as conflicts arose. Regional planning did restart in the spring of 2014 with commitment to one more year of funding, but was contingent on a less ambitious work plan. The provincial government through funding arrangements dictated by the MNR ensured priorities established under the Far North Act remained paramount. Mushkegowuk Council made effort to secure other sources of support, including other government ministries and environmental organizations. But these remained limited options in comparison to funding through the MNR who had the mandate for LUP. Federal funding cutbacks to Indigenous political territorial organizations was also impacting the capacities of Indigenous organizations broadly. These challenges for Mushkegowuk planning occurred amidst highly publicized conflicts with the federal government, most notably the Attawapiskat housing emergency that also drew attention to the Idle No More movement. Marr believed that the relationship Ontario was developing with First Nations in the Far North was moving in the opposite direction from the hostilities with the federal government. However, he also noted that while the “appetite is going up, the funding is going down” for planning, which “hurts the relationship and trust” (May 17, 2014). Provincial funding, as it sporadically and

conditionally flowed to Mushkegowuk Council and to First Nations, enforced a client form of relationship –certainly not respectful of a government to government partnership. How the funding issues worked exemplified the political relationship, and here is expressly colonial and paternal, with control by the Ontario government and its Ministries. It was widely recognized that MNR financing compromised Mushkegowuk Lands and Resources position and posed problems for the committee’s legitimacy to community members.

Jason Gauthier, who was the Regional Planner for Mushkegowuk Council, as well as a former councillor and current chief for Missanabie Cree First Nation, argued that the funding arrangements, time constraints, and weak substantive support for the Regional Initiative by the Ontario government meant the initiative was “set up for failure” (June 11, 2014). He noted that Ontario had many times more resources invested in their planning activities, whereas Mushkegowuk needed to develop capacity for their initiative in a very short time with very little financing (Gauthier, June 11, 2014). For example, community planners were trained to do interviews for occupancy and land use studies with little more than a workshop in preparation, and Gauthier explained that he did two weeks of GIS training and was then “behind a computer mapping” (June 11, 2014). The constraints meant building a regional land use plan was “an extreme situation” where First Nations’ community representatives and Mushkegowuk Council “did the best with what they had” (Gauthier, June 11, 2014). The result is that Mushkegowuk did not have the time and capacity to fully implement their original vision for regional planning (Gauthier, June 11, 2014). Further, the conservation target of 50% set by the province was considered by Gauthier as “opportunistic” (June 11, 2014) as it was unlikely development in the Far North would come anywhere near approaching that target. Mining operations and infrastructure that will undoubtedly be driving Far North development occupied a smaller

footprint, albeit with far reaching ecological impacts, as compared to forestry or agricultural land uses. What the target did do is acquiesce to a figure put forth by environmental organizations, while at the same time in no way limiting mineral development priorities of the province.

From the outset a large problem for Mushkegowuk Council was that although they ideally wanted to pursue a united approach, LUP with Ontario at the community level was already occurring. Although both NAN and Mushkegowuk Council were adamantly opposed to the Far North Act, some communities had been engaged with Ontario in planning discussions that began with the Boreal Initiative. The community based approach also allowed Ontario to rightly argue that it was engaged with the rights holders. It also allowed Ontario to distribute scarce funding resources to willing participants as there has never been sufficient funding for all First Nations in the Far North. Thus, Ontario could ration its resources and point to First Nations already cooperating with the Province to deflect criticism from the regional organizations.

The First Nations communities themselves also face very different land use needs, planning contexts, and capacities to develop plans. First Nations in the southern part of Mushkegowuk territory had to contend with existing land use plans and already developed infrastructure, resource tenures, and private property. Missanabie Cree First Nation, for example, did not even have reserve lands entitled under Treaty 9, and were in negotiation with the federal government for their Treaty Land Entitlement. The First Nations of Moose Cree and Fort Albany began their planning with the MNR around the time of the Northern Boreal Initiative, and as such, had a longer history of developing capacity and relations with the MNR in planning. Both have signed Terms of Reference Agreements with Ontario, and are working towards finalization of their Community Based Land Use Plans under the Far North Act. They

have considered development of their community based plans a priority, and as such, have been supported by the MNR to that end.

Other First Nations northward on the James Bay coast have emphasized their autonomy from the provincial government in the governance of their traditional territories to a greater degree, and as such, have received much less support. Attawapiskat had to contend with the Victor mine development and a proposed extension, and all coastal communities have concerns about being downstream from the Ring of Fire, which Marr noted is the major force driving regional decision making (May 17, 2014). The experience of the Victor Mine EA made it clear to Attawapiskat and other First Nations that federal and provincial governments could not be counted on to deliver on promises to Indigenous communities (Bowie, 2008). Attawapiskat and Chief Theresa Spence were also at the centre of a political standoff with the federal government in 2012-13 backed by the Idle No More movement. The federal government's enforcement of third party management on the finances of Attawapiskat was seen by many as retaliation to Spence's activism, and significantly impeded the community's ability to proceed with planning. While Attawapiskat has had to contend with mining development, the territory of Weenusk First Nation has virtually no industrial development and the community largely wishes to keep it that way. Weenusk is significantly supported by its traditional land-based economy, and many do not want to see their traditional economy threatened by industrial and associated infrastructure development. Their territory is north of more intensive mineral exploration activity; therefore, as exploring resource development potentials is not as pressing an issue both internally and externally, there is little pressure to negotiate with the Ontario government.

Despite the many disadvantages and obstacles Mushkegowuk First Nations and the Council faced in creating a regional plan, the effort did foster substantive planning work in

collaboration with communities. Mushkegowuk planner and Missanabie Cree First Nation member, Jason Gauthier, felt they accomplished significant groundwork with much opportunity going forward to plan collectively among Mushkegowuk First Nations, and in partnership with Ontario. Gauthier argued that in Missanabie's case, participation in the Mushkegowuk Initiative enabled community level planning by providing support, and meeting of the regional planning team provided a forum to discuss issues amongst the communities. Through the regional initiative Missanabie was able to conduct Traditional Knowledge studies and land use and occupancy mapping, which have been vital for community planning and useful for protecting Missanabie Cree lands from external interests (Gauthier, June 11, 2014). Other First Nations have benefited from Mushkegowuk support for their community level planning, and the Regional Initiative has been vital for communication between the communities, Council, and others.

However, the footing for a productive relationship between the MNR and Mushkegowuk Council was very weak from the start. Mushkegowuk council and the communities were participating under the Far North Act "in protest", with fundamental disagreements over the exercise of authority in the Act and offended by the process of its imposition. The MNR appeared to only have begrudging interest in supporting the MRLUP initiative as it preferred to work out regional issues with NAN. Thus, Mushkegowuk was in danger of being squeezed out between community based planning and the broader Far North strategy directed by Ontario to cover the entire Far North region. The fact that "deep entrenchment and mistrust" characterized the working relationship between the MNR and Council (Gauthier, June 11, 2014) did not bode well for the potential to develop mutually beneficial ways forward in planning.

4.5 Conclusions

The framework for LUP legislated in the Far North Act was clearly a substantial improvement in the recognition of the rights of First Nations when compared to the experience of the Lands for Life planning process to the south. Far North planning was centred on a community based planning processes in which First Nations played significant roles. However, the model of community based planning delineated by the Far North Act placed First Nations at the bottom of the decision making hierarchy, along with government department representatives on joint bodies who fulfill mandates developed by those higher up in the Ontario government structure. In this model of community based planning, it is clear that First Nations are expected to pursue outcomes that fit with provincial priorities and assist the MNR in creating provincial land use plans. Recognition extends only as far as where it does not contradict with the province's authority, priorities, and framework for LUP.

Therefore, the MRLUP initiative was crucial for developing strategic goals, a collective vision for future development, and direction to the planning representatives of Mushkegowuk communities –all aspects which Far North planning assumed would be formulated by Ontario in conjunction with advisory bodies. The governance of lands and resources in the Ontario Far North and Omushkego homelands has not achieved the level of partnership and co-planning at the nation to nation level envisioned by the Council. Ontario, by means of the Far North legislation and control of financing, continues to position itself as the primary decision-maker when it comes to LUP, and does not recognize the treaties as establishing shared jurisdiction in lands. However, the Mushkegowuk initiative did shift the governance of their homelands in that it created a forum for collective deliberation, support, and strategic planning in the whole of Mushkegowuk territory where the internal challenges to both planning and nation building could

be discussed. The regional initiative is also likely to have positive effects on community based planning negotiations with Ontario as Mushkegowuk First Nations are less isolated in the process.

The MRLUP initiative was representative of growing self-driven initiatives by Indigenous peoples in Canada. As discussed earlier, these initiatives take action based on Indigenous interpretations of their inherent and treaty rights, and assume greater roles in the governance and management of Indigenous homelands. The Mushkegowuk initiative was a direct response to the limited recognition of their rights and authority by the Ontario government, and attempted to reinvigorate the Omushkegowuk nation and traditions in the process which reflected a broader resurgence of Indigenous nations. However, the initiative also exposed the difficulties of realizing Indigenous determined governance and management of their territories, and brought to attention significant internal governance questions that pose perhaps greater challenges for Mushkegowuk Council if it is to help lead the way to the resurgence of the Omushkegowuk nation. These challenges will be further examined in the following chapter.

Chapter 5: Resurgence, Reconciliation, and the Praxis of Land Use Planning in Omushkegowuk Territory

5.1 Introduction

Resurgence characterizes the cultural revitalization and growing political strength of Indigenous peoples on their own terms. An approach to exercising rights based on an Indigenous resurgence, as was argued in Chapter 3, can be effective for countering the limitations of recognition and reconciliation as it has operated in Canada. More than just cultural affirmation and revitalizing traditions, resurgence aims to restore the legitimacy and capacity of Indigenous peoples to be self-determining communities and stewards of their homelands. However, both the resurgence approach and the recognition and reconciliation approach may be in operation within certain contexts. Principles that resurgence theory encompass may be driving the intentions of Indigenous peoples as they embark on planning initiatives, but their goals and aspirations will likely need responses from settler governments from whom even gaining substantive recognition is a challenge. Mushkegowuk Council's experience with regional planning faced this contradiction in praxis where leading the resurgence of the Omushkegowuk nation depended to a large degree on the engagement and support of the province. Therefore, although the intentions for planning aligned with the tenets of resurgence, the initiative operated through Ontario's recognition and reconciliation approach which, as demonstrated on Chapter 3, was unlikely to provide enough room for Indigenous determined planning. The experience of planning for Mushkegowuk Lands and Resources, and at the First Nation community level, demonstrated the

many obstacles and difficult work ahead necessary for Omushkegowuk and other Indigenous peoples as they work towards self-determined futures supported by cultural resurgence.

Interviews conducted with individuals involved in planning and leadership at Mushkegowuk Council and in the communities forms the basis for discussion for this chapter. The focus will be on their ideas for what planning should entail, how they perceived their experiences, and the analysis will draw attention to the issues that the contradiction in approaches produced. First, the chapter will examine the foundation for planning and the elements that framed the approach advocated by Mushkegowuk Council. It is here that the principles of resurgence are clearly visible in how planning was imagined, and the intentions of Mushkegowuk's Regional Planning Initiative were perceived. The chapter will then examine Mushkegowuk's attempt to operationalize its Regional Planning Initiative. The issues and substantial challenges Mushkegowuk Council faced will be examined through the perspectives of those involved in planning at Mushkegowuk Council and First Nation community levels. The chapter will examine the outcomes of planning at the time of the research, and investigate how those interviewed for the research interpreted the experience of regional planning and what might need to be addressed in the future.

5.2 Resurgent Intentions

The Regional Planning Initiative of Mushkegowuk Council was an attempt to assert collective Omushkegowuk rights to make decisions about land use. LUP was clearly perceived as a means to strengthen the unity of the Omushkegowuk nation, and to take control of development processes that threatened to further impact Mushkegowuk lands and people. The authority of Omushkegowuk peoples for planning stemmed both from inherent and Treaty 9

rights, with implications for how planning should proceed. As such, the MRLUP initiative was intended as more than simply a way to resist Ontario's legislation or lobby for a greater role within Far North planning. The political goal of a strong and determining role in decision making was coupled with cultural imperatives that sought to revitalize governance and management traditions of the Omushkego Cree, prioritizing community driven decision making. Planning for Mushkegowuk Council needed to create an alternative to colonial relations that rested on the proper exercise of Omushkego rights, and underpinned development that supported the resurgence of the Omushkegowuk Nation. To do so, planning needed to be substantially founded on the governance traditions, knowledge, and aspirations of Omushkegowuk peoples. The following sections explore the idea that the foundation and expectations for planning practice of the Regional Initiative aligned with an Indigenous resurgence approach. They do so by examining how Mushkegowuk Lands and Resources staff, community planners and leadership envisioned planning –its purpose, source of authority, and necessary elements of the process.

5.2.1 Creating an Alternative to Colonial Relations

The drive for Indigenous planning in Mushkegowuk homelands necessarily confronted colonial relations. Although the Ontario government supported community based planning in order to be more inclusive of Indigenous actors and interests, the Far North Act was widely seen as an attempt to deepen the administration of Indigenous homelands by the settler government. Far North planning explicitly sought to reconfigure the north from 'unorganized territory' to integrate into the broader Ontario and global economy. For Mushkegowuk First Nations, protecting and sustaining Indigenous relations to land central to their traditional economies was a

priority. Supplanting Indigenous economies with extractive resource economies is central to the colonial project; however, attempting to implement a blend of both economies in a way that does not undermine either is a monumental but primary goal of many First Nations. In Ontario's terms this is the balancing of conservation and industrial development, but it takes place fully within the context of growth economies supported by provincial LUP. For the First Nations' communities of Mushkegowuk Council, and Indigenous peoples more generally, benefiting from development required that decision making about their lands is decolonized, environmental impacts are minimized, and development projects support their resurgence as self-determining peoples.

Therefore, planning needed to establish a process for development that would require a meaningful role for First Nations to make collective determinations on major developments. A major impetus was the experience of the Victor Mine approval process in which Attawapiskat First Nation was isolated within the federal EA conducted by DeBeers' consultants. Victor demonstrated very limited recognition of Aboriginal and Treaty rights where participation in the federal comprehensive study EA was deemed a sufficient reconciliation of those rights by Canadian governments. Thus, the communities needed mechanisms to cooperate on major development decisions, rather than compete amongst one another for compensation and benefits. As one of the interview participants with extensive experience working for Moose Cree Lands and Resources noted:

You need to work together. Each community can provide sources of expertise. And I think just because we are separate communities now, the government did that, so it just gives that mentality of isolating themselves. You know, you've got a band number, that's all part of dividing them, dividing the people up (Interview #5, June 16, 2014).

The participant saw Mushkegowuk Council as “one vehicle” (Interview #5, June 16, 2014) to break away from *Indian Act* mentalities, but argued there needed to be a significant effort to educate all involved to make decisions based on their own traditions:

Bringing them back to how we thought as people before pre-contact times, because there are a lot of impacts from that in the way people think. You know, we did have land use planning before that. The government bringing this whole land use planning idea, it's not new to us, and people need to understand that we did have our own planning before. They just don't think it's the right kind of concept because it's coming from the government who all installed fear in the process of assimilating people (Interview #5, June 16, 2014).

Thus, although it was necessary to gain control over development decisions and LUP processes, that alone would be insufficient if Omushkego traditions and governance protocols were not central to deliberations. LUP could be important to revitalizing Omushkego Knowledge “if people still carry that knowledge”, and “if people are willing to share what their grandfather or their grandmother, their uncles their aunts within their families” know and understand about their traditions and the land. It was also significant for people to understand the contemporary relevance of the contributions of Omushkego peoples “because knowledge is not just old knowledge, there are new things that are happening out on the land, new knowledge” (Interview #5, June 16, 2014). But Omushkegowuk traditions were vital to the sense of community ownership of the planning process. As the interview participant explained:

I think land use planning, because we had that system in place prior to Europeans coming here, that those laws would be revived, utilized. You might have to adjust them a bit because of the way things are today. You would think you'd have your own customary laws in your land use plan, because that's a First Nation land use plan. But if you don't have that then you might as well just call it a government land use plan. In your land use plan, all your management plans would carry those laws, all the customary laws, the natural laws, of how things were done and cared for (Interview #5, June 16, 2014).

The path, then, to decolonizing planning is founded on the resurgence of Omushkegowuk culture and traditions. Recuperating Omushkego Knowledge of the land is vital to creating an alternative to colonial relations in their homelands –a significant challenge for communities due to both historical legacies and present circumstances.

Assimilationist goals and appropriation of their lands by settler governments and industry has meant deep mistrust of their agendas. In order to break from this past the people need to feel confident they are not being coopted in the process. This was reiterated by Chief Andrew Solomon of Fort Albany First Nation:

Can we have sustainable resource development? I believe so. Can we address those to not hurt the environment? I believe so. And if we do so there should be a mechanism to address those. And that economic development, the driver of that should be the First Nations themselves, not Ontario, not Canada, not the resource developer. It should be driven by those First Nations' people, not to be fooled into thinking they're driving it - I see that a lot too (Andrew Solomon, Aug. 20, 2014).

A major part the resurgence of Omushkegowuk peoples involves re-establishing their relationship with and presence on the land. As Andrew Solomon outlines,

One of the things I always say is this, you have to mark the territory that you live in, you have to, you have to show them that we are there. A lot of people say that it's untouched, it's really well kept. But we've roamed around those places so many years, we've been in those places so many years, we've been in this area. And you have to think about how clean the people were if you go back, that's my take. And for people in order to say you marked your territory, it's not good enough. It's not good enough just writing down, that's not good enough. You have to go live there, go live there and go build a house there, go bury your people there, your family there, and then truly you can say this is our territory. One of the things I tell people is what you're from is you are Inninu, Inninu I'd say. You're not Fort Albany, you're not Kash, you're not Attawapiskat, you're not Moose Cree, you're Inninu (Andrew Solomon, Aug. 20, 2014).

For Solomon, re-establishing their relationships with their lands by reversing their isolation and segregation to reserve communities is a primary motivation for Omushkegowuk development, and must be at the forefront of planning priorities.

In order for LUP to support the resurgence of Omushkegowuk peoples, the recognition and reconciliation approach of Ontario needed to change. Settler governments must enable the time, space, and financing for Indigenous communities to develop their approaches if reconciliation is to break from colonial relations. The privileging of Western ways over Indigenous ways of life is often taken as a given in LUP, and Ontario's approach in the Far North was no exception. Planning frameworks that treat Indigenous modes as secondary considerations remain colonial in their approach. Indigenous planning, on the other hand, is founded upon and supports Indigenous ways of life, which includes the persistence of Indigenous economies, governance, and knowledge. A strong role in development decisions within their homelands is essential for Indigenous communities to plan for their futures. A resurgence movement for particular Indigenous communities or nations is vital to self-determined planning that supports their future as Indigenous peoples, and is capable of utilizing multiple sources of knowledge –traditional and contemporary, Indigenous and Western. Indigenous planning is capable of incorporating multiple forms of knowledge as a holistic and dynamic understanding of the land also encourages multiple viewpoints –something that reductive and prescriptive planning in Western traditions cannot.

5.2.2 Approach to Rights

The foundation and exercise of rights also differs from the reconciliation model indicative of the Ontario government's approach. For Ontario, any rights Omushkegowuk Cree peoples

had to LUP stemmed from the written text of Treaty 9, and from the duty to consult and accommodate that community based planning was intended to address. Leadership and planners from Mushkegowuk Council and the communities viewed their rights differently. The resolutions passed by Mushkegowuk Council all affirm inherent Omushkego rights, and emphasize Treaty 9 rights as further protecting their inherent rights. They also view these rights as extending to the “inherent right to practice traditional governance within our Omushkego homelands”, which was asserted in the 2007 Mushkegowuk Declaration of Unity, and then repeated in Tribal Council Resolution 2010-09-10 that addressed planning when the passing of the Far North Act was imminent.

Inherent rights were thus the foundation from which the communities and Mushkegowuk Council asserted their legitimacy to conduct regional planning. Chief Andrew Solomon of Fort Albany First Nation asserted that “what we call inherent rights, the government calls them Aboriginal rights, were bestowed by the creator, and when you look at those rights, (they) supersede any laws that came after Europeans, they supersede them” (Aug. 20, 2014). Therefore, any agreements with the Crown are premised on fulfilling their inherent rights, including Treaty 9. Mushkegowuk’s Lands and Resources Director, Vern Cheechoo explained the different interpretations:

We believe that we have never given up the land - that's something that we believe - and then the Ontario government believes that we did through the signing of a treaty. And so, our rights to the land we say are given to us from the Creator, and not from the government. So we base our values, and all our traditions come from that - our connection to the land and how we survived and sustained ourselves (Vern Cheechoo, June 20, 2014).

Whereas it is the oral agreements in the making of Treaty 9 that Omushkegowuk peoples recognize, it is the text of Treaty 9 to which the provincial and federal governments base their interpretation of First Nations’ rights in the north of Ontario. Vern Cheechoo points to the

uncovering of the MacMartin diaries as further proof that the “taken up” clause was not communicated to the Indigenous signatories of Treaty 9, which confirms accounts of “the people, the elders at that time that were around when the treaty signing took place, they said we never gave up the land” (June 20, 2014). Cheechoo further elaborates:

I know that there is a clause in there (Treaty 9) which again the government says anytime we need to use the land for rail development or what have you, they have the last, you know, the right to do that, basically to move us aside if they have to. So that’s always been an issue for us, and we are identifying that clause was never actually told to the people at the time when treaty was being negotiated...our relationship with the government is not quite the way we'd like it, the way we see it because of that clause - it takes everything away from us (Vern Cheechoo, June 20, 2014).

Therefore, Ontario’s limited recognition of Omushkego Treaty 9 rights was not an acceptable platform from which planning could be pursued by Mushkegowuk Council or the communities. Missanabee Cree First Nation Chief Jason Gauthier, who formerly occupied the role of planner for Mushkegowuk Lands and Resources, expressed that “governments are insulting in the things they think they have a right to—our children, education” (June 11, 2014). He does argue, however, that Treaty 9 did establish a relationship based on sharing. Sharing, Gauthier argues, “structures everything between the communities” (June 11, 2014), which is the underlying logic of collective regional planning for Mushkegowuk communities, and for negotiating LUP with the province. Treaty 9, to Mushkegowuk First Nations, means shared decision making that applies across communities and governments (Interview #11, August 20, 2014).

The value of sharing is at the foundation of Omushkegowuk governance traditions. Karen Pine Cheechoo, a planner for Moose Cree First Nation, noted that governing relationships in Omushkego Cree traditions are not hierarchical as they are “neither a patriarchal or matriarchal society”, which extends outwards from the family to relations between families and nations. Thus, the expectation for relations with the province from an inherent rights perspective

is that they reflect their ethic of sharing among equal peoples, or nation to nation relations.

Further, with inherent rights come responsibilities, which cannot be conceived as simply a set of individual entitlements to the land, that place caring for the land central to any planning activities. Job Mollins Koene noted that taking responsibility for the land was identified by elders in developing regional planning:

When we meet with the elders, they talk about it's our land, we have a responsibility to look after it and to manage it, to care for it, and we've never given away that responsibility to somebody else. That underpins our perspective on planning. That carries forward however we are going to continue in the future—we need to plan from that (Job Mollins Koene, April 24, 2014).

An understanding of inherent rights as a responsibility to the land contrasts with what some see as colonial interpretations that focus on entitlements. The anonymous participant from Moose Cree First Nation provides an explanation:

There two different systems you have to consider. Coming from an Indigenous perspective, my understanding is that you are born with a responsibility to take care of the land. It's not something I go to school for, you know, get a diploma or degree and that's my job. No, we're born with the responsibility when we come into this world, that's how I understand it, what I believe. So that's one system, when they talk about inherent rights, and that brings all those traditional systems into play, how we were organized here and how decisions were made. Then, we talk about treaty times, Treaty 9 and government law. Changes things, some people only think from that perspective—'I have treaty rights, I can go anywhere I want in Treaty 9'—they ignore that traditional system. They think they can kill fifteen moose, that's how they abuse their rights, they don't understand their rights. It's one thing for someone to sit in an office and say 'my rights, my rights, my rights', that's only half the picture, you need to exercise your rights. The government will look at the land as empty if you are not out on the land—terra nullius. You hear politicians all the time, you know, 'my rights, my rights', he doesn't even go in the bush, he doesn't even go hunting, he doesn't even know where he comes from (Interview #5, June 16, 2014).

The erosion of rights as they stem from traditional practices and governance traditions to the entitlements derived from Treaty 9 impacted Omushkegowuk relations to land. The purpose of

Treaty 9 “was to accommodate two nations to be able to live side by side and share” (Interview #5, June 16, 2014). The treaty both affirmed their inherent rights and formally established a relationship between Omushkegowuk peoples and the Crown. However, Treaty 9 is often taken as the origin of their rights, both by the province and sometimes by those in the communities. Educating community members on the purpose of Treaty 9 within precolonial Omushkegowuk law was a priority:

They are not aware that there is an older law in place instead of this, what comes with the Treaty. We had our own laws, they were already all in place. And people don't know them, don't understand them... Mind you there are people becoming educated and understanding who we were before these other systems came into place (Interview #5, June 16, 2014).

The assertion of inherent rights, along with the responsibilities to the land it entails and the ethic of sharing, forms the basis for planning amongst Mushkegowuk communities and with the provincial government. As with Treaty 9, negotiations with settler governments were intended to help secure the future well-being of Omushkegowuk Cree peoples. First Nations in the region expected compromise and accommodation. They did not, however, expect subservient roles as their inherent rights in their lands remained paramount.

5.2.3 Framing the Mushkegowuk Regional Initiative

With the launch of Mushkegowuk Council’s Regional Planning Initiative, the priority of decolonizing planning and assertion of inherent rights were evident in their approach. The Council had been thinking of LUP “long before the Far North Act...because of resource development and things like that coming into the territory” (Vern Cheechoo, June 20, 2014). Although the idea of collectively planning had been in the work since the 1990s, Ontario’s drafting of Bill 191 placed pressure on Mushkegowuk Council to respond. Significantly,

Ontario's unilateral action in bringing legislation appeared to abandon the process of negotiations at the Northern Tables and elsewhere. Former Director of Lands and Resources Job Mollins Koene noted that they were willing to work with Ontario conceptually on planning, but any formal decisions would need to address inherent and treaty rights. The introduction of the Far North legislation side-stepped this process, as Mollins Koene explains:

Unfortunately we never had really true negotiations (over differences in interpretation of treaty rights), I would say, so it never really was there. In the discussion with the policy people early on before the Far North Act it was more of, yeah, let's find a way to work together on this, let's roll up our sleeves and put together a system that makes sense and keep using in certain planning exercises. Once it became a legislative piece it took on a different perspective. And I think that's, from what I recall, that's the biggest reason why the Far North table, why the Chiefs pulled the plug on the Far North table is the province was bringing in legislation and this agenda of theirs, but refusing to discuss the treaty rights and not going into a treaty discussion at the time. So that's something the Chiefs said—no we don't want to be a part of this process, and in terms of the Far North Act it's not addressing our fundamental concerns (Job Mollins Koene, April 24, 2014).

Planning legislation in the absence of treaty-level agreements threatened to deepen colonial relations as the level of control First Nations could exert on planning and development decisions was circumscribed by the Far North Act.

One of the fundamental concerns with the Far North Act across Nishnawbe Aski First Nations was with “the clause that says the Ontario government has the last say” (Vern Cheechoo, June 20, 2014). Ontario's insistence on the final say for planning decisions was all too reminiscent of the “taken up” clause in the written Treaty 9 document, and as such, was unacceptable to leadership at NAN and Mushkegowuk. As Vern Cheechoo observed, the Far North Act “is just another way to develop a system in the north such as that in the south because of development (and) resources” (Vern Cheechoo, June 20, 2014). The perception was that

Ontario would likely use its overarching authority to ensure its own development priorities at the expense of First Nations' interests, and replicate the character of southern planning.

Thus, Ontario's unilateral plans for Far North legislation –breaking the partnership in planning that was being pursued at the Northern Tables with NAN –forced Mushkegowuk Council to fast-track their nebulous idea for a regional approach. With impending legislation, Mushkegowuk had to assert itself in planning to address the shortcomings of Far North, and to act on the goals and principles it was mandated to uphold. With LUP, these translated into foremost a nationhood approach, and co-planning with the Crown reflective of the Treaty 9 promises to share the land. There were also more pragmatic goals for which regional planning appeared to be the most appropriate vehicle. Therefore, regional planning by Mushkegowuk Council member First Nations needed to be initiated for both larger political purposes and for more immediate concerns.

5.2.3.1 A Nationhood Approach

One of the principal goals for Mushkegowuk Council was the rebuilding of the Omushkegowuk nation. Planning for the whole of Mushkegowuk territory was a crucial to nation building as it represented collective action that would transcend First Nation memberships. This contrasted with the community based planning proposed under the Far North Act that favored bilateral development of land use plans between the province and individual First Nations. Regional planning could more accurately represent the kinship ties across the territory and acknowledge the movement and interconnection of families that were not necessarily confined to single First Nations. A nationhood approach to planning was significant for asserting the broader, decolonized identity as Omushkegowuk peoples.

Job Mollins Koene, the Director of Mushkegowuk Lands and Resources at the time the regional planning initiative was introduced, noted that the nationhood approach was advocated for by elders and others in community consultations leading up to the regional initiative. Mollins Koene recalls,

I think one of the big issues people talked about and the elders talk about is that the Omushkegowuk people didn't want to be divided, when it came to the land they didn't want to be divided into their First Nations. They talked a lot about we were all one people, the Omushkegowuk people, and that the land belonged to the Omushkegowuk people, not to the individual First Nations (Job Mollins Koene, April 24, 2014).

Working collectively would also help resolve potential conflicts that would arise if individual First Nations took competitive approaches to defining their territories and pursued bilateral negotiations with the province. Mollins Koene noted that,

they didn't want to be divided up and end up fighting with each other over this is my territory and that is your territory, and we are going to try to draw lines between them, between each First Nation or each group. We wanted to look at how to best plan that together for the interests of all, rather than trying to cut it up first and then each group plan their own piece of the pie...I guess people have a history of working with government and have seen that divide and conquer approach in the past where there is limited resources and we are all fighting over certain pots, and each community trying to out compete the other. So people have a lot of experience with that and didn't want to see that. I don't know if it's specific to this land use planning, but there is the sense of let's not be divided and conquered again... We have communities in the southern part of Mushkegowuk territory that are not included under the Far North Act and were left out of that process. And all along the sense was we wanted to do this as the Mushkegowuk together. The Mushkegowuk people, planning our homelands, not splitting it off again into north and south with that artificial line driven through the middle (Job Mollins Koene, April 24, 2014).

Regional planning, thus, would be a significant expression of unity where conflicts could be addressed internally, rather than what was regularly termed the 'divide and conquer' tactics of federal and provincial governments. All communities involved in creating a plan for the entire

homeland would be a major step for nation building, with the potential for strong proactive roles in decisions affecting the territory.

However, regional planning remained in preliminary stages. When asked if the regional planning initiative was effective in supporting Mushkegowuk Council's nation building objectives, Cheechoo replied "not at the present time, we are not quite there yet" (June 20, 2014). He did note that "there are other initiatives that are happening in terms of governance with communities that want to see a concerted effort also in resource development" (Vern Cheechoo, June 20, 2014). Cheechoo noted:

In terms of nation building there are those initiatives that are happening region wide with the communities wanting a form of governance for the whole area...and land use planning or whatever comes up will follow that. It eventually will support it, it will support the whole region, a regional land use plan will support that (June 20, 2014).

As such, Mushkegowuk Council was in the position of needing to move forward on regional planning, but without a fully accepted and defined role in the governance of the territory (relations between Council and the communities will be discussed in detail later in the chapter). But acting as a nation was essential to decolonized planning practice and creating an alternative to the approach to planning legislated in the Far North Act.

5.2.3.2 Co-planning Reflecting the Treaty 9 Agreement to Share the Land

Mushkegowuk Council did see itself as obligated to work with the province on LUP. The Council fully intended to honour the Treaty 9 agreement to share the land, which was also the logic underlying negotiations at the Northern Tables. Mollins Koene explained that "as long as I've been working with the Council there has been interest in planning" and that Council had "opened up some discussions with the province about how land use planning could happen, how

we could make it happen” (Job Mollins Koene, April 24, 2014). Mollins Koene noted that discussions were at first “off the record” and that the province was “very skittish talking about land use planning, nervous, so we agreed to what we called a think tank” (April 24, 2014). But the province’s proposed legislation “was very different from what we had talked about in terms of a co-planning model” (Job Mollins Koene, April 24, 2014).

Nonetheless, despite Ontario’s perceived breach of the partnership approach, there was still full expectation that regional planning would proceed in partnership with Ontario. Mollins Koene noted that,

They (the coordinators) were always more than welcoming and interested in having government people sit at the table with them and work through all the issues as we went... It was more of let’s plan together, and work together on the planning all through it, and they always wanted to have that input from the province, to have people sitting there with them. And they wanted to invite the other jurisdictions in as well if they were interested (Job Mollins Koene, April 24, 2014).

Treaty 9 set out that partnership approach, and the realities of planning and development meant Ontario’s acceptance of regional planning was needed, as well as their funding and technical support.

But for the partnership approach to be successful a clear nation to nation dialogue needed to exist at the Mushkegowuk Council and Ontario level. Ontario’s determination to proceed with its legislative agenda in the Far North precluded meaningful nation to nation negotiations, resembling instead a more limited form of recognition. Fort Albany Chief Andrew Solomon concluded that “Ontario missed an opportunity to work with First Nations, they missed an opportunity to be a role model within Canada in how they were going to treat their partners on First Nations by implementing their own legislation” (Andrew Solomon, Aug. 20, 2014). Instead, he interpreted Ontario’s interest in LUP as simply a means to “mitigate any damages

into the future” as “governments will only come and sit at your table in their best interests, not in the best interests of First Nations” (Andrew Solomon, Aug. 20, 2014).

5.2.3.3. The Need for Regional Planning for Pragmatic/Strategic Reasons

Regional planning for Mushkegowuk communities was also pursued for more pragmatic reasons. Specifically, any large scale resource and infrastructure development needed all the communities involved as “the bigger issues that needed to be dealt with were landscape level” (Job Mollins Koene, April 24, 2014). This also applied to wildlife management where there needed to be a broader co-operation to address species protection. Mollins Koene noted, for example, that “the caribou herds move through the area, all the wildlife travel through these areas so it didn’t make sense to do it on a smaller scale, it made a lot more sense to do it on a larger scale” (Job Mollins Koene, April 24, 2014).

The flow of rivers through the territory and into James and Hudson Bay also presented a clear concern for all communities. Karen Pine Cheechoo pointed out that one of the major issues and a priority for Moose Cree and other costal Cree communities is a marine treaty for James Bay. This would involve Cree communities on both sides of James Bay, the provincial governments of Ontario, Quebec, and Manitoba, Nunavut and the federal government. She further noted that the watersheds that contain the ‘Ring of Fire’ flow into James Bay, which then circulates south along the coast affecting all communities on the western coast of James Bay, including Moose Cree. Regional planning could be an effective means for Mushkegowuk communities to understand and address the Ring of Fire and other developments affecting their waterways.

But one of the most significant priorities was to address both the lack of planning in the northern part of Mushkegowuk territory, and the loss of control through previous planning processes in the south. Barb Duffin noted that “most of it (land in the south) has all been taken up whereas the Far North there is virtually nothing governing, there’s no governance in the north, existing governance, so we can essentially work on a clean slate (Barb Duffin, June 20, 2014). Thus, the opportunity for planning that was effective and responsive to First Nations’ priorities was certainly there in the north, but there was also the opportunity to address marginalization in the south. Some argued that it was the southern communities that most needed the assistance of Mushkegowuk Council as “all that taken land by the government and companies, towns and everything else, the public -that's where they could support” (Interview #5, June 16, 2014). This view was also supported by Mollins Koene, who argued:

I really see a need for planning in the area south of the Far North line...I’ve had this discussion with MNR many times about how there truly has never been good, or any land use planning done in the area...I mean, in some ways it’s easier to do the Far North because it’s isolated pressures, individual pressures. But in the south it’s an ongoing process, and there is no land use plan that identifies the southern, and certainly none that the first Nations have ever been involved with (Job Mollins Koene, April 24, 2014).

Inclusion of the southern communities was clearly critical to nation building, but also to address the impacts of development under previous planning regimes.

The MRLUP initiative represented an opportunity to further the resurgence of the Omushkego nation. Although resistance to Ontario’s Far North legislation was a significant factor propelling the regional initiative, more importantly was the need to articulate a collective vision for the economic future of the Omushkegowuk nation. Exercising inherent and Treaty 9 rights, the Council undertook regional planning that was intended to reassert the nation in development decision-making, providing the basis for a sustainable future.

5.3 Mushkegowuk Regional Planning

The key dimensions for regional planning led by Mushkegowuk Council were, thus, a nation to nation partnership with Ontario founded on inherent rights, and Treaty 9 rights as understood by Omushkegowuk peoples. The planning process faced the large but crucial task of reconstituting Omushkegowuk relations to their lands and governance traditions to inform planning choices. As such, regional planning would assist in the larger resurgence of the Omushkegowuk nation where colonial legacies that divided Omushkegowuk peoples from their lands and from each other needed to be addressed. However, those legacies and contemporary realities were a formidable challenge to creating a unified Mushkegowuk plan.

5.3.1 Contrasts in Contemporary and Traditional Governance and Planning Practices

In both community level planning and at the Mushkegowuk regional levels, re-engaging with Omushkegowuk peoples' traditional forms of land management were a primary concern. Traditionally land management was based on families and family heads who were the stewards of specific lands:

Even years ago in the history there was always that management that took place with the traditional lands. Each family had their own traditional areas in which they managed and looked after and were respected for it. So anybody that wanted to go into a particular area had to approach the family that was in the area. And so they managed in terms of the wildlife, in terms of the hunting, they would try and manage their lands. That way if one area was being depleted they would ask to move to another area to help replenish the area that they came from, allow it to bounce back... allow the animals to come back again in that area" (Vern Cheechoo, June 20, 2014).

When you look at the various levels of governance of the land, we already had our family places out on the land, we had those in place in pre-contact times. And of course the fur trade era changed everything so greatly, all the beaver being trapped out, well most of them, a lot of the beaver are gone. But we still

had our systems, our own social, political systems in place of how we looked after the land... so there's the traditional system that we had in place (Interview #5, June 16, 2014).

But increasingly since the signing of Treaty 9 federal and provincial governments have imposed their own frameworks to govern and manage lands. Traditional management has been layered over by colonial systems that held little regard for pre-existing territories:

On top of that (traditional management) comes the government jurisdictions, there boundaries... Provincial boundaries, their EA boundaries, their management units, their trap lines, the different laws and regulations they have when it comes to water, you know, all these different foreign systems that are in place (Interview #5, June 16, 2014).

These impositions include the band council system, which has further eroded the authority of family heads (Interview #5, June 16, 2014; Interview # 13, August 21, 2014), but which remain the primary institution for First Nations' governance. Contemporary land management largely operates through colonial institutions, but Omushkegowuk Knowledge of familial lands and management traditions continues to shape community expectations for current management initiatives (Interview # 13, August 21, 2014).

One of the primary effects of colonial forms of management was to disrupt the relationship between Indigenous peoples and their lands. Inseparability from the land is central to an Omushkego worldview, as with other Indigenous peoples. For example, Meshan Sutherland observed that the people in the Fort Albany First Nation community agreed in principle that they and the land were one in the same. But the means to nurture this relationship needed to be rebuilt as "the tools are shattered, the people are shattered" (Meshan Sutherland, Aug. 19, 2014). The history of colonial relations has devastated their ways and knowledge as Indigenous peoples, so that even what constitutes "tradition" in the community is a very contentious issue. Part of this problem is that traditional values have become ambiguous, and tensions arise when conflated

with “Christian values” (Meshan Sutherland, Aug. 19, 2014). Specifically, Sutherland argues that Christianity plays a very significant role in the beliefs of elders, and what he interprets as urban ways of thinking permeate his community. The experience of residential schooling –the former St. Anne’s Indian Residential School was located in Fort Albany –had profound effects on the Fort Albany community as Indigenous traditions were attacked and Western traditions ingrained in students. When discussing LUP with people in the community, Sutherland noted many have said “I know nothing about rivers, I know nothing about moose, I know nothing about the Bay”, which he interpreted as commentary on their lost relationships to their lands (Meshan Sutherland, Aug. 19, 2014). Sutherland further argued that the current perception of “ownership is based on Christianity”, which has “re-defined our ancestors’ sense of belonging (to the land)” (Meshan Sutherland, Sept. 29, 2014). He noted that “this barrier is still strong and powerful” as it shaped perceptions about ownership and territory within the community, making the revival of traditional ideas and relations to the land difficult (Meshan Sutherland, Sept. 29, 2014). Planning processes present the opportunity to re-invigorate traditional systems of land governance and management, but they also risk reinforcing colonial relations if values and assumptions of what constitutes tradition are not interrogated at the community level.

Therefore, a critical element for the resurgence of Indigenous planning is that it is built on a foundation of Indigenous Knowledge. This does not in any way preclude utilizing other forms of knowledge, which Indigenous peoples and others hold and can contribute to planning. Both Indigenous and Western Knowledge were necessary to inform planning, and “you need people that are able to, that are educated in both systems to move along in a good way –it’s a challenge (Interview #5, June 16, 2014). However, the Far North Initiative by the province treated Indigenous Knowledge as supplemental or secondary knowledge. Thus, scientific study was

afforded significant resources and prominence in the Far North Initiative, while the knowledge of Mushkegowuk and other Indigenous peoples had to make do with much less funding and stature.

Job Mollins Koene explains:

I think the importance of what some people call traditional ecological knowledge. It's interesting that when we were meeting with communities once we established or were trying to establish a regional process, one of the elders said, no, don't call it traditional ecological knowledge, it's Mushkegowuk knowledge because it's specific to the knowledge of the land by Mushkegowuk people. And the importance of that and using that as a basis for future planning I think it's not missing from the provincial process, but it's not given the respect and the centrality it deserves. Very quickly the province established, I forget what it's called, the scientific panel, the science advisory panel, that was really important to them to have that in place. They spent, there were millions of dollars kept in the budget they allocated towards scientific planning, scientific knowledge gathering of the Far North and filling in what they called the blanks, the lack of knowledge. But it was very much of a Western empirical science approach. You have to go out and study the flora and the fauna and gather information on it. It was not rooted in the knowledge of the communities or of the people (Job Mollins Koene, April 24, 2014).

Mushkegowuk Knowledge, thus, needed to be asserted beyond the parameters set by Far North planning. The Regional Initiative was vital to opening the possibilities for planning substantially informed by Mushkegowuk knowledge.

For the Moose Cree, Karen Pine Cheechoo argued that the purpose of LUP was to re-establish their presence on and relationship with the land (June 20, 2014). To that end, Moose Cree have negotiated harvester support provisions in IBA's, conducted occupancy, land use, and Traditional Knowledge studies, and have utilized or revitalized traditional forms of governance, such as elder's councils. They have built shelters and camps on their lands to support land-based activities within their homelands (Karen Pine Cheechoo, June 20, 2014). There are also negotiations for a second reserve in the southern part of the territory underway. Pine Cheechoo asserted that "the MNR does not like this" when referring to the goals and means by which Moose Cree presence throughout their homelands is being re-established (Karen Pine Cheechoo,

June 20, 2014). The MNR have regularly accused them of “overkill”, and argued that they are responsible for species decline (Karen Pine Cheechoo, June 20, 2014). For example, she pointed to the establishment of a bird sanctuary at the mouth of the Moose River (Moose River Migratory Bird Sanctuary) where Cree hunting was blamed for declining bird populations (Karen Pine Cheechoo, June 20, 2014). Moose Cree argued change in the nesting patterns of the birds was responsible as nesting areas would move with maturing/changing vegetation, and scientists had demonstrated agricultural practices far to the south as having an effect (Karen Pine Cheechoo, June 20, 2014). Thus, nesting areas were not static and confined to a permanently defined sanctuary, such as the one on the Moose River. However, according to Pine Cheechoo, MNR officials continued to blame Moose Cree hunters for the decline, dismissing both Cree Knowledge and scientific research. Pine Cheechoo noted that “the MNR could have asked us and we would have established a time for them to rest”, rather than an outright ban on hunting that the sanctuary entails (June 20, 2014). The insistence by the MNR that they knew best how to manage Moose Cree homelands was deeply insulting to the Moose Cree community, and there appeared to be reasons beyond either scientific or Indigenous Knowledge motivating the MNR. That is, motivations of the MNR were often unclear, but from Moose Cree First Nation’s perspective, the MNR was intent on asserting complete authority over decision making.

The need for more substantial consideration of Indigenous Knowledge did not dismiss the need for scientific study, such as the work of the Science Advisory Council. The information gathering and technical expertise of Ontario and the MNR was helpful for First Nations’ planning, but was arguably limited to a “snapshot” (Interview #5, June 16, 2014). Thus, the perception of government and industry scientists by First Nations’ representatives was that they tended to draw broad conclusions based on very small samples over short time periods

(Interview #5, June 16, 2014). Sutherland noted that the MNR and conservation organizations were preoccupied with species at risk, such as caribou, which communities such as Fort Albany did not necessarily depend on as a major part of their current harvesting practices (August 19, 2014). He argued that species which were currently plentiful, and on which the community did depend, needed a conservation plan as the risks to these species from development activities were not well understood (Meshan Sutherland, August 19, 2014). Sutherland explained that “our basic foods were snow-shoe hares and ptarmigans, and we owe our thanks and acknowledgement to these species in our future water-land use plan” (September 29, 2014). He pointed out the importance of rebuilding their ability to sustain themselves from the land, or “food sovereignty” (Meshan Sutherland, September 29, 2014), as central to planning goals. However, government and industry studies were oriented around development versus conservation questions that discounted the significance of harvesting activities for contemporary purposes. He explains:

It's been very difficult to include this concept "food sovereignty" in the base or footing of a model for planning...My singular beef with all traditional harvester's surveys is that every result is aimed at resource development of some kind, but not the security of our people's food-source and land-based harvesting activities aimed at sustainability” (Meshan Sutherland, September 29, 2014).

The kind of land management necessary to ensuring food sovereignty for Mushkegowuk communities would be far better served by flexible systems contingent on extensive local knowledge indicative of the traditional family heads form of management. The provincial government’s zoning preference for areas of development or conservation was a poor fit for rebuilding the capacity of Mushkegowuk communities to engage in sustainable harvesting activities.

Of particular concern, then, were the tensions between family-based land management and the trap line system. Traplines have become entrenched in how many define their rights to

harvest in specific areas, which presents many problems for traditional management (Interview # 13, August 21, 2014). Vern Cheechoo describes:

There is a whole story behind that whole trap line system. Traditional territories are quite different from the trap line system that was introduced in the 50s from MNR. Traditional territories from within a community were family owned, the family managed I guess I could say, and Moose Cree has mapped out all their traditional lands within the territory. Other communities are talking about it, they know where those areas are and whose area it is just by memory. So, the trap line system came in and it split up the traditional lands, and then also anybody could go anywhere. They could go south, they could go to Manitoba they could go anywhere, and that's what the Ministry was doing was moving them to different areas. And I know in our family homelands we have about four and a half to five trap lines running through our territory. And then you have people that are trapping there that don't know that or don't understand that they are in the traditional lands of a certain family. Those are the kinds of issues we need to rectify (Vern Cheechoo, June 20, 2014).

Cheechoo describes the trapline system as having produced dysfunctional resource management and created conflicts among community members where trapline boundaries do not recognize traditional family lands. Karen Pine Cheechoo stated reinstating traditional “land bosses” and “family heads” in decision making has been a significant goal in building Moose Cree capacity to manage its lands (Pine Cheechoo, June 20, 2014). This form of land governance is rooted in Omushkego knowledge of the land, which has proven sustainable over a very long time –well beyond any colonial management system. Trap lines, on the other hand, often place too many users in certain areas as hunting and trapping rights are exercised as individual entitlements. Pine Cheechoo noted that in one small area near Moose Factory there were over 40 registered trap lines, which placed enormous strain on wildlife in the area (Pine Cheechoo, June 20, 2014). The traditional ways of managing lands, thus, are not traditions for tradition’s sake, but effective for managing contemporary problems. Traditional forms of land governance allow for sharing lands so that lands can rest when needed. Traplines isolate individuals to particular areas regardless of

whether they can support one's needs, and have no mechanisms for sharing knowledge and adapting to changing circumstances (Karen Pine Cheechoo, June 20, 2014).

The sharing of lands, managed by land bosses and family heads, also fulfilled the goal of “peacekeeping” among families and nations (Karen Pine Cheechoo, June 20, 2014). The concept of shared territories is much more permeable here than defining boundaries and areas of overlap in the provincial process. The sharing of territories could occur anywhere, not just in predetermined zones. This could also be interpreted as the sharing of responsibility for how one might impact other's lands. Allowing lands to rest for the health of species depended on by many meant that there was a responsibility to share when others needed to rest their lands. This kind of governance was founded on the continual sharing of information or knowledge, and it is inherently adaptive. Pine Cheechoo further noted that traditional management was also structured around moon cycles (June 20, 2014). Different management actions applied to different areas at different times of the year, and varied according to lifecycles of the land. The kinds of management Pine Cheechoo discussed, when compared to LUP under the Far North Act, demonstrate planning for economies at cross purposes –one economy built on a sustainable relationship with homelands, the other a globalized economic growth economy. It is in restoring this knowledge, form of governance, and management systems that Karen says the Moose Cree mean by building capacity for LUP –very different from what Ontario and other non-Indigenous resource managers consider capacity building.

Although there was significant interest in Omushkego frameworks for managing lands, there was much pressure from both external and internal interests for conventional resource extraction. Sutherland expressed concerns about “urbanized Cree” who are unintentionally connected to outside interests (Aug. 19, 2014). Some have taken on assumptions about

development that supports resource extraction as the singular path to improved economic conditions; however, Sutherland did see efforts on the part of the younger generation to embrace traditional culture and challenge colonial mindsets (Aug. 19, 2014). To Sutherland, “the first lesson is to listen”, which is a principle in Omushkegowuk traditions he attempts to follow (Aug. 19, 2014). To him, the authority to make decisions on LUP lies with the land. To help listen to what the land is telling them, they need their language, but language loss was making it more difficult to understand Peetabeck Inniknow concepts. Chris Metatawabin viewed the erosion of Omushkegowuk values and traditions occurring more broadly. Metatawabin argued,

That is happening with the other Mushkegowuk communities (as well as Fort Albany) - young people having a definition that is not from the community. They are borrowing it from down south and then bringing it up to the communities, and that's what creates the problem, the disintegration of family values. They all think that they are separate, their communities are separate, they stand alone to gain the benefits from mineral extraction companies, they should not share it with the other Mushkegowuk communities (Chris Metatawabin, August 20, 2014).

Others noted that a restrictive view of tradition might not acknowledge how it informs current planning. The compatibility of Omushkegowuk traditions with contemporary forms of planning was an issue for those in the communities:

Obviously, when we are looking at Mushkegowuk territory, there needs to be a line put down. People are scared of lines, you know, when looking at territory, but they are only lines. They are only lines, they are flexible, you know, they're all we're not doing land use planning, we're not putting any lines down on the land, that's not how we thought! Well, our lines from what we had in place before were from this lake to that river or from that ridge, those were boundaries same as the lines you will see on a paper, on a map (Interview #5, June 16, 2014).

The interview participant argued that “the Moose Cree homeland is based on a traditional system, an area of responsibility, not an area of ownership” (Interview #5, June 16, 2014), which stems from the perspective that no one owns the land. Responsibilities to the land, as discussed

above, require ensuring sustainable relations with their homelands where economy and preservation do not run counter to each other. The participant explained their interpretation of protected areas from a Moose Cree perspective:

With Moose Cree, because of our land use planning process that we've been in for a while, we would only be able to share, not our whole land use plan whenever it gets developed, but we would be able to share the areas that we want to be protected. And being protected, I speak of protection, it could be not just restriction of a land area, it could be certain types of restrictions of activities throughout that area at certain times of the year. So it's not like a park, you know, and this is the law that goes with the park, this is the management plan. Because of the way we lived and how we cared for our land, our areas, our family areas, that we rotated in there. But certain places were restricted, you cannot do anything there. More than likely it would have been a burial site, and there would be a buffer around it that you shouldn't be doing this close by, those kind of places. But then there were other places where you didn't go, you know, the fish are spawning, you don't go there, but you can go back there and fish there after they are done. So there are certain types of protection on the land like that. (Interview #5, June 16, 2014).

Regional Planning for Mushkegowuk Council did not preclude resource development or protected areas, but would need to take a much more flexible approach to these issues than conventional parks or permitting. Planning would also require extensive consultation at the community levels to establish who held responsibilities for specific areas and to gather Omushkegowuk Knowledge. Patience, significant financial resources, and co-operation among communities and with the province would be necessary for a robust and Omushkego driven regional plan.

5.3.2 Planning with Ontario

LUP in Mushkegowuk territory, and the Far North more generally, presented an opportunity to redefine conventional approaches to both development and conservation. A priority for First Nations' communities and the Tribal Council included undertaking planning

that was substantially based on the knowledge of their people from which they could determine appropriate stewardship of their lands. This would be a complex task that involved much more than selecting Ontario defined land use designations. Vern Cheechoo explains:

Land use planning is something to identify, according to the Ontario government, is to identify areas in which could be protected and areas in which we want to see development. It's difficult because you have a lot of different things that are handed down over the history of the sacred sites along the rivers and things like that, so the Elders and the people want to have the lead in terms of how they determine that. They are not against development, they do want to see development, they want to see the area developed for Mushkegowuk people. So, they base their values on that and how best can we develop the land without destroying it (Vern Cheechoo, June 20, 2014).

As Cheechoo indicated, there was potential to find common ground with the priorities of Mushkegowuk communities and those of Ontario. However, Ontario appeared reluctant to deviate from established practice. For example, Meshan Sutherland of Fort Albany argued that the MNR continued to assume protected lands would be treated as parks in the conventional Ontario parks system (August 19, 2014). This was despite assurances by Ontario officials that Far North would allow for different forms of protection (Meshan Sutherland, August 19, 2014), such as access for hunting and the building of camps to support cultural practices. The interview participant from Moose Cree First Nation noted that in meetings MNR and MNDM scientists and officials regularly privileged resource extraction priorities over Indigenous land uses (Interview #5, June 16, 2014). This was evident in the desire of Ontario representatives to keep lands open to resource development where they did not have knowledge of mineral potential. From the Moose Cree representative's perspective, a lack of geological knowledge should not preclude protection as "we have nothing to lose if we've got a protected area and we continue to live" (Interview #5, June 16, 2014).

A major problem for Fort Albany, according to Meshan Sutherland, was to be able to determine their priorities and purpose for planning, such as planning for a resource extraction economy or planning for culturally relevant land uses (August 19, 2014). With Ontario and the MNR's process, resource extraction was perceived to be the driving goal, but for Fort Albany it was ensuring the sustainability of their lands. Sutherland argued "Fort Albany's planning starts with all the territory protected", which is "the opposite of MNR planning" that selects protected pockets while assuming potential development for everywhere else (August 19, 2014). Fort Albany's approach was noted as more effective approach to LUP and was supported by the Chair of the Far North Science Advisory Panel at the Planning together III Workshop in the spring of 2014 in Thunder Bay as an ecological approach to planning (Meshan Sutherland, August 19, 2014).

Moose Cree First Nation were previously involved in LUP with the MNR in 2005, and restarted terms of reference negotiations with the MNR under the Far North Act (Karen Pine Cheechoo, June 20, 2014). Their reasons for re-entering negotiations were primarily as a way to protect the North French River system—a high priority for the Moose Cree. They feel that by entering LUP negotiations with the MNR, they could get provisional protection for the North French River. What Moose Cree First Nation did, according to Pine Cheechoo, was to "take the carrot" of funding from the MNR to develop land use plans to help with the protection of their lands, but in no way felt obligated to reach a final agreement (Karen Pine Cheechoo, June 20, 2014). Moose Cree depended less on provincial funding as they had other significant sources, and had developed their capacity to undertake LUP over a long time. As such, they did not feel pressure to enter into any agreements with the province that might sacrifice their ability to protect the land. Pine Cheechoo stated that the terms of reference she helped develop and was

before council in 2014 would likely be rejected. Although the terms of reference were designed with both provincial and Moose Cree expectations, it was still perceived as “giving up too much” control over decision making in Moose Cree homelands (Karen Pine Cheechoo, June 20, 2014).

Development in the southern part of Mushkegowuk territory, which occurred with largely no input from or benefit to First Nations, demonstrated the need for direct involvement in the Far North. But with LUP at the forefront of both Council and provincial agendas, there was also the potential to address the lack of First Nations’ roles in southern planning and development.

Mushkegowuk Council’s regional planning was intended to include all its member communities and not just the areas north of previous provincial planning. The MNR, on the other hand, was unwilling to consider the southern communities within Far North planning. Despite the MNR’s reluctance, dealing with First Nation priorities in the south had experienced some recent success:

Missanabie Cree First Nation did have a large area, Manitou Mountain, which is a very strong spiritual connection area for them, withdrawn from any mineral staking. It's a large area and that was withdrawn through MNDM, so there's no more forestry, no mining, there's nothing there, that is now a protected area withdrawn from any type of resource extraction activity. So it is possible. It took several years to get it done, but in the big scheme of things that is not really that long actually when you know how the government rolls. So it's possible, it's just identifying the areas and working with people, and then we have some strong allies in the government at MNDM that really were, and we still do, that are very pro protection of First Nation values, and as long as you have them there on your side then it does happen (Barb Duffin, June 20, 2014).

The perception from Missanabie First Nation and Mushkegowuk Council was that MNDM was more responsive to their concerns. Barb Duffin explains:

It’s very interesting that the southern communities with MNDM we moved along. The odd thing we ran into, but nothing that wasn't talked out and figured out and very easy to work with the people at MNDM. Where there are roadblocks and stumbling blocks they are coming from MNR, and for the north they seem to have an agenda within the Far North Branch and we are not part of it. Our way of wanting to plan is not part of theirs (Barb Duffin, June 20, 2014).

The province's priority was for planning in the Far North, to which the MNR had the mandate and the funding to complete. As such, the perception of Mushkegowuk representatives was that the MNR was concerned more with enforcing legislation, rather than co-operating with the communities and Council. MNDM appeared more concerned with good relations, but had no mandate for planning. Still, southern Mushkegowuk communities were able to utilize MNDM funding for Aboriginal values mapping to further their internal planning needs and to protect significant areas.

But working with the province on mapping and LUP had the risk of exposing Omushkegowuk knowledge where it could be utilized against their interests (Interview #11, Aug 20, 2014). Solomon reflected that his major concern with regional planning and working with the province was the issue of intellectual property rights (Andrew Solomon, Aug. 20, 2014). He noted that the federal and provincial governments,

...can publish what they give to the First Nations. And whatever they give to the First Nations they want to see where it was spent, they want to see the outcomes of that meaning that all of what you did with that work bring it here – that is mine. That's actually what that accountability is about regarding the First Nations. It doesn't have anything to do with being transparent (Andrew Solomon, Aug. 20, 2014).

Thus, there was reluctance by some to participate in planning processes that Ontario was funding. There was also the perception among Mushkegowuk planners that they were expected to produce extensive information for Ontario with little funding – a lesser cost option than the MNR conducting the research. A joint planning team was established at the Moose Cree community level where community members could discuss planning issues without Ontario government involvement. This was needed in order to get elders involved as they did not trust MNR. With the community joint planning team they could talk freely without fear their

knowledge would be used against them by external interests (Karen Pine Cheechoo June 20, 2014).

The conflicts in priorities between Mushkegowuk communities and the province stemmed in part from deep cultural divisions that continue to characterize relations. The perceptions and priorities of senior ministry officials were often antithetical to Indigenous visions for their lands:

We are having a meeting and we're talking about forestry and she (a District Manager for the MNR) says 'oh, when I see an old forest I see trees that need to be harvested'. And I said, oh my god, I can't believe you just said that. I said, that's what you see, this is what I see -I see a home, I see a home for either my people in there, I see a home for marten and the different animals, I see the old trees as being some of the resources I would need in order to tan my hides -that's what I see. And you want to go in there and cut them down. I said, this is the difference, that we need to close this gap (Interview #5, June 16, 2014).

Some of the younger people entering the ministries were perceived as more sensitive to Indigenous land uses (Job Mollins Koene, April 24, 2014), and those who had long working relations with First Nations had “come to understand their lifestyles” (Interview #5, June 16, 2014). Others noted the inability of government officials to understand the depth of their relationships with their lands. As Cheechoo asserts, “with Far North planning, the territory MNR or the government always saw that as unorganized territory...a vast area of nothing, just bush” (Vern Cheechoo, June 20, 2014). What they don’t see is that “there's a whole network of people and trails” (Vern Cheechoo, June 20, 2014). Pine Cheechoo argues that “they (the MNR) still don't believe that they (Omushkegowuk peoples) know every piece of this territory... I get it because I hear the stories when we interview people” (Karen Pine Cheechoo, June 20, 2014).

Politically, Far North did not recognize Indigenous jurisdiction, but rather reified Ontario and Canada’s administrative boundaries. Mollins Koene noted that:

One of the things that were identified by the communities is when we talk about the entire Mushkegowuk area is Ontario is only interested in the onshore

planning, the land use planning. The communities were very interested in talking about James Bay and Hudson Bay and the islands and the waters, including those in the planning process. And, of course, those are outside of Ontario's jurisdiction –they're part of Nunavut's jurisdiction. So that's a whole other part that never really amounted to anything, but was identified early on by communities as being necessary and integral to any sort of planning exercises (Job Mollins Koene, April 24, 2014).

Thus, Ontario's imposition of Far North legislation formalized a process that would privilege their priorities and their framework for planning. They offered recognition within community based planning, but Indigenous planning approaches could only be significantly curtailed in an Ontario designed and MNR delivered process. Mollins Koene explained:

The province laid out a very restrictive approach in the Far North Act, a step by step approach. Whereas, I think communities envisioned more of an adaptive planning process, learning as we go and building a system as the process unfolded and making adjustments if necessary, rather than step by step, ten steps to an approved plan approach. I think that was almost a cultural clash between the mindset of the people who designed and implemented the Far North Act and the communities (Job Mollins Koene, April 24, 2014).

The effect was that the terms of planning appeared to be dictated to Mushkegowuk Council and the communities by the province. In particular, Sutherland pointed to the MNR's need to control the process, their military structure, and regulatory model as a significant problem (August 19, 2014). There were also limited resources for the community to draw on, which MNR exploited with funding contingent on performing task amenable to Far North objectives. Sutherland noted that "Ontario has some clear thinkers (on how to work with First Nations), but many parts are trapped in old thinking" (August 19, 2014). Despite greater recognition of Indigenous peoples and a community based approach, Far North planning still functioned to ensure provincial priorities were paramount.

The characteristics of colonial planning were prevalent in interactions between First Nations and the Ontario government. This appeared in the ways Ontario privileged its own

priorities and management processes, its treatment of Indigenous Knowledge as an adjunct to scientific study in Far North planning, and the weak support for a unified Mushkegowuk planning approach. Therefore both the communities and Mushkegowuk Council found planning with Ontario, and the MNR in particular, a challenge as provincial expectations limited possibilities for planning that was more responsive to Indigenous concerns.

5.3.3 Divisive Tactics

A unified nation building approach to planning underpinned regional planning for Mushkegowuk Council. The Ontario government, however, appeared to be working against Mushkegowuk unity in several ways. Foremost, those at Mushkegowuk Lands and Resources felt Ontario had little interest in their regional planning initiative:

It took us awhile to get an agreement in place with MNR because MNR did not want us involved at the regional level; they didn't want to support that. They (MNR staff at the regional office) said it's community land use planning, what does Mushkegowuk have to do with it...So, it's been a struggle to explain to them that there are regional issues that we need to look at when it comes to community land use planning (Vern Cheechoo, June 20, 2014).

Instead, the perception was of limited or patronizing support for regional planning while Ontario proceeded to develop bi-lateral agreements with individual First Nations. Barb Duffin explains:

I know a couple people (in the MNR) that would love to see no Tribal Council support at all, absolutely. They just want to work with the communities and to hell with the Council, which in our role is to push for regional, for connectivity between the communities in how we plan the territory so that it's done as a whole, as a region...It's only the communities that are ready, so what happens to the other communities, you know, the ones that aren't ready, at that stage to carry on with a plan? Does resource development just go in and do whatever they want if there is no regional plan? We've also heard that the Ministry will make plan for you, so that scares me, really, without the community involvement because who knows what they will do (Barb Duffin, June 20, 2014).

Therefore Mushkegowuk communities already divided by Ontario's Far North boundary were further divided by Ontario's community based planning. With few resources—and eventual withdrawal of the Ontario government from negotiations—regional planning remained conceptual while Ontario continued to work with some communities to advance community based land use plans. Duffin argues that “the legs were cut out from under it (regional planning”, and with “the MNR just dealing directly with the communities...we really lost that unity that we had with doing regional planning unfortunately, and so hopefully we're going to be able to bring that back (Barb Duffin, June 20, 2014).

The community based approach also produced the problem of defining boundaries between communities in Omushkegowuk homelands. Hard boundaries defined by membership in a specific First Nation meant resolving the issues of overlap or shared territories, and did not resemble traditional Omushkegowuk governance patterns or their conception of land stewardship. Ontario's use of the term overlap, which signified areas that were utilized by two or more First Nations, was “confrontational” in how it set relations between First Nations, rather than reflect the sharing of lands and resources central to Omushkegowuk ways of life (Interview #5, June 16, 2014). Creating firm boundaries with the need to resolve the overlap of territories had the potential to harden divisions between Omushkegowuk First Nations' communities. As Chris Metatawabin explains:

We in the community, we disagree over terminology used by MNR. Like overlapping, we don't overlap - this is our country. The whole what I showed you, the whole Omushkegowuk area, there is no such thing as overlapping, this is our land. It's MNR that sets up the boundaries that create problems. That's all legalize, legalistic realm of interpretations that are creating problems - not the way it was, not the way we understood the territory (Chris Metatawabin, August 20, 2014).

Officials from Ontario and the MNR under pressure from Mushkegowuk Council and First Nations did begin adopting the language of shared territories, but still treated the term the same as overlap. Pine Cheechoo elaborated:

About that shared land, I don't get that language. I always get stuck on their language because they are calling it shared land, and I think they are trying to use a term that sounds inviting. Basically they are saying define your area and explain to us why you believe you have a right to this land. And they are using a softer term to get us to describe it, where in fact we always shared the land. But to me it's a requirement, you've got to meet with them, meet with that. So they want us to clearly define what that fence is, and basically they want us to create a fence. And the biggest problem that we have with that is that land management traditionally has always happened before Treaty and the other pieces, and when we are talking about land we always shared the land because we lived off the land, it sustained us. So there was no boundary, there was no fence to say this is my land. There were land markings to say you'll go you will hunt over there, it was managed very differently. But it is not a fence and their static boundaries. And that's the concept they are trying to grasp, but they will never grasp it because you look at what they did with trap lines. They drew all these little boundaries and measurements of trap lines in our lands and our territories. They assigned those overlooking as to who traditionally was there. So, as a result of it they say just share the lands. I think a lot of that is just offloading; 'unless they resolve this issue because we really messed up on that trap line stuff (Karen Pine Cheechoo, June 20, 2014).

Pine Cheechoo argued untangling Ontario's imposed trapline system from traditional stewardship needed to be a priority. However, Ontario was unwilling to provide the resources necessary to support reconstituting Omushkegowuk land management:

They (the MNR) expect us to live with it (the trapline system). I don't know how we cannot address it, I don't know how we cannot always keep that in mind in considering what we are doing. And some First Nations have taken the trap line system and defined their homelands from that. We are just lucky that we didn't do that - we went back, right back to historical occupancy, so we feel it's a true documentation and mapping (Karen Pine Cheechoo, June 20, 2014).

Dealing with the trapline system would require extensive study and consultation with community members, and would require compensation for any impacts on trapline licence holders. The issue of compensation has further divided communities as trapline holders and traditional

occupants compete for recognition. One of the major obstacles to an effective land use plan for Fort Albany is the notion of compensation. Sutherland indicated that in planning discussions many community members were fixated on compensation they might receive for environmental impacts of potential development, and developers and governments tried to narrowly identify who they would need to compensate to justify proceeding with projects (Meshan Sutherland, Aug. 19, 2014). Sutherland acknowledged that “compensation needs to go to the right persons”, but the person that should be compensated first and foremost is the land itself or “Mother Nature” (Meshan Sutherland, Aug. 19, 2014). He suggested that their reciprocal relationship with the land was threatened by pressure for extractive resources. He sees that relationship of taking without giving as characteristic of the relationship they often have with outside developers, governments, and researchers, and was concerned that regional planning by Mushkegowuk Council had also taken on that characteristic. This was evident in Council’s expectations that Fort Albany would provide them with the information they have gathered, but the Council had not given much back in terms of support for community LUP or a cohesive defense of their rights. Individual expectations of compensation, Sutherland suggested, were related to the trapline system where many in the community considered their registered traplines to mean a form of private property, which has no bearing in traditional governance systems. He claimed that many community members understood the Ontario imposed trapline system to be a “traditional” form of land governance (Meshan Sutherland, Aug. 19, 2014). In addition to the problem of compensation, this has led to infighting over trespassing on trapline boundaries that harm how lands were shared and managed before the trapline system.

Thus, the community based approach of the Ontario government tended to deepen colonizing governance and management frameworks. Fort Albany Chief Andrew Solomon reflects:

My personal thoughts are on land use planning is you've got to know the history, our history, meaning that we use to travel with the animals, travel where they were all seasons. We never stayed in one area. To me, land use planning should cover the whole of North America, to me that's the right marking of your territory. As a Cree Nation we are large and we have extended families all across Canada. The reason why I said that when I visit a lot of communities they tell me that, oh, you're from such and such, you know that my great grandfather is from that area, and they will say the name. And when they say the name it's always you will know the last name and originally it's from here, and they will go on about the history and talk about things. It would truly reflect what the land use planning is all about if we did that. But this one we are just marking the traplines, that's it, your trapline. I don't know when that was invented, it came about when Europeans came around, it's a system they used to have here. I'd bet you a dollar and say to somebody it wasn't developed by us (Andrew Solomon, Aug. 20, 2014).

The fracturing of interests has led to an atmosphere of distrust. This is particularly so between Mushkegowuk Council and its member First Nations and the Ontario government, but also between the communities and Council. There was belief among those at Mushkegowuk Lands and Resources that Ontario was exploiting these tensions to drive a wedge between the communities and Council:

Speaking with the coordinators in the communities, information that goes to the communities about the Council is just bold faced lies. We've heard things like don't go to the Council, they can't support you, they're too busy. When have we ever said that - never - we are always here for support. Things like that are just really disheartening when you hear those kinds of comments coming back (Barb Duffin, June 20, 2014).

Therefore, the impression was strong at Council that Ontario was actively undermining regional planning:

Especially in 2012, that's when we really fell apart. So things were not working, we were hitting heads with our regional approach to their idea of what it should look like. And they kept saying, well out in the west - they

always kept comparing us, and still do, to planning that happened out in the west being Pikangikum mostly... Oh, they did theirs in a weekend, we got their terms of reference done in a weekend. Well good for you, we're not them first of all, and it's only two communities and we're 8 spread out across 25 million hectares, give me a break. That's where it started to fall apart so we went and did our own whole terms of reference, took them to the staff here, took them to the coordinators who made changes and edits. In hindsight the coordinators should have been there when we did that whole instead of just the staff, that's a mistake on our side that we fully admit. But anyways it was developed and it went through peer review and it was a good document. The Crown didn't have any input into it so they never ever accepted it (Barb Duffin, June 20, 2014).

Mushkegowuk Council's planning initiative depended significantly on the support of the Ontario government. They had few other funding sources, and the Treaty 9 agreement to share the land set the precedent to work cooperatively with the province. However, given the enormity of the task, its vulnerabilities were too great to overcome the seemingly recalcitrant interest of the province and the MNR.

Thus, Ontario and the MNR were perceived as working from their own predetermined agenda, unwilling to stray from the Far North planning framework, and were working against the nation building efforts of Mushkegowuk Council for which regional planning was to support.

Barb Duffin explains:

It just seems that the same mentality of you are going to do it our way no matter what and this is how you do it, and good for you for wanting to do it regionally but we let you do it, we set you up to fail and you did, so now we've come in and done it our way (Barb Duffin, June 20, 2014).

Since the province abandoned the regional initiative, directing its resources and negotiating directly with communities, "some of the communities seem to, appear to be doing fairly well with that and making progress, some of the communities are just totally left out of that process" (Job Mollins Koene, April 24, 2014). Mushkegowuk Council was largely sidelined from planning processes—a substantial blow to their vision for a regional approach. Barb Duffin explains:

We've gone from full involvement on a regional planning scale to just supporting the communities individually, to now we are not seeing as much to no contact because the model in which MNR has been working on has shifted from regional planning to them specifically working with only the communities that are ready to do their planning and really kind of isolating us here (Barb Duffin, June 20, 2014).

Since then Mushkegowuk did receive another year's funding from the province, albeit in a much more limited capacity than the original vision.

5.3.4 Mushkegowuk Council and Community Planning

The MRLUP initiative aimed to ensure planning reflected the expectations and aspirations of Mushkegowuk First Nations' community members throughout the Omushkego homeland. The initiative was to build on individual First Nations' LUP with coordination and support at the Mushkegowuk Council level. Mushkegowuk Council's role was first to support the communities in their planning efforts, and secondly to help facilitate a coherent regional plan. Rather than a set of individual community based plans, Cheechoo acknowledged that "eventually we want to be able to have a regional plan as well, but according to what the communities want" (June 20, 2014). Thus, for Mushkegowuk Council it was essential that regional planning was clearly driven by the communities. Vern Cheechoo explains:

Basically we have to go with what the communities are doing and whatever they decide. We are here to assist them and facilitate with them. If they are going to have shared lands discussions with other communities then we can be a resource to come in and facilitate those kinds of talks (Vern Cheechoo, June 20, 2014).

Regional planning, as such, was to be a bottom-up process, which depended on the desire and capacity of individual First Nations' communities to work towards an overall plan, and Mushkegowuk Land and Resources ability to support local planning needs.

However, conflicts arose that dampened the co-operation necessary to pursue a regional land-use plan for all Mushkegowuk communities. First, the capacities of the communities to be active in planning differed substantially, and common planning practices did not easily apply to First Nation's needs. Second, the legitimacy of Mushkegowuk Council –and the Lands and Resources department more specifically –to lead planning was questioned by some. Mushkegowuk needed to ensure their role was one that supported, rather than dictated, planning at the community level. Therefore, thirdly, the issues of transparency and community involvement in decision-making were at the forefront of concerns of community planners. The demands on Mushkegowuk for a very high level of community engagement were a challenge to meet given their funding challenges for the initiative. Thus, questions continued to linger about the capacity to finance planning and deliver on expectations, and to protect the knowledge and interests of community members.

NAN's opposition to the Far North Act, and Mushkegowuk Council's decision to work with Ontario "under protest" gave communities that were already working with Ontario "a mixed message" at best (Meshan Sutherland, Aug. 19, 2014). The fact Mushkegowuk Council continued to work with the MNR on LUP was interpreted by some that the Council accepted the province's process. As one observer interpreted the relation of Mushkegowuk Council with the MNR:

They are co-opted. They have the training, they get funding, they have to play by the rules of the funding agency which is MNR, and they want to stay alive. And besides that, Mushkegowuk Council is a corporation, and according to legislation that's a non-Aboriginal entity (Chris Metatawabin, August 20, 2014).

Metatawabin felt that political assertions for control over their homelands should be central to any negotiations with Ontario and Canada, and that goal should be driving any land planning

discussions as well³⁷ (August 20, 2014). He saw their working relationship with the MNR and need for provincial funding as limiting how far Mushkegowuk would push for lands to be included:

They have done it (claimed traditional territory), I've seen it, but it's small. It's out along the coast to the Moose Factory area and that's about it... I don't think Mushkegowuk is even claiming water rights, James Bay rights, and that's what I want to do. I want to claim water rights and James Bay, and probably even Hudson Bay... We have to think big, we have to claim big. We have to think of the future, not the present needs (Chris Metatawabin, August 20, 2014).

The confusing stance of Mushkegowuk, where the Council was both opposed and working with Far North, did not give clarity on how to proceed with planning at the community level. To Sutherland this weakened the political position of the communities as it gave the appearance that in spite of opposition Mushkegowuk was still going to accept what Ontario was offering. There needed to be more discussion with communities on how to respond to Far North. Both NAN and Mushkegowuk Council were seen as acting unilaterally, and their response was not necessarily representative of particular First Nations. Fort Albany thus took the position that “they (Mushkegowuk Council and NAN) can do what they want to do, but we (Fort Albany) will take our own direction”. Sutherland noted that the “directive by the Peetabeck Elder Advisory Team (PEAT) (is) to find something in the Far North Act that will benefit the community and the environment together” (Meshan Sutherland, Sept. 26, 2014). Thus, Fort Albany was willing to work independently with the province, and supported the Council’s initiative only as far as it was consistent with the community’s priorities.

³⁷ Metatawabin also pointed out that the issue of addressing the size Fort Albany’s reserve lands was not resolved in planning discussions to date, arguing “we're only recognized as having 188 acres of land. That's very small. Now most of that land is being taken up by non-Aboriginal facilities like the hospital, the airport, the Northern Store... So what about the future expansion, future population growth, future facility and infrastructure growth?” (Chris Metatawabin, August 20, 2014).

Producing a unified vision for planning was a challenging task given the diverse contexts, needs and capacity of Mushkegowuk First Nations:

For the regional land use planning committee that they have there, I'm not sure if their plans are all in sync to the common goal of what this regional plan is supposed to be. I'm not sure if all communities are in the same thinking...they need to be focused on the common goal and I don't know if they are doing that (Interview #5, June 16, 2014).

Addressing the internal issues facing the communities and Council was crucial for planning that supported the resurgence of the Omushkegowuk nation. Whereas Ontario's intent and actions could only be partially influenced through negotiation and resistance, the internal deliberations provided the opportunity to assert a different path that diverged from colonial relations. But as one interviewee noted, the governance model to undertake LUP decisions amongst Omushkegowuk peoples was not clear (Interview # 13, August 21, 2014). Therefore it remained unclear at local levels what LUP was for and if they could expect their involvement to break from pattern of token consultation (Interview # 13, August 21, 2014). Regional planning from this perspective was proceeding ahead of agreement on the details of decision-making processes amongst Mushkegowuk First Nations (Interview # 13, August 21, 2014), which was beyond the scope of Mushkegowuk Lands and Resources.

The limited capacity of Mushkegowuk Lands and Resources to support planning activities in the communities could not match the enormity of the task. Specifically, mapping, though a primary technique for contemporary planning, and documentation of both historical occupancy and land use, posed several challenges. Occupancy mapping was a foundational exercise for First Nations to establish homeland territories. This was key for recognition of homelands by governments and industry, and for First Nations as a means to identify the families and land users with knowledge of particular areas (Interview #5, June 16, 2014):

Historical occupancy is an area of responsibility, that's what it is supposed to be. And if each area could take an area of responsibility and ensure that there are no gaps, we should be okay; we should be able to meet the challenge of what comes in our homelands (Interview #5, June 16, 2014).

Documenting past land use, on the other hand, only describes the exercise of broader Aboriginal and treaty rights, and does not necessarily recognize governance traditions (Interview #5, June 16, 2014). Where one made use of the land does not explain who had responsibility for those lands, and conflict between these two notions has led in part to the issue of overlap of traditional territories.

The practice of mapping can also be at odds with how Indigenous participants understand and experience their lands, and also places limits on the knowledge represented. In mapping sessions conducted for Moose Cree occupancy and land use studies, elders often had difficulties identifying places when looking at two dimensional maps –they did not represent their lands as they knew them (Karen Pine Cheechoo, June 20, 2014). However, when shown video footage taken by helicopters traveling along river courses, they were easily able to identify and explain significant areas, and talked about how the areas were used (Karen Pine Cheechoo, June 20, 2014). This method was much more effective, but took more time and was much more expensive. Most preferable would be to do mapping while out on the land, but that would require even more time and money to support. Another difficulty encountered in mapping was that often “rivers have many names” that mark significant places –like gathering spots, graves, portages, hunting or fishing grounds (Karen Pine Cheechoo, June 20, 2014). Thus, translation of river names between Ojibwe and English for mapping purposes was not necessarily a straight-forward exercise.

But getting to the point of addressing the problems with mapping and other LUP techniques required that communities were actively involved in planning. The communities had

very different experiences and capacities to engage in planning, with some much further along than others. Vern Cheechoo noted in late spring of 2014,

Attawapiskat is just beginning the occupancy and the land use, and Albany's been at it I think for a year or two. Moose Cree has, I believe, they are quite a bit ahead on their land use planning and that, the kind of work that they are doing. But Kashechewan is another one that's done quite a bit of work already developing their joint planning teams within the community, working with their elders looking at their traditional territories and what's important to them (Vern Cheechoo, June 20, 2014).

Difficulties planning amongst Mushkegowuk communities included “adequately resourcing what needed to be done at the community level...and the communities starting from different points and different expertise” (Job Mollins Koene, April 24, 2014). These were issues that regional planning could help bridge:

That’s what we envisioned a big role of Mushkegowuk Council would be is to bring those resources to the communities and make sure people are trained, had the capacity that they needed to do planning at a community level. That was always a struggle to keep everybody involved and on track (Job Mollins Koene, April 24, 2014).

Mushkegowuk Lands and Resources were well positioned to help coordinate and ensure consistency among community plans. But some, such as Moose Cree First Nation, were not comfortable with Mushkegowuk taking all their information. Mushkegowuk Lands and Resources had to work within those limitations. Barb Duffin explained:

The TK information we have it for all the communities but Moose Cree. They are if you want our information we will map it for you, so it's a little difficult because I have a map of the territory with a hole in it where there's no information. They are not opposed, but they might never give it to you, so it's a little more difficult but I respect the fact that they want people talking directly to them (Barb Duffin, June 20, 2014).

Despite the willingness of the communities to work together, they still guarded their own planning as they were very concerned with losing control to not only the province, but also other Indigenous organizations.

A major problem for LUP in Fort Albany was convincing community members to agree to mapping interviews. Many in the community were interviewed in a previous land use study, and the maps from that study were lost by Mushkegowuk Lands and Resources as they were left behind when they moved offices (Meshan Sutherland, Aug. 19, 2014). This did not instil confidence in community members that their information was safe with Mushkegowuk (or with Fort Albany for that matter), and many felt they were repeating information they had already provided (Meshan Sutherland, Aug. 19, 2014). The difficulty convincing people of the need for further study and interviewing was further aggravated by the perceptions within Fort Albany Band Council who saw what Sutherland characterized as “past traditional harvesting surveys and the hearsay of regional organizations” as a sufficient basis to move forward with planning (Meshan Sutherland, Sept. 26, 2014). Mushkegowuk Council was seen as following their own planning priorities, reflected by a questionnaire crafted by Mushkegowuk Lands and Resources without consultation with community members. Further, in deciding on such things as protecting specific areas, Mushkegowuk Council has limited financial capacity to support those changes. Meshan noted that protection of lands could also protect traditional occupancy as expressed by Fort Albany people, with “a live-in mechanism with all its operations & managed by the community who want to commit in sustaining an environment & our community”³⁸ (Meshan Sutherland, Sept. 30, 2014). First Nation communities “know that we have to back this idea by and through our own money. MC Lands and Resources department doesn't have the monies to own this change” (Meshan Sutherland, Sept. 30, 2014).

³⁸ Meshan pointed to Adrian Phillips’s “Turning Ideas on Their Head- The new paradigm for Protected Areas” where in his conclusion Phillips argues that “by broadening our understanding of the range of possibilities....so that we can embrace parts of the lived-in, working landscape as category V and VI protected areas” as similar to the conception of protected areas he was hearing from Fort Albany people.

But communities and Council alike were finding the constraints placed on planning and other environmental management initiatives, due to their need for federal and provincial financing, circumscribed what they were able to do. Chris Metatawabin explained:

It's very difficult to try to hire technical assistants when funding agencies are not open, open-minded. They are trying to close the door on us, they will say not on the funding criteria. We have outstanding reports with Indian Affairs, so they are shutting down our cash flow. So I cannot claim any monies for environmental studies, strategic planning, or any type of project. And that defeats my purpose (Chris Metatawabin, August 20, 2014).

The constraints financing placed on regional planning were clearly a problem for the Mushkegowuk Council initiative. Duffin noted that funding requirements left little room to consider their options without provincial interference:

With funding comes, as you know, you have to do this, you have to do this and we are not going to support you if you do this. So we had put money into our own Mushkegowuk coordinators meetings. They are not cheap to have because you have to fly people in and everything, so if they weren't in attendance they were not going to fund it. So how do you talk about your own way of planning and your own governance and that kind of stuff when you've got a Crown person sitting right there beside you. It was very difficult, and you know we are funding based so it's not like I could pull thirty thousand bucks out of a hat and say come on let's meet for a couple of days. So we tried to put those kinds of meetings in our agreements, but it just never happened because they would always... And I understand that, it's their money, it's taxpayer's money, but they seem to believe it's their money and that's what they weren't going to spend it on (Barb Duffin, June 20, 2014).

Duffin noted that efforts to have meetings by phone or video links as a way to meet more frequently and independently were not always successful:

We did try to do them. It's difficult when you don't do face to face. Difficult in that you can't see the person, it's hard to read without video, it's hard to get people to commit... you have to get them somewhere in a room that they fly to, that's the commitment that you have to get unfortunately. It's a different culture and it's a different way of working, and we have to respect that even if it comes with its own difficulties. We work around them, we make it work, but again, if it has to be done face to face it has to come with funding (Barb Duffin, June 20, 2014).

But the need for funding gave little room for Mushkegowuk First Nations to collectively work on planning issues without provincial interference:

I think if we had more of just our own meetings... We did do a meeting with zero input from them, they did fund it. Zero input, no agenda input from them, we just held our own land use planning, really workshop. There was probably about 50 people at it and it went really well, and I think that kind of ticked them off. We had people disputing the Far North Act, and some good scientific minds there from different universities, and we had some good speakers refuting some of the things in the Far North Act and they didn't like it...so that kind of ended any funding of anything that was not jointly made (Barb Duffin, June 20, 2014).

The tight control exerted by the province as to how Mushkegowuk Council could spend its funding, and the insistence that the MNR be present at all planning meetings, meant Ontario largely dictated the process.

In assessing the regional planning effort of Mushkegowuk, Sutherland argued that it's major failing was its inability to locate the process within the communities (Meshan Sutherland, Aug. 19, 2014). Given that making regional planning community driven was asserted by Mushkegowuk as a primary goal, the inability to provide robust support to community level deliberations significantly compromised their legitimacy. He noted that the larger goals of Fort Albany are always in mind, and he values LUP as a step towards community goals, but it needs to fit with those goals (Meshan Sutherland, Aug. 19, 2014). In particular, community members indicated their desire to build a community that was not 'urban' in the sense of southern Ontario values, and that land use plans could not be "compensation plans" for community development to take place (Meshan Sutherland, Aug. 19, 2014). He felt that when planning was based on identifying owners of traplines, it resulted in compensation plans for those who might see development on their traplines (Meshan Sutherland, Aug. 19, 2014). This system enables industry to identify who they need to compensate to proceed with their projects. LUP at the Fort

Albany community level faced colonial institutions and “mindsets”, which “are the biggest block at all levels” (Meshan Sutherland, Aug. 19, 2014). In addition, the failings of past efforts to deliver tangible results, and Ontario’s influence as it attempted to control community planning through its funding powers, compounded the difficulty in producing a community driven plan. According to Meshan, community members often felt overburdened by these conflicts and were suspicious of the implications of participating in planning interviews (Meshan Sutherland, Aug. 19, 2014). His solution was to focus his planning efforts first on mapping place names as a “guide to move to a less congested space” (Meshan Sutherland, Aug. 19, 2014). Sorting out the issues of personal traplines and traditional family territories was too volatile at the time, even though crucial to moving forward on re-establishing their ability to govern and manage their homelands.

Sutherland also argued that the regional organizations of Mushkegowuk Council and NAN too often assumed they represented the communities (Meshan Sutherland, Aug. 19, 2014). He felt that although the Chief of Fort Albany and other First Nations who sit on the Mushkegowuk Council of Chiefs did represent their communities, the Lands and Resources department at Mushkegowuk did not (Meshan Sutherland, Aug. 19, 2014). Sutherland felt decision-making at Muskegowuk Lands and Resources was “hidden” from communities, and that even the coordinators were not always aware of how decisions about planning were made (Aug. 19, 2014). Others speculated that “internal community consultations (were) weak, and probably in every community” (Interview #5, June 16, 2014). A particular consultation process utilized by the Grand Council of the Cree in the 1990’s when the issue of Quebec separation was in the forefront was indicated by one participant as more effective³⁹:

³⁹ The participant noted that this appropriate and effective consultation process was not indicative of all consultation conducted by the Grand Council of the Crees.

The Grand Council has a really good consultation process, they are very considerate of families, they have gone out to bush camps and traplines to go do consultation...they didn't hold a community meeting and say come and learn or we are doing this, and I hope we get 50 or more people for quorum. See, that's a different system, that's what I mean (Interview #5, June 16, 2014).

With fewer resources and a lack of transparency, Mushkegowuk's claim that their planning was truly community driven was diminished. Thus the problem of communities disconnected from decisions that affect them in Ontario's LUP process were also in evidence in the initiatives of NAN and Mushkegowuk Council. For example, Sutherland argued Mushkegowuk had not taken the concerns or the ideas put forth by community members seriously enough (Meshan Sutherland, Aug. 19, 2014). Many were worried about how the information they were being asked to provide would be utilized and secured, and it was felt that intellectual property rights were not well understood by Mushkegowuk. One participant indicated that the BCR outlining the regional process, which made reference to the sharing of all information, went too far:

It's not that we were going to give everything over to Mushkegowuk to handle, which is the way they are setting up themselves. And I see that they could help some First Nations that don't have that capacity - that's fine. But you don't come and try to take everything away, you are a service organization, how long are you going to have funding? I work for a First Nation's government - that's a difference. I carry rights, you don't (Interview #5, June 16, 2014).

However, there was also the perception by some that Moose Cree were dominating the agenda (Interview #5, June 16, 2014), while Sutherland argued that the Mushkegowuk Environmental Research Centre (MERC), who were conducting research related to Mushkegowuk's regional planning initiative, has lost its connection with the communities and appeared to be operating from its own agenda (Meshan Sutherland, Aug. 19, 2014). Tensions had also been strained between Fort Albany and Mushkegowuk Council over the First Nation's decision to proceed on work with the MNR on a community based plan. Sutherland felt Mushkegowuk was suspicious of their efforts, and was trying to control the process (Meshan Sutherland, Aug. 19, 2014). Thus,

Sutherland rhetorically asked, “who are Mushkegowuk Lands and Resources to define our roles”, and accused Mushkegowuk Lands and Resources of “putting up a front” to attempt to control the process of planning (Meshan Sutherland, Aug. 19, 2014).

5.4 Unfulfilled Promise of Planning

Realizing a regional plan for all of Mushkegowuk territory proved a formidable challenge. Aspirations were high, “but the regional process certainly never took off like it was envisioned (Job Mollins Koene, April 24, 2014). Expectations for planning have subsequently changed:

It was more ecosystem and landscape driven, whereas now it is very local specific and then driven by MNR, not the communities. That's my perception, now they are going to tell you different but that's my perception. So, I think what's going to end up happening is that we are going to have to take the community plans, and not that that's bad but we're going to take the community plans and make something regional. (Barb Duffin, June 20, 2014).

I feel badly that its gone from what we had done regionally and moving regionally that just kind of fell apart. And what I feel bad about is that I feel we've allowed the MNR to come in and just push their agenda. That's my biggest worry really. Don't get me wrong, it was difficult because it was a large group and to try and do planning with a large group, and we included Winisk so it was eight different opinions. It didn't go without having headaches, but those were things we were working around and it wasn't at the pace or the way that the MNR wanted, so some ideas put in a couple of people's heads made it fall apart unfortunately (Barb Duffin, June 20, 2014).

I think we need a rethink of what's happened and bring people back together and have a really serious discussion involving some of the leadership, the political leadership and the people on the ground who've been involved in the planning. Come together and rethink how this is going to go forward or not, because I don't have a magic solution that says ok, this, it's all going to be ok. It's gone in different directions, and different communities they've gone off, gone ahead with the planning. Other ones are saying no, we're not interested anymore, and most of them somewhere in between (Job Mollins Koene, April 24, 2014).

Regional planning was not able to overcome divisions within the communities, and was highly susceptible to provincial interests.

The Regional Planning Initiative was unable to deliver on its nation building potential. Metatawabin observed, “that's not working, there is no movement towards unity as a nation” (Chris Metatawabin, August 20, 2014). He felt there were significant consequences for a lack of unity and the emphasis on individual rights:

When you are alone you are going to accept majority rule, you are not going to be able to fight on your own to promote a nation, to promote Cree culture, you are going to get swallowed up. And what you think you need to survive you have to take the offer that is being given to you because you are not a strong and thick nation, it's every man for himself. That's what is happening and that's what is going to happen. Even the Education Act is promoting assimilation, even the Health Act is promoting assimilation, even the Far North Act is promoting, every Act promoting assimilation, globalization. It doesn't look too good for the future, but I don't think everybody sees it like I see it. I may be the only one that sees it like that (Chris Metatawabin, August 20, 2014).

Regional planning attempted, but was not able to fully deliver, on reconnecting communities divided by colonial administration:

When you start talking about Albany, well, you're assimilated, you're an assimilated Indian if you start talking like that. And you've got to retrain your mind, you've got to train your thoughts, you've got to train your thoughts to think, yes, what does that mean...I hear that alot in this community - ah, you're not from here, you're from over there so and so - what the hell is that all about? That's when I think to myself and I believe we hurt one another when we do that, you hurt your ancestors when you start talking like that because you forgot who you are. You're an Inniknow first, and being an Inniknow means you have to find your brothers and sisters, your life, far, and you just have to reconnect with those. To me that's what true land use planning would be for everybody around here...That to me would be a model of what land use planning would be, and I think that's what they tried to do with the regional one there, they tried to reconnect with the people. But it didn't happen I believe because, what happened is the minister, these bureaucrats came and said hey, how's work, can we work with you (Andrew Solomon, Aug. 20, 2014).

Although regional planning was intended to bring the resurgence of the Omushkego nation into practice, it became subsumed by the recognition and reconciliation approach of the provincial government.

The success of regional planning in the Mushkegowuk context, however, should not be limited to judging the ability of Tribal Council to control the process. This separates the Mushkegowuk community-driven process from the community based planning of the Ontario government. Mushkegowuk Council's role remains to co-ordinate plans, facilitate collective discussion, and "stitch together" a regional plan as it emerges from First Nations' communities. The First Nations themselves have their own challenges in creating community-driven plans. Many view the exclusive authority of band councils as only extending to reserve lands, and look towards family heads for authority in their wider homelands. Therefore, a fully Indigenous community-driven process facilitated by First Nations and coordinated regionally by the Mushkegowuk Council must address Omushkegowuk land management impacted by colonial administration. This is a long term project that LUP, whether at the regional or community level, has not yet fully addressed, and Ontario has yet to recognize.

Chapter 6: Conclusions

6.1 Overview and Contributions of the Research

The objective of this research was to investigate the politics of resurgence evident in the Mushkegowuk Regional Land Use Planning Initiative (MRLUP), which I argued was representative of a growing praxis of Indigenous rights in Canada. This orientation to the management of lands shifts political energy from the reconciliation of Indigenous rights in state directed institutions to self-driven management initiatives. Changing the focus to self-driven initiatives is significant for resisting the terms of reconciliation in lands and resource management dictated by settler governments, and for providing alternatives that attend to the priorities of Indigenous communities. Through the MRLUP initiative this dissertation explored how a politics of resurgence might transcend the sphere of culture to support self-determination in the governance and management of Indigenous homelands. The attempt by Mushkegowuk Council to transform colonial relations by asserting an Omushkegowuk nation based framework for land use planning (LUP) was indicative of the emerging paradigm of Indigenous resurgence. This research demonstrated both the aspirations and the difficulties Mushkegowuk Council encountered as they attempted to create a plan for their homelands driven by their First Nations' communities.

The primary contribution of this research was to connect the broad politics of Indigenous/Settler relations, and the particular politics of Indigenous resurgence, with on the ground environmental management processes. The case study provided an opportunity to examine how the politics of resurgence might be shaping Indigenous approaches to LUP, and the effects this might have on the planning initiatives of Settler governments. While reconciliation is

a major objective for settler governments in Canada as they engage in all manner of relations with Indigenous peoples, the persistence of colonial forms of governance and economies remain abundantly clear in contests over lands. As this case study demonstrated, Ontario's Far North Initiative, despite extending its recognition of First Nation's roles in LUP to incorporate community-based planning, still served to deepen colonial relations. That is, Far North planning functioned to develop the administration of Indigenous lands to benefit the broader Ontario economy through means determined by Ontario. Indigenous resurgence, as it operates from the internal and culturally specific logics of Indigenous communities, promises a far more profound challenge to colonial relations than the vision of reconciliation provided by settler governments in Canada. By demonstrating the parallels between resurgence principles and LUP, as instigated by Mushkegowuk Council, this research demonstrated both the movement towards and the challenges for an Indigenous resurgence approach to the management of homelands.

Extending from the political context outlined above, the research also contributed to an understanding of the practice of land use planning by Indigenous peoples. Examination of the Mushkegowuk Regional Land Use Planning Initiative provided insights into the kinds of process, LUP tools, aspirations and sources of authority that shaped planning by the Council and member First Nations' communities. The research also highlighted the enormity of the task of planning for the region and communities, and the significant limitations Mushkegowuk planners faced. In order to advance LUP that addressed colonial legacies and provided for the future of Omushkegowuk people, cooperation and unity of the communities was needed to drive planning that represented their Knowledge and respected their authority in their homelands –conditions that were highly vulnerable to the power wielded by the province. The case study thus provided

an opportunity to examine the assertion of Indigenous rights, priorities, and values in LUP in the context of deep disagreements with a major provincial land use planning initiative.

6.2 Recognition and Resurgence

The research specifically investigated competing rights praxis in environmental management – one based on the recognition and reconciliation approach that has dominated Indigenous/Settler relations since the 1970s, and the other based on ideas put forth by Indigenist thinkers on self-determination and cultural resurgence. The recognition of Aboriginal and treaty rights, and their reconciliation with Canadian governing institutions – also expressed legally as the duty to consult and accommodate – structures Indigenous roles in the management of their homelands as contingent on their incorporation within Canadian governing norms and expectations. This places Indigenous nations as subordinate to Canadian sovereignty, prioritizes resource extraction, and de-emphasises Indigenous relations to land. A rights praxis based on recognition works through accommodation within state institutions and practices that reconcile Indigenous rights with Canadian sovereignty and existing laws. This approach, while providing for greater participation of Indigenous peoples, does not decolonize the relationship, as the authority of the Canadian state over Indigenous lands and peoples remains intact, and non-Indigenous modes, legal orders, and economies continue to dominate decision making and land-based relationships. Therefore, as this research has demonstrated, despite greater roles and potential economic benefits for Indigenous peoples, recognition and reconciliation continues to perpetrate a colonial relationship.

The literature advocating for an Indigenous resurgence approach highlighted the need for cultural traditions and values to guide the internal governance of Indigenous communities, and to

re-establish their presence and stewardship of Indigenous homelands (Alfred and Cornassel, 2005; Alfred, 2005; Simpson, 2008; Cornassel, 2008; Waziyatawin, 2012; Walia, 2013; Coulthard, 2014). Indigenous resurgence was defined broadly as a re-engagement with cultural traditions and institutions of governance from which contemporary Indigenous identities are rearticulated in the pursuit of decolonization. As such, Indigeneity and Indigenous Knowledge was asserted as the foundation on which individual and community actions should be based, rather than anachronisms peripheral to dealing with present problems as often treated by non-Indigenous interests. Reversing the disconnection of Indigenous peoples from their homelands and restoring relationships with the land was identified as central to resurgence aspirations. To that end, resurgence required and was evident in initiatives driven by Indigenous communities that were not imagined within the confines of colonial governance. Instead they followed from the priorities, values and expectations of Indigenous communities in work towards decolonized and self-determined futures.

Rights from the vantage point of resurgence were defined in the research as the inherent rights of Indigenous nations stemming from the long-standing relationships of distinct peoples with their lands. Inherent rights also necessitated corresponding responsibilities for Indigenous peoples as stewards of their homelands. Resurgent rights exercised in praxis would entail acting on inherent rights by re-invigorating the knowledge, culture, laws, and political traditions of specific Indigenous communities. This requires a re-valuation of Indigeneity within communities, and constituted the basis for action firmly directed towards decolonization. The theory developed asserted that the community and culture centred orientation of resurgence was necessary for transforming colonial relations –a task that a singular focus on greater participatory roles in state management institutions is not able to achieve.

However, as resurgence extends from cultural revitalization to decolonization and self-determination in the governance and management of homelands, Indigenous peoples necessarily confront Settler governments and other interests. The research probed the idea that focusing on community and cultural traditions to develop Indigenous governance and management approaches internally would also support engagements with these external interests. The community and culture orientation of resurgence is also a dynamic and often contentious aspect. Indigenous communities are not simply reconstituted in their precolonial form, but are redefined within contemporary circumstances. This redefinition most certainly applies to cultural traditions broadly. The deliberations and actions within Indigenous communities to reassert who they are, decide on the values that will guide them, and set out the political strategies to choose and achieve their goals, are challenging as the impacts of colonialism weigh heavily in these contexts. One of the potential strengths of resurgence as a guiding approach to the management of homelands is its potential to provide an alternative to colonial relations, moving beyond mere resistance, or conversely, demands for more inclusion. The recognition demanded of Settler governments in these instances is for the self-determining and self-governing rights of Indigenous peoples, with an obligation to provide substantive support for the rebuilding of Indigenous nations in recognition of treaty or nation to nation relations. Recognition of this sort would indicate a substantive commitment to decolonization on the part of Settler governments that is often found lacking in current offers (or assertions) of reconciliation in Canada.

6.3 Planning Alternatives to Colonial Relations in the Homelands of the Omushkegowuk Cree

As the case study demonstrated, the attempt to provide an alternative to Ontario's plans for Omushkegowuk homelands required much time, effort, and resources. However, for Mushkegowuk Council, the option of proceeding with planning solely within the parameters provided by the Ontario Far North Initiative and consequent Far North Act was untenable for their self-determination and nation-building priorities, given the substantial long-term implications. The guiding question of this dissertation asked: are self-driven environmental governance or management initiatives by First Nations an effective innovation that further the resurgence of Indigenous nations? The question is significant for First Nations and their regional organizations that are already overburdened with demands, and possess an uncertain capacity to deliver on specific goals. The standard of effectiveness for Omushkegowuk resurgence at the political level included, first, strengthened cooperation amongst the First Nation communities with a collective approach to LUP and other major development decisions within Mushkegowuk territory. Second, that a collective approach by Mushkegowuk First Nations would force the province to engage in LUP with Mushkegowuk Council and the communities on a nation to nation basis. And third, more than just informed consent, Omushkegowuk peoples needed active involvement in determining what development should look like, with substantial Omushkego determined (and supported by Ontario as per the Treaty 9 agreement to share the land) governance and management of lands in their territory. Meeting these standards in the critical process of planning would significantly contribute to the longer term resilience, sustainability and resurgence of the Omushkegowuk peoples.

The clear source of friction with the Ontario government's approach to planning in the Far North was that the province set the framework and determined the process for reconciling the

rights of First Nations in LUP. Thus, Far North planning did not reflect a partnership with First Nations, but rather was a unilateral assertion that usurped Indigenous authority. The research traced a continuance of colonial relations in Ontario's northern land use planning endeavors from the Treaty 9 agreement to the Far North Initiative. Following constitutional recognition of Aboriginal and treaty rights, recommendations from the 1985 RCNE Report provided the conceptual framework for community-based planning, which was later realized in the NBI and considerably expanded with Far North planning—all attempts to reconcile these rights within provincial land use planning. However, the Far North Initiative, despite significant roles for First Nations in community-based planning institutionalized with the Far North Act, did not recognize Indigenous authority and jurisdiction on a nation to nation level, and did not establish the parameters and process for land use planning in partnership with First Nations and regional organizations. Standing Committee hearings that did not even accommodate scheduling commitments of First Nations, demonstrated that the Ontario government still viewed its treaty partners as stakeholders as far as the legislation was concerned. This broke from the partnership relationship that Mushkegowuk Council believed they were developing with the province, which they viewed as required by their Treaty 9 obligations.

Mushkegowuk Council attempted to assert their role through regional planning that appeared to shift from recognition and reconciliation within Ontario's framework, to one that reflected an approach aimed at resurgence. Regional land use planning was envisioned by Council as part of a larger Omushkegowuk nation building process that would support the unity and self-determination of the communities. Regional planning was to be inclusive of communities both north and south of Ontario's Far North divide, and assist in reversing fragmentation of the nation into reserves under the Indian Act. Omushkegowuk Knowledge was

to be integral to any planning decisions, and the process of planning needed to be informed and driven by broad engagement with community members. Mushkegowuk planners also envisioned identifying traditional land stewards and stewardship practices to inform planning and to address deficiencies in the colonial trapline system. The research demonstrated the importance that those involved in planning attached to the need for Mushkegowuk communities to act collectively as a nation and to revitalize Omushkego governance and identity. It also demonstrated an understanding of Treaty 9 consistent with inherent rights. Treaty 9 was understood as an agreement to share the land that included cooperation in the governance and management of Omushkegowuk homelands. This understanding fundamentally informed Mushkegowuk Council's approach to land use planning, which contrasted with ministerial authority under Far North planning.

As such, resurgence of the Omushkegowuk nation characterized the goals of regional planning by Mushkegowuk Council. The Council's initial reaction to reject Far North planning in favor of their own nationhood approach –uniting communities north and south of the Far North boundary –was grounded in the idea that an Ontario determined process could not provide for a future as Omushkegowuk peoples. The communities needed to draw from their own traditions, support one another, and exercise their inherent rights to sustain themselves and rebuild their role as stewards of their homelands. The theory of resurgence explored in Chapter 3 emphasized arguments for re-centering Indigenous cultures and relationships with lands in the pursuit of self-determination and decolonization. The Mushkegowuk regional initiative was a clear attempt to bring ideas that were demonstrated as consistent with the politics of Indigenous resurgence into the practice of land use planning.

However, the difficulties of operationalizing collective planning proved formidable, and Mushkegowuk Council was not able to overcome both external and internal issues to realize a unified regional plan. Thus, the MRLUP did not achieve the goal of reconfiguring relations with the province in ways that moved beyond the politics of recognition and reconciliation. In the Introduction I noted several challenges to land use planning initiatives by Indigenous communities. Briefly, they were: 1) getting external interests (i.e. settler governments, industry, NGO's) to respect the rights claims of Indigenous communities, and consequently, Indigenous protocols and processes to manage lands; 2) funding their initiatives to govern and manage lands, particularly when they stray from federal or provincial priorities; and 3) ensuring land use planning processes and outcomes are relevant to Indigenous traditions and ways of life.

To answer the first point, the provincial government's disinterest in supporting planning that strayed from the process and priorities established under the Far North Act, meant that the Council had only limited success in addressing this challenge. Ontario's involvement in LUP was not trusted whether working with the Council or with First Nation communities. In particular, both historical and current relations with the Ontario MNR left many suspicious of the MNR's motives, and their involvement cast doubts on the legitimacy of regional planning. These doubts were not mollified by Mushkegowuk Council's decision to work with the Ontario Far North Act "under protest", a decision that did not make it clear that regional planning would be driven by Mushkegowuk communities. Some communities were also in bilateral negotiations with the province under the Far North Act, and were reluctant to allow Mushkegowuk Council to take the lead on LUP. In addition, Ontario's refusal to consider LUP that included the southern Mushkegowuk communities disregarded Mushkegowuk Council's wish to pursue planning as a

nation. Ontario advanced its community-based planning priorities regardless of cooperation with Mushkegowuk Council, leaving the Council vulnerable to being sidelined altogether.

On the second point, although the Council's Regional Planning Initiative did receive support from the province, Ontario's preference for individual community-based plans meant a lower priority for the regional plan. Mushkegowuk Council depended on Ontario to finance its LUP, which the province took full advantage of to control regional planning activities. MNR officials effectively halted the regional planning process by withholding future funding when they were unhappy about the meeting held without their presence. Because of their funding power, recognition by Ontario and the MNR determined the ability of Mushkegowuk Lands and Resources to successfully conduct regional planning. The MNR's control over funding at both the Council and First Nation community level significantly limited the efficacy of regional planning to move beyond the confines of the Far North Act.

Finally, to the third point, Treaty 9 obligations to share the land were respected by Mushkegowuk planners, who attempted to plan together with the province. However, this meant agreeing to a process that Ontario would recognize, and opened up the initiative to criticism that regional planning was just an extension of Far North planning. The involvement of the province at early stages of regional planning made it difficult to conceptually root LUP in Omushkegowuk traditions, and be clear about their vision for land governance, planning process, and expectations. These kinds of decisions that are integral to crafting a clear and widely supported Omushkegowuk vision for regional planning needed to be determined without the involvement of Ontario.

Regional planning did serve to further communication and support planning at the community level, but fell short of the aspirations for a single land use plan for the

Omushkegowuk homeland. Nonetheless, the shift in rights praxis exhibited by the MRLUP initiative did affect planning in several ways. First, the initiative provided a forum for the collective interests of Mushkegowuk First Nations in LUP to be determined. Regional planning provided for much communication amongst planners and communities about key questions of priorities, governance, and decision-making. The regional initiative also asserted the Omushkegowuk nation into LUP processes, which raised the issues of interrelations, particularly the sharing of lands amongst Omushkegowuk peoples integral to supporting their nation building aspirations. And third, MRLUP likely helped First Nations in bilateral planning with Ontario as it allowed for First Nations to discuss their differences and provide support despite the conflicts; however, these sorts of benefits fell well short of the overall goals.

In doing so, the Council confronted Ontario's planning agenda with their own, and instigated broader discussion amongst the communities about the meaning, process, and objectives of planning from Omushkegowuk perspectives. In this way the MRLUP initiative endeavoured to provide an alternative to colonial relations and change the trajectory of dispossession and alienation from their lands. Whereas Ontario's Far North Initiative recognized Indigenous communities only so far as to enable its priorities for land in the Far North –land that still remained largely outside of the provincial economy and settlement – Mushkegowuk Council self-recognized their own relations between their communities and to the land to support their resurgence as a nation. But as the case study demonstrated, there is clearly much work ahead for Omushkegowuk resurgence. While the aspirations for Indigenous resurgence are evident, Council and the communities need to find ways to collectively pursue their interests on their own terms. In this way the resurgence model was not fully embraced, but rather an uncomfortable mix of working within provincial processes and against those same processes has ensued. This

ambiguity did allow for Ontario to exploit community divisions in favor of their own LUP. But the rejection of provincially determined reconciliation of Indigenous rights in planning, as well as in other issues affecting Mushkegowuk communities, is unmistakably growing.

The question remains as to whether The First Nation's communities of Mushkegowuk Council will deepen their efforts to work collectively and restore self-determined governance, or if the experience of LUP leaves Council communities further divided. What is clear is that Mushkegowuk First Nations, although negotiating with Ontario, feel no compulsion to agree to plans that don't match their expectations. At the time of writing no Mushkegowuk First Nation has approved a plan under Far North (Ontario, 2017), including Moose Cree First Nation who began planning under the NBI at the beginning of the millennium. The experience of regional planning did indicate expectations of high autonomy for First Nations communities with Mushkegowuk Council performing largely a coordinating and support role. The ability to craft bottom-up governance and management processes, as such, are integral to future Omushkegowuk nation-building efforts. What is clear is that the deep disagreements with Ontario cannot be favorably resolved through the LUP mechanism the province has offered. Planning with Ontario is necessary to address Treaty 9 relations and ensure cooperation and support for both Ontario's and Mushkegowuk First Nations' priorities. But there is a critical need for an accepted Omushkego vision for planning and land based governance that is developed without the interference of the province in order to advance their nationhood approach. Thus, the regional initiative is best characterized as part of an emerging shift in praxis where principles that align with resurgence are supported by those involved in LUP, but the tools to act (and finance) self-determined planning are vulnerable to provincial interference, and largely remain at the First Nation community level. Mushkegowuk Council's primary

contribution was and remains to create space and further dialogue for collective interests.

Despite the significant challenges, the Council filled a critical role in support of an

Omushkegowuk vision for LUP –a role that it will need to continue, but adapt to provide more opportunities for Omushkegowuk determined planning to occur.

Table 2: Summary of Objectives and Main Findings

Chapter	Objectives	Research Findings
3	To differentiate between recognition and reconciliation and a resurgence approach to Indigenous rights, and examine how these frame governance and management initiatives that impact Indigenous lands.	Indigenous communities in Canada are centering their cultural traditions to make their worldviews and relationship meaningful in land management initiatives, reflective of the principles of Indigenous resurgence. This stands in contrast, and often in opposition, to state led recognition and reconciliation approaches to environmental management in Canada. Recognition and reconciliation, while granting inclusion, operates to incorporate Indigenous peoples and their lands into Canadian governing institutions.
4	To examine the impetus, process, and outcomes of both Ontario’s Far North Initiative and the MRLUP Initiative, with attention to how both initiatives interacted and differed in their approach.	The process of crafting the Far North Act was marked by the unilateral reconciliation of Indigenous and Treaty 9 rights by Ontario through its community-based planning process. The MRLUP initiative was based on the Omushkegowuk nation, and pursued a partnership approach with the Ontario government. The MRLUP could not overcome the issues of division of their territory under Ontario’s planning legislation, and community-based planning that fostered relations between the province and individual First Nations. It

		did, however, support and increase communication about LUP issues amongst Mushkegowuk communities, and asserted the Omushkegowuk nation into the LUP process.
5	To explore the foundations and framework for Mushkegowuk land use planning, and to examine the challenges that arose in implementing Mushkegowuk Council’s vision for planning, from the perspective of those interviewed for the research.	Mushkegowuk Council’s aspirations for developing a regional plan by and for all Mushkegowuk communities did not come to fruition due to the control exerted by Ontario –particularly through its funding powers –and conflicts between the Council and its First Nation communities. The regional planning efforts also drew attention to the work needed to re-establish Omushkego governance of their lands, including the issues of traditional family and shared areas. The case study also demonstrated the difficulties of achieving an Indigenous vision for planning under the scrutiny and financial control of the province.

6.4 Future Research Opportunities

As this dissertation documented, many are critical of the politics of recognition and reconciliation in Canada, and advocate for Indigenous peoples to look to their own cultural traditions for building self-determined futures. But the challenges that face communities in their attempts to decolonize Indigenous/Settler relations within their homelands, as the MRLUP case study demonstrated, are formidable. Other Indigenous communities and their regional organizations likely face similar difficulties asserting a leading role in the planning of their homelands to that which Mushkegowuk Council encountered. First Nations are often caught in a dilemma of pursuing either economic or cultural priorities when negotiating with governments or

industry, despite that both factors are viewed as indispensable for their self-determined futures (Slowey, 2009). The following three areas for future research further delve into issues of Indigenous cultural and economic futures within their homelands, and the methods and political strategies First Nations can use to reconfigure relations.

First, although this research touched on different experiences for Indigenous communities depending on their treaty status, a more systematic comparative analysis of Indigenous roles and priorities in land planning for those working under historic treaties, comprehensive land claims, or without a treaty is needed. These different treaty relationships need to be examined in the context of past, present, or potential resource development –the latter of which is clearly a main driver of new engagements between Indigenous communities, governments, developers, and environmental groups. The questions in need of further investigation here are, for instance, how do different treaty relationships impact the ability of Indigenous communities to intercede in LUP, and do certain treaty arrangements lead Indigenous communities to focus on particular priorities? In other words, if the goals of decolonization and self-determination are largely similar across Indigenous communities, in what ways do differing treaty arrangements require differing courses of action?

Second, research on how communities understand, strategize, and act on multiple levels will give more clarity to how decolonization and self-determination are produced. Planning by Mushkegowuk Council suggested that negotiations with governments and industry may only be understood when located within the context of broader strategies and significant debates within particular Indigenous communities. The role of planning and the field of Indigenous planning are crucial sites for investigation into how Indigenous communities are confronting contemporary issues, and imagining and acting on their visions for their communities and lands.

Questions that are in need of further investigation include: what are the connections between small, localized initiatives and larger political processes, and how do communities break from the funding trap that often works against their interests? As this dissertation has demonstrated, the determination of Settler governments to pursue their visions of reconciliation can pose serious obstacles for realizing the priorities of Indigenous peoples. How to avoid these pitfalls when engaging with Settler governments, and not be trapped by “shape-shifting colonial powers” (Alfred and Corntassel, 2005: 601), is an enduring question that needs more investigation into the options pursued by particular communities.

Third, the potential support for Indigenous resurgence within government policy and in non-Indigenous communities bears closer scrutiny for points of agreement, limits, and obstacles. Some trends in Canada suggest opportunities for structural change, such as addressing long-standing health and economic discrepancies and the growing consensus for free, prior and informed consent as a condition for development that impacts Indigenous territories. However, the rise in far-right populism has the potential to counter, if not erase, the limited gains recognition has produced, which were already under attack nationally during the Harper Conservative government’s leadership. But as this case study of LUP in Mushkegowuk territory has shown, even seemingly progressive recognition has not embraced Indigenous authority in their homelands. By investigating the changing (or entrenched) attitudes amongst significant non-Indigenous actors, organizations, and communities, further research could identify trends in the responses to Indigenous political agency. Key questions here include: what are policy and institutional changes that appear receptive to Indigenous self-determination, and why or why do they not suggest decolonizing trends? Under what circumstances are policy outcomes more favorable to Indigenous self-determination? For example, is it because of successful political

activism, the attitudes and leadership of key people, or political economic realities that may be taken advantage of by particular people or organizations? The larger question here that this dissertation began to explore is can a politics based on Indigenous resurgence reconstitute relations with Settler peoples and governments in ways that are more supportive of their goals? In the case of the MRLUP initiative, Mushkegowuk planners were not able to provoke this kind of structural change. But the internal deliberations and support for collective action amongst Mushkegowuk First Nations suggests principles that reflect the tenets of Indigenous resurgence will continue to guide their endeavours. These are questions this dissertation began to explore, and for which research across case studies and within Settler governments and organizations will further illuminate this dynamic political landscape.

6.5 Final Thoughts

Indigenous communities everywhere seek to not simply survive, but flourish as distinct peoples. Recognition by Settler governments was a needed and necessary step to resist the radical colonization of their lands and communities. But for their resurgence, Indigenous peoples are refocusing on their cultural traditions and ways of being to guide their actions as they rebuild their communities. This is why it is vitally important for Indigenous peoples to assert their agenda in LUP initiatives. While environmental management activities are often a response to a crisis, planning in general, and LUP in particular, are forward-thinking exercises to meet the aspirations of communities. Mushkegowuk Council continues to be involved in LUP processes, and by no means have abandoned their nation-building objectives. For Indigenous peoples, such as the Omushkegowuk Cree, to utilize LUP for their resurgence as Indigenous nations they need to position their cultures norms and expectations in the lead while provoking a deeper

recognition and substantive support from colonial peoples and institutions. This will mean a reconceptualization of planning that breaks from its colonial purpose and assumptions. A culturally centred and Indigenous community driven approach –supported by Settler governments and other non-Indigenous organizations –is clearly a means for addressing material conditions, rights and jurisdiction within homelands, and rebuilding economies where Indigenous ways of life are integral to their healthy functioning. Therefore, there is much work to do within both Indigenous and Settler communities if relations are to be reconfigured as consistently supportive of decolonizing forms of reconciliation. But the most effective driver of this change will likely be the community-centred and political activist work of Indigenous peoples. Decolonization and self-determination stand as both the goals and the evidence of an effective Indigenous resurgence.

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Appendices

Appendix A: Timeline of Events and Initiatives Affecting Land Use Planning in Mushkegowuk Aski and the Ontario Far North Region (1905-2014)

Date	Event
1905-06	Treaty No. 9, also known as the James Bay Treaty, is negotiated between Canada and First Nations in the northernmost region of Ontario.
1912	The Ontario border is extended northward to its present limits.
1929-30	Adhesions to Treaty No. 9 are negotiated and agreed to by First Nations, extending the Treaty area to Hudson Bay.
1948	Ontario institutes the Registered Trapline System.
1973	Grand Council of Treaty 9 (later renamed Nishnawbe Aski Nation in 1983) is established.
1976	Ontario signs Memorandum of Understanding with the Reed Paper Co. to grant logging rights to a massive area in the northwestern region of the province.
1977	Royal Commission of Ontario on the Northern Environment is established.
1982	The Constitution Act and Canadian Charter of Rights and Freedoms is passed which recognizes and affirms existing Aboriginal and Treaty rights.
1984	Mushkegowuk Council is established.
1985	The Report of the Royal Commission on the Northern Environment is released by Commissioner Ed Fahlgren.
February 1997	Ontario announces the Lands for Life process for comprehensive land use planning in the central and northern regions of the province.
September 1997	Public hearings under Lands for Life begin.
1998	Mushkegowuk Council Election Code and positions of Grand Chief and Deputy Grand Chief are established.
March 29 1999	Ontario announces the signing of the Forest Accord and the Living Legacy Land Use Strategy that will establish 378 new protected areas.
2000	Northern Boreal Initiative announced.
2002	Draft Omushkego Constitution released.
May 2003	Rupert's Land lawsuit filed by Mushkegowuk Council against Canada and Ontario for breach of Canada's Protection Pledge of 1869 in the transfer of Rupert's Land from England to Canada.
2005	De Beers' Victor Diamond Mine in Attawapiskat territory is approved.
Sept. 22 2005	Mushkegowuk Council Resolution 2005-09-22, Resource Development and Land Use Planning.
February 2006	Kitchenuhmaykoosib Inninuwig First Nation (KI) orders mineral exploration company Platinex to vacate their traditional territory, Platinex responds with \$10 billion lawsuit against KI.

March 21 2006	Ontario and NAN begin negotiations on establishing a Northern Table to address economic development issues.
2007	Mushkegowuk Declaration of Unity.
April 18 2007	Letter of Agreement signed by Nishnawbe Aski Nation Grand Chief Stan Beardy and Ontario Minister of Natural Resources and Minister Responsible for Aboriginal Affairs David Ramsay officially commences the Northern Tables.
June 2007	Ontario Ministry of Aboriginal Affairs is established.
March 17 2008	KI Chief Donny Morris and five others from KI First Nation are incarcerated for contempt of court for blocking Platinex entry to their traditional lands.
April 3 2008	NAN suspends the Northern Tables until KI leadership is released from jail.
May 28 2008	KI First Nations members released from jail.
May 2008	The Northern Tables are renamed the Oski-Machiitawin dialogue, and are set for one year.
July 14 2008	Dalton McGuinty announces the launch of the Far North Land Use Planning Initiative, along with modernizing the Mining Act and developing a framework for resource benefits sharing with First Nations.
Nov. 13 2008	Mushkegowuk Council Resolution 2008-11-13, Territorial Mapping and Land Use Planning formally instigates the Mushkegowuk Regional Land Use Planning Initiative.
December 2008	Far North Science Advisory Panel established.
Jan. 19-22 2009	Mushkegowuk Council hosts the Omushkego Regional Land Use Planning Workshop in Timmins, Ontario.
March 2009	Far North Planning Advisory Council releases “Consensus Advice to the Ontario Minister of Natural Resources”.
June 2 2009	Introduction and first reading of Bill 191 in the Ontario legislature. Referred to the Standing Committee on General Government.
August 2009	Standing Committee on General Government holds four days of hearings Toronto, Sioux Lookout, Thunder Bay, and Timmins –none of which are located in the Far North.
August 26 2009	Mushkegowuk Council Resolution 2009-08-08, Response to Ontario Bill 191: The Far North Act.
August 28 2009	Mushkegowuk Council Resolution 2009-08-21, Provincial Funding for Land Use Planning
October 2009	Standing Committee on General Government clause by clause consideration of Bill 191.
April 2010	Far North Science Advisory Panel releases “Science for a Changing Far North” report.
May 4-6 2010	Planning Together Workshop hosted by the Ministry of Natural Resources in Thunder Bay for the purpose of “Discussions among Far North First Nations and Ontario regarding Community Based Land Use

	Planning and Bill 191, The Far North Act”.
June 3 2010	Bill 191 passes second reading by the House.
Sept. 8-10 2010	Aski Nana Ga Che Ta Win “Caring for the Land” Conference hosted by Mushkegowuk Council
Sept, 13-15 2010	Standing Committee on General Government considers final motions on amendments to Bill 191.
Sept. 16 2010	Mushkegowuk Council Resolution 2010-09-10, Land Use Planning.
Sept. 23 2010	Bill 191, the Far North Act, passes on third reading
October 25 2010	The Far North Act receives Royal Assent
June 7-9 2011	Land Use Planning Summit, Mushkegowuk Council, Timmins, Ontario
Sept. 29 2011	Mushkegowuk Council Resolution No. 2011-09-12, Regional Land Use Planning Team.
Feb. 28 – March 1 2012	Mushkegowuk Regional Land Use Planning Team Conference: A Collaborative Path Towards a Regional Plan.
April 2013	Ontario Ministry of Natural Resources releases its <i>Provisional Protection Workbook</i> for communities to follow to protect lands before final land use plans are in place.
July 4 2013	Mushkegowuk launches lawsuit against the governments of Ontario and Canada over oral promises made in negotiating Treaty 9, backed by the recently uncovered journals of Ontario treaty commissioner Daniel MacMartin.
July 30 - Aug. 1 2013	James Bay Treaty/Treaty No. 9 Conference, Moose Factory
December 2013	Ontario Ministry of Natural Resources releases <i>An Introduction to the Far North Land Use Strategy</i> .
July 2014	Ontario agrees to fund Mushkegowuk Regional Land Use Planning for the third year of its previous commitment.

Appendix B: Informed Consent Form

Study Name:

Expanding the Praxis of Indigenous Rights: Alternatives to Colonial Relations in the Regional Land Use Planning Process of the Mushkegowuk Cree

Researcher:

Ryan Bowie, PhD Candidate, Faculty of Environmental Studies, York University

Email:

Phone:

Supervisor:

Ravi de Costa, Associate Professor, Faculty of Environmental Studies, York University

Email:

Phone:

Purpose of the research:

The purpose of this research is to examine the Mushkegowuk Cree Regional Land Use Planning Initiative. The initiative represents a significant First Nations' community driven planning process that provides an alternative to the Ontario government's Far North land planning. The research is investigating the benefits and challenges to Mushkegowuk Cree communities in pursuing the development and potential implementation of their regional land use plan.

What you will be asked to do in the research:

You will be asked a series of questions for you to answer or reflect upon that will take about one to two hours, and the interview will be audio recorded for accuracy. You are not obligated to answer any of the questions asked, and the interview can be stopped at any time you wish.

Risks and discomforts:

The risks are generally from criticisms others may have of your comments. Please be aware that you will be identified in direct quotes from the interview unless you chose to remain anonymous. You will also be provided a copy of the interview transcript if you wish. During the interview you can pause for a break or stop for any reason.

Benefits of the research and benefits to you:

This interview provides an opportunity to discuss and record your impressions, opinions and role in Mushkegowuk land use planning and lands and resource issues affecting traditional territories more generally. It is the goal of this research to provide support for stronger First Nations' roles in lands and resources management. An honorarium of \$100 will be offered to community members who are not participating in an official (paid) capacity to recognize their expertise.

Voluntary participation:

Your participation in the study is completely voluntary and you may choose to stop participating at any time. Your decision not to volunteer will not influence the relationship you may have with the researchers or study staff or the nature of your relationship with York University either now, or in the future.

Withdrawal from the study:

You can stop participating in the study at any time, for any reason, if you so decide. Your decision to stop participating, or to refuse to answer particular questions, will not affect your relationship with the researchers, York University, or any other group associated with this project. In the event you withdraw from the study, all associated data collected will be immediately destroyed wherever possible.

Confidentiality:

Quotations from the interview will be attributed to you and you will not remain anonymous unless you indicate otherwise. The interview will be digitally recorded, and any recordings, transcripts and notes will be kept in a locked cabinet and only the researcher will have access. The interview material will be kept for future reference until the end of the researcher’s academic career, after which all data will be destroyed by erasing digital recordings and shredding paper documentation. Confidentiality will be provided to the fullest extent possible by law.

Questions about the research?

If you have any questions about the research or your role in the study please contact Ryan Bowie (researcher) or Ravi de Costa (supervisor) using the contact information at the beginning of the form. You can also contact the Graduate Program in Environmental Studies office at York University. This research has been reviewed and approved by the Human Participants Review Sub-Committee, York University’s Ethics Review Board and conforms to the standards of the Canadian Tri-Council Research Ethics guidelines. If you have any questions about this process, or about your rights as a participant in the study, you may contact the Senior Manager and Policy Advisor for the Office of Research Ethics, 5th Floor, York Research Tower, York University.

Legal rights and signatures:

I, _____, consent to participate in the Mushkegowuk Cree Self-Determination, the Ontario Far North Act, and Environmental Governance in Mushkegowuk Territory research project conducted by Ryan Bowie. I have understood the nature of this project and wish to participate. I am not waiving any of my legal rights by signing this form. My signature below indicates my consent.

Signature _____ **Date** _____
(participant)

Signature _____ **Date** _____
(principal investigator)

I agree to the interview being audio recorded:

Yes No Initials _____

I wish to remain anonymous:

Yes No Initials _____

I wish to review a copy of my transcripts:

Yes No Initials _____

Appendix C: Interview Schedule
Mushkegowuk Regional Land Use Planning Initiative
Ryan Bowie
Faculty of Environmental Studies
York University

- Can you please give your name and describe what your role is or how you have participated in the Mushkegowuk land use planning process?
- Are there particular reasons why you were chosen for your role or asked to participate?
- Why is there a need for land use planning in Mushkegowuk territories?
- What are the advantages/limitations of Ontario's Far North community based planning?
- What are the advantages/limitations of the Mushkegowuk Regional land use planning process
- How do you understand the issue of rights in Omushkegowuk land use planning?
 - Where do these rights come from and how should they be protected and exercised?
 - Does the Mushkegowuk Land Use Planning Initiative respect and represent how Omushkegowuk and First Nation rights need to be exercised? Explain?
 - Have Mushkegowuk First Nations had success in getting others, particularly the Ontario government, to respect their rights and role in land use planning?
 - Do others, such as industry, environmental organizations or northern municipalities that you know of support the Mushkegowuk initiative?
- What are the significant features of the Mushkegowuk land use planning initiative?
 - What values and considerations have emerged as important in planning discussions?
 - What are the roles of Omushkego Knowledge and cultural traditions in Mushkegowuk planning?

- In what ways are Omushkego Knowledge and traditions evident in the process?
- What are aspects not traditional to Mushkegowuk Cree that have been important to the land use planning initiative?
- What is the relationship of the regional planning initiative to community based planning?
- What would you like to see happen to consider Mushkegowuk land use planning successful?
 - What are the most significant outcomes of the Mushkegowuk initiative so far?
 - What have been the biggest challenges so far?
 - Has the Mushkegowuk land use planning initiative changed or is it likely to change Mushkegowuk First Nations' position in decisions regarding their lands?
 - How has the initiative affected Mushkegowuk Cree nation building?
 - How do you think the Mushkegowuk land use planning initiative demonstrates or supports self-determination of Mushkegowuk Cree First Nations?