Planning In Ontario’s Far North: Preservation, development and culture in policy

By

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Abstract

Growing development pressure in Ontario’s Far North has prompted northern First Nation communities, who have recognized these potential outcomes, to initiate community-based land-use planning. In 2009 the Ontario Ministry of Natural Resources (OMNR) announced Bill 191, An Act with Respect to Land-Use Planning and Protection in the Far North, to guide the planning process and promote a balance between conservation and development. The way the legislation develops and advances will be a determining factor in the degree of benefit to local communities.

This manuscript thesis explores the issues related to land-use planning in Ontario’s Far North, specifically the James Bay lowland region, through two articles. Information collected through participant observation, an extensive multi-disciplinary literature review, interviews with key policy actors and review of transcripts from Standing Committee hearings was combined to inform the development of both articles.

The first article explores the landscape to highlight the abiotic, biotic and cultural features of the region. This article provides a scoping exercise to begin to describe features that should contribute to the creation of the community-based land-use plans.

The second article critically examines the development of Bill 191 to guide land-use planning through policy, organizational and operational institutional levels from a First Nations perspective. Themes of power, social justice and participation in the planning process are central to the consideration of the emerging planning process. This review reveals a process that, instead of initiating a new relationship between the government of Ontario and First Nations, has contributed to increasingly acrimonious relations between the two.
Co-Authorship

I hereby declare that this thesis incorporates material that is a result of joint research, as follows: The research and data collection completed was the work of Holly Youden. The role of Dr. Graham Whitelaw was primarily through guidance and supervision throughout the research design, participant observation component, the data analysis and thesis development. Dr. Leonard Tsuji assisted this work by coordinating community contacts and scheduling for the interviews in Fort Albany, guidance related to the development of the research, opportunities and limitations and editorial advice. Finally, Dr. Daniel McCarthy assisted with interviews and through the completion of chapters 4 and 5 largely through editorial advice and guidance.
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Table of Contents

Title Page
Abstract i
Co-authorship Statement ii
Acknowledgements iii
Table of Contents iv
List of Figures vii
List of Tables ix
List of Abbreviations x

Chapter 1
Introduction 1
Introduction 1
Research Purpose and Objectives 4
Rationale for the Research 5
Format and Structure of Thesis 6

Chapter 2
Literature Review 9
Introduction 9
Treaty Process 9
Background: Canadian Aboriginal Policy 13
Case Law 15

Chapter 3
Methods 19
Research Approach 19
Semi-Structured Interviews & Participant Observation 20
Literature Review 21
Document Review 22
Long Interviews 24
Limitations of Research Method 27

Chapter 4
Contemplating Landscapes: An Overview of Western James Bay Lowlands Past, Present and Future 28
Abstract 28
Introduction 28
Methods 31

ABC Rapid Reconnaissance Survey 34
1.0 Abiotic Resources 34
1.1 Formation of the Hudson and James Bay lowlands 34
1.2 Coastal Morphology and Major Rivers 37
1.3 Vegetation 40
Chapter 5
Planning in Ontario’s Far North:
Opportunities and Challenges

Abstract
5.1 Introduction
5.2 Background
  5.2.1 Mushkegowuk Territory and Development
  5.2.2 Bill 191
5.3 Literature Review
  5.3.1 Indigenous/First Nation Planning
  5.3.2 Planning Theory
  5.3.3 Community-based land-use planning
  5.3.4 Institutional Theory
  5.3.5 Policy Level Institutional Arrangement
    5.3.5.1 Planning Areas
    5.3.5.2 Legislation/“rules”
    5.3.5.3 Jurisdiction
  5.3.6 Organizational Level of Institutional Arrangement
    5.3.6.1 Planning Bodies/Distribution of Power
    5.3.6.2 Representation
    5.3.6.3 Consensus Based Decision-Making
    5.3.6.4 Power and Control
  5.3.7 Operational Level of Institutional Arrangement
    5.3.7.1 The Community in Community-Based Planning
5.4 Conceptual Framework
5.5 Methods
5.6 Results and Discussion
List of Figures

Figure 1. 4
Map of Ontario’s Far North highlighting the main water bodies, FN communities, northern boundary of provincially regulated forest lands (yellow), and area considered under Bill 191 (grey) (modified from Ontario Ministry of Natural Resources, 2010)

Figure 2. 36
Surficial Geology of Ontario, showing organic deposits as the dominant surficial geology type in the James Bay Lowland region (adapted from Forest Landscape Ecology Program from Baldwin et al. 2003:5)

Figure 3. 40
Projected coastline changes as a result of isostatic rebound with projected sea level change associated with global warming (1.8mm/yr in 100 year increments), with red line indicating the current coastline (Tsuji et al. 2009:463).

Figure 4. 41
Ecozones of Canada showing range of Boreal zone types throughout with the James Bay region dominated by Hudson Plains and bound by Boreal Shield (East and West). The grey dots show the fire frequency in each zone between 1959-1997 (adapted from Stocks et al. 2003:3) Abbreviations: AC (Arctic Cordillera), NA (Northern Arctic), SA (Southern Arctic), TP (Taiga Plains), TSW (Taiga Shield West), TSE (Taiga Shield East), BSW (Boreal Shield West), BSE (Boreal Shield East), AM (Atlantic Maritime), MP (Mixedwood Plains), BP (Boreal Plains), P (Prairies), TC (Taiga Cordillera), BC (Boreal Cordillera), PM (Pacific Maritime), MC (Montane Cordillera), HP (Hudson Plains)

Figure 5. 52
James Bay region showing the permanent communities along the James Bay coast, large river systems and water bodies in the region, the current location of the winter road and site of the Victor Diamond Mine (Figure 1.1, Canadian Environmental Agency (2005) modified from Whitelaw et al. 2009:206).

Figure 6. 55
Map of Ontario highlighting the "Ring of Fire" (red) a large geographic region that extends along the Precambrian Shield (Ontario Minister of Finance, 2010)

Figure 7. 65
Map of Ontario’s Far North highlighting the main water bodies, FN communities, northern boundary of provincially regulated forest lands (yellow), and area considered under Bill 191 (grey) (modified from Ontario Ministry of Natural Resources, 2010)
Figure 8.
Conceptual framework linking planning (rational, advocacy and collaborative planning) with institutional arrangements (operational, policy and organizational levels) in the context of aboriginal/indigenous community-based land-use planning.
List of Tables

Table 1 24
Representation before Standing Committee Hearings on Bill 173 and 191 held in Sioux Lookout, Thunder Bay, Chapleau and Timmins, Ontario on August 6, 11, 12, and 13, 2009, respectively. Representation is distributed between those involved in economic/industrial development, regional First Nation governments, local First Nation governments, municipal governments, special interest groups and the public.

Table 2 26
Long interview data presenting coding used to protect the identity of participants, the data form (transcription from audio recordings), and date of interview.

Table 3 89
Analysis Framework describing the three institutional levels (policy, organizational and operational), coding themes used to evaluate the data and relevant literature used to inform the analysis of Bill 191 and the related community-based land-use planning.
List of Abbreviations

CBLUP - Community-based land-use planning
FAFN – Fort Albany First Nation
FN - First Nation
MC – Muskegowuk Council
NAN – Nishnawbe-Aski Nation
OMNR – Ontario Ministry of Natural Resources
TEK – Traditional ecological knowledge
Chapter 1

Introduction

Regional planning efforts in Canada have a history dating back nearly 200 years (Hodge and Robinson, 2000). These planning activities addressed a variety of issues including expansion of urban areas, rural settlement, conservation of sensitive areas, natural resource development, and economic growth (Hodge and Robinson, 2002). In Ontario, Regional planning is undertaken by municipalities e.g. Region of York, (www.york.ca ), Conservation Authorities such as the Grand River Conservation Authority (e.g. Alder Creek Watershed Study and Upper Strasburg Creek Subwatershed Plan (2008)) through watershed planning (Gardiner et al. 1994), and regional bodies such as the Niagara Escarpment Commission (Niagara Escarpment Commission, 2008; Whitelaw et al. 2008). Regional planning efforts in Northern Canada are on the increase with First Nation community-based regional plans being developed or having been recently completed in a number of Provinces and Territories (e.g. Sahtu Land Use Planning Board; 2010, Pikangikum First Nation; 2006, Gwich’in Land Use Planning Board, 2003; Nunavut Planning Commission, 2000a,b). These initiatives provide examples of aboriginal land use planning in regions of Canada that include: government-to-government agreements to advance planning, the use of independent board to undertake decision-making and co-management.

In 2009, the Ontario Ministry of Natural Resources (OMNR) announced Bill 191, An Act with Respect to Land-Use Planning and Protection in the Far North, to guide the planning process and promote a balance between conservation and development in an area that covers 43% of the province (Government of Ontario, 2008). The process
detailed in the proposed legislation is designed to enable community-based land-use planning in collaboration with First Nation (FN) communities. FN communities are interested in pursuing land-use planning in an effort to preserve their traditional territories in a way that ensures that future generations will be supported by the land and resources. Furthermore, FNs have a desire to benefit from current and future development in the areas of forestry, mining, electricity generation and tourism. Land-use planning processes, designed and carried out properly, have the potential to provide FNs with economic benefits (Natcher, 2001; Lane and Hibbard, 2005; Natcher et al, 2009).

The James Bay Region is, for the most part, populated by Cree and Ojibway FN people. The area is comprised of reserve lands, which are the existing sites of FN communities, and the surrounding Cree traditional territories used for various land-use activities such as hunting, trapping, fishing, transportation and resource development. These traditional territories are viewed as Crown Land by the Federal and Ontario Provincial governments. Throughout the territory there is a political structure that includes the Nishnawbe Aski Nation (NAN), which represents the 49 FN communities of northern Ontario that fall under treaties 5 and 9. In addition, the Mushkegowuk Council (MC), a Tribal Council that is part of NAN, represents seven communities including Attawapiskat, Kashechewan, Fort Albany, Moose Cree, Taykwa Tagamou, Chapleau Cree and Missanabie Cree. These two organizations are working to develop strategies and policies to influence growth and development within Ontario’s Far North.

Bill 191 details a process for the development and amendment of FN community-based land-use plans. The Bill requires the establishment of a minimum of 225,000km² in a network of interconnected protected areas (Bill 191.S 6(2)) as well as “[e]nabling
sustainable economic development that benefits FNs” (Bill 191 S.6(4)). FN representatives rejected Bill 191 following its initial announcement based on: a lack of a leadership role of FNs in decision-making; prescription of 225,000km² of protected lands; interference with industry and FN partnerships; inadequate funding; and a lack of consideration of inherent rights reflected in the FN relationship with the Creator and, Treaty and Aboriginal rights (NAN, 2009). Figure 1 (OMNR, 2010) shows the area to be considered under Bill 191 and the northern boundary of regulated forest lands.
Research Purpose and Objectives

The purpose of this research was to contribute to the initiation of land-use planning activities in the Mushkegowuk Territories. The work was undertaken in partnership with the MC and Fort Albany FN. Two separate but related research activities were completed. The first involved gathering and synthesizing existing landscape background information for the purpose of land-use planning. Specifically, the objective
was to gather readily available abiotic, biotic and cultural information and evaluate it for scoping purposes to begin the process of identifying what a regional land-use plan in the region should address (see Chapter 4).

The second part of the research explored the ongoing Government of Ontario initiated land-use planning process as expressed through Bill 191 to identify opportunities and challenges from the FN perspective. The main objectives were to identify:

- Issues related to governance, specifically the role of FN in policy development and related land-use planning.
- Implications of planning boundaries that divide FN traditional territories and create boundaries in shared lands.
- Issues surrounding implementation through committees, community participation, and availability of resources.
- Opportunities to advance FN community goals and objectives through land-use planning.

Rationale for the Research

The research is important for three main reasons. First, no land-use planning has occurred in the region. This lack of land-use planning information was evident during the environmental assessment process carried out for the Victor Diamond Mine (AMEC, 2004; Whitelaw et al, 2009). The majority of FN communities were left out of the process and had little to offer as no land-use planning information was available to share with the mine proponent. Secondly, the mine development has illustrated a number of social justice issues in terms of certain communities being excluded from benefits from the mine (McCarthy et al, in press). Regional land-use planning has the potential to address these types of issues (Lane and Cowell, 2001; Lane, 2006). Third, the MC and member communities have limited capacity and the government has not provided the necessary support for land-use planning research (NAN, 2009).
Format and Structure of the Thesis

This thesis is presented in 6 chapters in a manuscript format. Chapters 4 and 5 contain the two manuscripts - Chapter 4 “Contemplating Landscapes: An Overview of the James Bay Lowlands Past, Present and Future” and Chapter 5 “Planning in Ontario’s Far North: Opportunities and Challenges”. Both of these manuscripts will be submitted to the Canadian Journal of Native Studies. The manuscripts have been modified to fit the format of this thesis. The section numbers, tables, and figures have been revised to conform to the numbering of the rest of the document. In addition, some modifications have been made to the respective methods and literature review sections to minimize repetition.

The literature review is distributed among chapters 2, 4 and 5. Literature reviewed in Chapter 2 presents the development of aboriginal policy in Canada related to lands and resources. Case law is used to demonstrate how Aboriginal title has evolved over time along with providing information on the underlying basis of the relationship with the Ontario government through Treaty No. 9. Chapter 4 is largely based on a review of literature in the areas of abiotic, biotic and cultural resources of the Mushkegowuk region. Chapter 5 reviews literature on planning theory, and its application in the context of community-based land-use planning in aboriginal communities in Canada, the United States and Australia.

The methodology used to guide this research is described in Chapter 3. It details participant observation, semi-structured long interview, and content analysis methods that were used to inform results presented in both manuscripts. Chapter 3 broadly describes the shared methods between the two manuscripts with additional description of
approaches presented in the respective manuscript chapters.

Chapter 4 “Contemplating Landscapes: An Overview of the James Bay Lowlands Past, Present and Future” presents a reconnaissance scoping exercise that begins the process of synthesizing the abiotic, biotic and cultural features of the landscape. The reconnaissance resource survey method selected is not intended to collect all available information and to apply sophisticated synthesis methods. These types of techniques are available through the ABC approach (Abiotic, Biotic, and human Cultural) but were not used in this case, due to time and resource constraints. The approach selected was a reconnaissance ABC methods as detailed in Nelson and Lawrence (2009). The first part of the ABC paper includes information on abiotic and biotic features including geology, coastal morphology, vegetation, wildlife, and climate. Part II presents cultural information in sections describing archaeology, FN traditional land use, first contact and development. The final sections, planning implications and conclusion, describe the factors that will need to be considered as planning progresses based on the issues raised by the reconnaissance survey.

Chapter 5 “Planning in Ontario’s Far North: Opportunities and Challenges” presents a critical review of the development of Bill 191 and efforts towards implementation of community-based land-use planning activities. The paper presents background information describing the region and Bill 191, details the methods used, presents results related to community-based land-use planning based on interviews with FN peoples, government representatives, and staff of the MC, and analysis of the Standing Committee on General Government hearings into the Far North Act, 2009. Finally, the opportunities and challenges that will either contribute to or limit the
development of community-based land-use planning under this legislative framework are examined.

Chapter 6 summarizes the outcomes, implications for planning, recommendations and possible future research.
Chapter 2

Literature Review

Introduction

Currently, there is a process underway in Ontario’s Far North that centres on the development of community-based land-use plans in the traditional territories of a number of FN communities within the treaties 5 and 9 land-base. This exercise coincides with the announcement of Bill 191 *An Act with Respect to Land-Use Planning and Protection the Far North*. Bill 191 has been developed to serve as a framework to guide the process. The two key policy-actors influencing the development of FN community-based land-use plans are the area’s FN communities and their respective regional government representatives, and the provincial government, in this case represented by the Ontario Ministry of Natural Resources (OMNR).

The FN communities’ interest in the process is rooted in what is attributed to a central role of the land in their cultural and spiritual life. As well there is recognition of the need for economic development to contribute to long-term stability and community viability.

This literature review is meant to provide a general understanding of the complex relationship between the Province and FN communities in the area. The formalization of the Government and FN relationship through treaties, development of Canadian aboriginal policy and development of case law related to Aboriginal title will be briefly described.

The Treaty Process

Following Confederation in 1867, numbered treaties were signed between 1871
and 1930 covering much of the Dominion of Canada with exception to parts of British Columbia, Quebec, Yukon and Northwest Territories (Usher, Tough and Galois, 1992). Treaty 9 was signed in 1905-06 with adhesions in 1930 to incorporate the expanded boundaries of Ontario beyond the northern shore of the Albany River (Treaty No. 9; Morrison, 1986).

Important to many of the numbered treaties was the transfer of control over natural resources from the federal to provincial governments, which occurred between 1918 and 1939 (Usher, Tough, and Galois, 1992). Treaty No. 9, however, represents a unique case in that the Province of Ontario was a signatory of both the treaty (1905-06) and its adhesion (1930) (Treaty No. 9).

The first treaties were described as friendship treaties between the Mi’Kmaq and others in eastern Canada, while the numbered treaties, which followed, were said to have included more specific ‘promises’ by the British Crown (Mcleod, 2007). Mcleod (2007) draws several parallels within his description of Treaty 6 (Cree of Saskatchewan and Alberta) and the northern Great Lakes Cree treaties, and describes “the treaty process [as] an extension of the positive relationships that had emerged during this time” with the central aspect of the relationship being one of “reciprocity (miyo-wicihitowin, “helping each other in a good way’))” (p.35). Usher, Tough, and Galois (1992) describe the point of view of “descendents of the Indian signatories, [to them], the treaties are of enormous symbolic importance – tangible evidence of their status as First Nations, of their special relationship with the Crown, and of their rights” (p.118).

A factor that prompted the negotiation of treaties was linked to the decline of the fur trade, following 200 years of trade (McLeod, 2007). In response to this decline,
McLeod (2007) identifies the treaty as “a form of compensation for a new structure of land use” (p.38). In the case of the Treaty 6 area, it meant a transition to agriculture, while other treaties supported changes in land-use related to the natural resource-based economic structure of the region as post-treaty settlements advanced (McLeod, 2007).

The numbered treaty process was initiated in 1871 between the Crown and the Saulteaux and Cree and was meant to facilitate European settlement of the land (McLeod, 2007). The initiation of treaty negotiations, in what is now the Treaty 9 area, was similarly prompted by pressure from settlers and developers, as cited in correspondence between the Office of the Inspector of Indian Agencies and Reserves and the Department of Indian Affairs. Dated June 3, 1901, in reference to ‘Indians’ north of the tract covered by the Robinson Treaties (described from discussions at New Brunswick House, near the headwaters of the Moose River in the previous year), the circumstances are described as follows:

“These Indians had come from considerable distances and asked what the Government proposed to do about the rights of Indians residing between James Bay and the Great Lakes who had not been treated with by the Honorable Mr. Robinson (1850) saying that they heard that railroads were projected through their country, and that already miners, prospectors, and surveyors were beginning to pass through it is [in] such largely increased numbers that the game was disturbed, interference with their means of livelihood had commenced, and their rights were being trespassed” (Indian Affairs. (RG 10, Volume 3033, File 235,225 Pt. 1).

The Robinson Superior and Huron Treaties, as well as Treaty 3, bound the original Treaty 9 area to the south and west, while the north following the Albany River was also restricted by an existing provincial boundary between Ontario and the North West Territories, and to the east James Bay (Treaty No. 9). In 1929, an adhesion to Treaty 9 was signed to include the area that was determined to be within Ontario’s
borders and to include additional FN groups therein (the Treaty No.9 and its adhesion will from this point forward be referred to as Treaty 9) (Treaty No. 9). Treaty 9 outlines a number of conditions. One that is of central interest to this research relates to the land. The treaty states:

“Indians [FN] do hereby cede, release, surrender and yield up to the government of the Dominion of Canada…all our rights, titles and privileges whatsoever in all that tract of land, and land covered by water in the Province of Ontario, comprising part of the District of Kenora (Patricia Portion) containing one hundred and twenty-eight thousand three hundred and twenty square miles, more or less, being bounded on the South by the Northerly limit of Treaty Number Nine; on the West by Easterly limits of Treaties Numbers Three and Five, and the boundary between the Provinces of Ontario and Manitoba; on the North by the waters of Hudson Bay, and on the East by the waters of James Bay and including all islands, islets and rocks, water and land covered by water within the said limits, and also all the said Indian rights, titles and privileges whatsoever to all other lands and lands covered by water, wherever situated in the Dominion of Canada” (Adhesion to Treaty Number Nine, 1929)

The Treaty also details,

“the right to pursue their usual vocations of hunting and fishing throughout the tract surrendered as heretofore described, subject to such regulations as may from time to time be made by the government of the country, acting under the authority of His Majesty, and saving and excepting such tracts as may be required or taken up from time to time for settlement, mining, lumbering, trading or other purposes”(Treaty No. 9)

The central goal of treaties was to open traditional territories in order to facilitate settlement and associated natural resource development. The provisions included in Treaty 9 were distinct from previously negotiated treaties. The annuity provided “in Treaty No.3 is $5 per head, and only $4 was offered in this present instance” (Treaty No. 9). The proposed treaty did not provide for “an issue of implements, cattle, ammunition
or seed-grain” (Treaty No. 9). The document recognizes that “the terms which the commissioners were empowered to offer not being quite as favourable as those of the older treaty” and provided little leverage to negotiate terms of the agreement (Treaty No. 9).

**Background: Canadian Aboriginal Policy**

Canadian Aboriginal policy began to emerge as a result of the pressures of development and settlement. Much of the policy created following Confederation in 1867 involved the recognition of, or lack of recognition of, Aboriginal rights and is concerned with the governance structure between the country’s original people and the new Dominion of Canada (Usher, Tough and Galois, 1992). The focus of this section of the literature review is largely on the understanding of ‘Aboriginal title’.

“Aboriginal title is a right to exclusive use and occupation of a specific geographical area. It is a proprietary right held communally and cannot be transferred or alienated to anyone but the federal government. Most importantly, however, it is a right…to decide to what uses the land can be put, including the ability to restrict activities that would limit the opportunity to continue activities that made those lands Aboriginal title lands in the first place” (Natcher, 2001:114-115).

The Royal Proclamation (1763) and the Constitution Act (1867) were the first two to recognize Aboriginal title (Usher, Tough and Galois, 1992). The Canadian Constitution Act of 1867 embeds the recognition of Aboriginal title as described by the Royal Proclamation of 1763 (Section 91(24)). The Constitution Act of 1982 included, Section 35(1) “recognizes and affirms the “existing aboriginal and treaty rights of the aboriginal people of Canada” (The Constitution Act (1982 as quoted by Slattery, 1987:728). This was an addition to Canadian statutes and, because of the broad
definition of Aboriginal rights, became the basis of many constitutional challenges and formed much of the currently relevant Canadian case law related to aboriginal land rights (to be described in the next section).

Howlett (1994) analyzed Canadian Aboriginal policy interpreting its development using a paradigm shift. He begins with early aboriginal policy, described as assimilationist in nature, and moves on to policy that advances the concept of self-government. The author highlights the beginning of this transition as occurring following the failure of the White Paper (1969), a Trudeau era policy paper described as part of the ‘assimilationist paradigm’. This followed a period where aboriginal groups in Canada began to develop political structures that were designed to function within established Canadian political systems (Howlett, 1994). Ongoing activities in the pursuit of autonomy and self-governance have been the subject of intense national debate, resulting in the Charlottetown Accord, an amendment to the Constitution Act that included recognizing aboriginal groups as distinct. This amendment, however, was defeated in 1992.

As Howlett (1994) concludes, the ‘institutionalization’ of a paradigm shift that incorporates autonomy and self-governance has yet to be accomplished in Canadian aboriginal policy. The author contends that ‘policy subsystems’, described as those systems created and directed by the state, limit the likelihood that aboriginal groups will effectively influence change because of the resistance of the state to change “[o]nly by changing the venue of policy debate from the subsystems to the courts were Canada’s FNs able to challenge conventional policy” (Howlett, 1994:642). The bulk of litigation with respect to Aboriginal title and rights has occurred as a result of ‘broad interpretation
of the Aboriginal rights’ described in the Constitution Act of 1982.

Case Law

The definition of Aboriginal rights to land has changed over time. There are several court cases that have served to revise the definition of Aboriginal rights including: Calder (1973), Guerin v. The Queen, R v. Sparrow (1990) and Delmgamuukw v. British Columbia (1991).

The Calder decision (1973), “affirmed the continued existence of Aboriginal title even in areas where that title had been considered extinguished (Howlett, 1994:639).

Guerin v. The Queen (1986) involved the Musqueam people of British Columbia. They argued that surrender of land in the City of Vancouver to the Crown and subsequent agreement to lease the land for far below the value that should have been agreed to was a ‘breach of trust’ (Slattery, 1987). The government argued that, following the surrender of land, the government had no obligation to the Musqueam band (Slattery, 1987). The Supreme Court rejected the government’s position unanimously, basing the decision on the ‘concept of Aboriginal rights’ (Slattery, 1987). The court’s decision stated “[t]hat title both pre-dated and survived the native peoples’ historic occupation of their tribal lands” (Slattery, 1987, p. 729). This decision was the first application of ‘fiduciary duty’ (Coyle, 2005).

Subsequently, in R v. Sparrow (1990) it was “found that there remains unextinguished Aboriginal rights to hunt, fish, and gather for food that takes precedence over all other user rights, be it industrial, commercial, or recreational in nature. Further, subject to conservation measures, any infringement of Aboriginal rights by government is contingent upon clear justification before any action or policy decision can be made”
This ruling established an evaluation framework for impending action or legislation that determines if the potential infringement on Aboriginal rights is justifiable (Natcher, 2001). Known as the “Sparrow Test”, it is used when Aboriginal rights have been established. Five questions are asked:

“If an aboriginal right exists does the proposed activity interfere with that right being exercised?”

“Is the infringement of that right justifiable owing to conservation concerns?”

“If infringement was based upon conservation was priority returned to Aboriginal resource users after such measures were taken?”

“In the case of expropriation was there fair compensation?”

“Was a process of consultation undertaken with the affected Aboriginal communities prior to infringement?” (Natcher, 2001:114).

Essentially, as Coyle (2005) describes the Sparrow decision, the “governments may still regulate the exercise of treaty or Aboriginal rights or infringe those rights, but only if they can satisfy the courts that they had a valid legislative objective and that their actions are consistent with the honour of the Crown”(p.104). This decision applies to both Federal and Provincial laws.


“…This aspect of aboriginal title suggests that the fiduciary relationship between the Crown and aboriginal peoples may be satisfied by the involvement of aboriginal peoples decisions taken with respect to their land. There is always a duty of consultation. Whether the aboriginal group has been consulted is relevant to determining whether the infringement of aboriginal title is justified, in the same way that the Crown’s failure to consult an aboriginal group with respect to the terms which reserve land is leased may breach its fiduciary duty… The nature and scope of the duty of consultation will vary with the
circumstances. In occasional cases, when the breach is less serious or relatively minor, it will be no more than a duty to discuss important decisions that will be taken with respect to lands held pursuant to aboriginal title. Of course, even in these rare cases when the minimum acceptable standard is consultation, this consultation must be in good faith, and with the intention of substantially addressing the concerns of the aboriginal peoples whose lands are the issue…” (S.C.J. 1997 No. 108: para 168)

The limits of the fiduciary duty with respect to the duty to consult are set out in the decision by the Supreme Court of British Columbia between the Council of the Shelatta Carrier Nation and Chief Marvin Charlie and the representatives of the proponent for the Huckleberry Copper Project (S.C.C. 1998, Docket A954336). In this case, the plaintiff (the FN community) was before the court to request an injunction stopping the project from moving forward for a variety of reasons related to the duty to consult, including lack of participation on the project committee and inadequate wildlife impact study progress. With respect to the participation in the consultative process by affected aboriginal groups, the decision stated (S.C.C. 1998, Docket A954336: para 73):

“Nor can the affected groups complain if they refuse to be consulted in an effective forum created in good faith for such consultation. Similarly, an affected party may not perform the cynical manoeuvre alluded to above, remaining silent during consultation, in hopes of complaining about unaddressed concerns at a later stage of the proceeding…”

It is important to consider this evolving process for including affected FNs in land and resource planning decisions, and their part in the development of community-based land-use planning in northern Ontario through Bill 191. The state of Aboriginal rights, Aboriginal title, the duty to consult and fiduciary duty in Canada and the relationship with the Province will guide the standards to be achieved through the current
planning process.

This brief overview of treaties, Canadian aboriginal policy and case law has provided a glimpse into the way that Aboriginal title has changed over time. Understanding Aboriginal title is important to land-use planning in traditional territories and, applied and interpreted aggressively by FNs has the potential to positively contribute to advancing autonomy and self-governance.
Chapter 3

Methods

Research Approach

Although Marshall and Rossman (2006) describe qualitative research as “pragmatic, interpretive, and grounded in the life experience of people (p.2)” they offer some criticism of the traditional qualitative approach. The criticism is based on the silencing of “many marginalized and oppressed groups in society by making them the passive objects of inquiry” along with a “…historical complicity with colonialism” (p.4). Several genres of qualitative research have emerged in response to this kind of criticism. The nature of this research project requires attention to issues related to FN communities, and as such, action research was the genre of qualitative research that guided this project. Stringer (2007) defines action research as “a participatory process that involves all those who have a stake in the issue engaging in systematic inquiry into the issue to be investigated (p. 6).” Marshall and Rossman (2006) further describe the differences between the more traditional qualitative and participatory action research in terms of the projected outcomes. While both can result in an academic outcome, an article or report, action research can go a step further and be used as a practical tool towards resolving, in this case, issues that face the community.

Similarly, advocacy research, in the context of social policy, is described as including the identification of a social problem, increasing public awareness of a social problem and offering recommendations that are meant to lead to resolution of the problem (Gilbert, 1997). This research is based on issue identification made by FN participants. The issue identification and subsequent recommendations reflect advocacy
as these activities have contributed to the ongoing dialogue and efforts towards resolution of the issues that have been identified.

In order to gather the required information to achieve the purpose and objectives of this research outlined in Chapter 1, a variety of research methodologies were used. Each method was compared to other methods that were applied in the research to ensure frequent and continuous validation throughout the process.

**Semi-structured interviews & participant observation**

This research effort began in February 2009 with my first visit to the communities of Fort Albany, Attawapiskat and Kashechewan. The second trip was in August of 2009 and included the communities of Fort Albany, Kashechewan, Timmins and Chapleau. Each of these trips provided an opportunity for me to familiarize myself with the communities, in particular Fort Albany, and to meet community members including; youth, community leaders, Elders, interpreters and guides. All of these community members provided ongoing participation, support and insight into my research. Developing a rapport with members of the community was critical to this research, as exploring the relationships that people have with their homeland can be extremely personal to some, and requires a level of trust through the data collection phase of the research. In addition, the trips provided an opportunity for me to assist with ongoing research initiatives of a team of researchers from the University of Waterloo, Waterloo, Ontario and Queen's University, Kingston, Ontario including, meetings, workshops and social gatherings.

Action research is an approach that involves beginning with a "more broadly defined question, problem or issue" which the investigation attempts to clarify as it goes
through an exploration of the issue and increased understanding of the participants’ experiences related to that issue (Stringer, 2007:19). Participant observations provided an opportunity for those involved in my research to provide insight into the issues and experiences that are central to the development of activities associated with land-use planning. This was carried out during two land-use planning workshops. The community of Fort Albany, Ontario hosted the first in August 2009. The Muskegowuk Council located in Timmins, Ontario hosted the second, in September 2009. Participants prompted the early focus of this research to be on the historical context of land and resource development, as well as the process underway to undertake community-based land-use planning under a developing legislative framework, Bill 191. The use of participant observation served as a precursor to the literature review and long interview design.

**Literature Review**

The approach followed for the literature review involved my becoming familiar with the leading scholars in the field through reading articles and understanding the arguments and frameworks that have developed over time (Huff, 2009). The objective of the literature review was to understand the agreements, policies and programs that have guided changes to social, ecological and political relationships over time with respect to land-use planning in Ontario’s Far North.

The search for literature was undertaken between November 2009 and July 2010 using the Queen's web-proxy server, www.queensu.ca/. Searches included various combinations of keywords including, "Canadian + Aboriginal + First Nation + Case Law + land and resource planning + community-based land-use planning + environmental
The database searches were carried out using Google Scholar, as well as academic databases (e.g. JSTOR, EBSCOhost and Scholars Portal).

The outcome of the literature review provided the conceptual framework that guided the critical review of Bill 191 (See Chapter 5, Section 5.4), including the thematic basis for the questions developed for the long interview method. The literature review was a complex undertaking, exploring aspects of land-use planning and environmental history. The organization of data was characteristic of a systematic review and included a “multidisciplinary narrative overview of theories, methods, and outcomes” (Huff, 2009, p. 153) created to aide in the maintenance of an organized overview of the information as it developed.

**Document Review**

The document review focused on information that is of public record including history, media coverage and hearing transcripts related to land-use planning in Ontario’s Far North. This component of the review required flexibility, consideration of time and access constraints. Archival information was accessed through the National Archives web resources. This online search was completed during January and February of 2010 using a combination of keywords including: “Muskegowuk Cree + Treaty 9 + James Bay + Lowland Cree”. Hudson’s Bay Company (HBC) archives have been extensively studied and described by Victor P. Lytwyn (2002) as is the case with the oral histories of
the people of the area by Neal McLeod (2007), Louis Bird (2005) and Hans M. Carlson (2008). These were used as secondary sources.

Additional data used to inform this exercise was taken from a series of four hearings to discuss amendments to the Mining Act (Bill 173) and Bill 191, *An Act with Respect to Land-Use Planning in Ontario’s Far North* following first reading before the Legislative Assembly (June 2, 2009). The hearings were led by the Standing Committee on General Government through the Legislative Assembly of Ontario, and began August 6th, 2009. They ended with a clause-by-clause reading and official debate in October 2009. The hearings took place in Chapleau, Thunder Bay, Sioux Lookout and Timmins. The committee heard testimony from resource development and economic development agencies, special interest groups, individual citizens, municipal government representatives and, regional and local FN governments (Table 1). The largest number of testimonies was from special interest groups, mostly prospector groups; however, 20 of 26 presenters from these groups were either pro- or anti-mining groups concerned with Mining Act amendments which were not considered to be part of this exercise. FNs representatives were the second largest group of contributors to the hearings. There were 19 local and regional level FNs representatives present through the four days of hearings. There were smaller numbers of testimonies by representatives from economic and industrial sectors, members of the public and municipal governments.
Table 1 Representation before Standing Committee Hearings on Bill 173 and 191 held in Sioux Lookout, Thunder Bay, Chapleau and Timmins, Ontario on August 6, 11, 12, and 13, 2009, respectively. Representation is distributed between those involved in economic/industrial development, regional First Nation governments, local First Nation governments, municipal governments, special interest groups and the public.

<table>
<thead>
<tr>
<th>Date/Location</th>
<th>Economic/Industrial Development</th>
<th>Regional FN Government</th>
<th>Local FN Government</th>
<th>Municipal Government</th>
<th>Special Interest Groups</th>
<th>Public</th>
</tr>
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<tr>
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<td>2</td>
<td>1</td>
<td>2</td>
<td>0</td>
<td>15</td>
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<td>2</td>
<td>2</td>
<td>1</td>
<td>4</td>
<td>0</td>
</tr>
<tr>
<td>Thunder Bay, ON</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>August 12, 2009</td>
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<td>2</td>
<td>8</td>
<td>0</td>
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<td>0</td>
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<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>August 13, 2009</td>
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</tr>
<tr>
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<td></td>
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<td></td>
<td></td>
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</tr>
<tr>
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<td>6</td>
<td>13</td>
<td>2</td>
<td>26</td>
<td>7</td>
</tr>
</tbody>
</table>

Finally, media coverage and reports related to the land-use planning process were accessed beginning in January 2010 to September 2010 using the Google Search Engine and drew most heavily on those items made available on government sites: www.nan.on.ca, www.mnr.gov.on.ca, www.premier.gov.on.ca, and www.ontla.on.ca.

Long Interviews

The interview process for this project followed the long interview format described by McCracken (1988) which is divided into four stages: "review of analytic categories and interview design, review of cultural categories and interview design, interview discovery of analytic categories and analysis write-up"(McCracken, 1988,
The first stage is the literature review, guided by early participant observation activities, which provided the basis for the conceptual framework and aided in the design of the interview questions by outlining the themes to be explored. Furthermore, the literature review provided some insight into the larger factors that may be influencing responses, as well as suggesting ways that the data should be categorized.

The questionnaire focused on general themes and encouraged participants to explore their own experiences that relate to the themes in their own way. Questions were designed to be general and non-direct, described as "grand-tour questions (p.35)" with a number of different types of prompts that were designed to expand on specific key areas. The interview design required approval from the Ethics Board of Queen’s University (received February 2, 2010, see Appendix A)

The participants were selected based on their role in the community and potential for contributing to the development of current and future policy and development proposals, as well as their knowledge related to historical events that have shaped the current approach to development proposals, related policies and attitudes. In order to include a regional government perspective, staff members of the MC and regional OMNR staff in the Resource Planning Unit were approached to participate. Chief and Council members and Elders were approached in the communities of FAFN and KFN to participate in interviews. Each group was interviewed using a slightly different approach. A thematic overview detailing each group is attached (Appendix B).

Between February 11th, 2010 and February 25th, 2010 eight long interviews were completed in the communities of Fort Albany, Kashechewan and Timmins, Ontario. The interviews were completed with local government representatives, community members,
land-use planning coordinators and OMNR staff. The interview questions explored the level of local knowledge about Bill 191, land-use planning activities, concerns related to the balance between conservation and development, current feelings related to land tenure security, state of Aboriginal rights, federal, provincial and local relations, and opportunities and tensions related to the land-use planning exercise. Table 2 outlines the data types and dates of interviews completed. The names and positions of interviewees were coded to protect their identities.

**Table 2 Long interview data presenting coding used to protect the identity of participants, the data form (transcription from audio recordings), and date of interview.**

<table>
<thead>
<tr>
<th>Interview Number/Code</th>
<th>Type of Data</th>
<th>Date</th>
</tr>
</thead>
<tbody>
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<td>A1</td>
<td>Transcription</td>
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</tr>
<tr>
<td>A2</td>
<td>Transcription</td>
<td>Feb. 12, 2010</td>
</tr>
<tr>
<td>A3</td>
<td>Transcription</td>
<td>Feb. 12, 2010</td>
</tr>
<tr>
<td>A4</td>
<td>Transcription</td>
<td>Feb. 14, 2010</td>
</tr>
<tr>
<td>A5</td>
<td>Transcription</td>
<td>Feb. 17, 2010</td>
</tr>
<tr>
<td>A6</td>
<td>Transcription</td>
<td>Feb. 19, 2010</td>
</tr>
<tr>
<td>A7</td>
<td>Transcription</td>
<td>Feb. 24, 2010</td>
</tr>
<tr>
<td>A8</td>
<td>Transcription</td>
<td>Feb. 25, 2010</td>
</tr>
</tbody>
</table>

The analysis of information collected in the long interview involves the organization and analysis of data, which was rigid but allowed for flexibility in the case of issues that may reveal themselves along the way. The interviews were recorded and transcribed as the first step in collection and analysis. The initial analysis of the transcripts determined “… the categories, relationships, and assumptions that informs the
respondent's view of the world in general and the topic in particular (p.42)". The stages to analysis of the data are rigorous and required careful consideration of the themes that emerged through the literature review.

All of the information that was collected through these activities was coded and presented based on the conceptual framework (described in detail in Chapter 5).

**Limitations of Research Method**

There are two main limitations of the interview method used to undertake this study. First the sample size, limited by availability and time constraints, meant that interviewing representatives from all levels of FN and provincial governments was not possible. This was addressed by the inclusion of Standing Committee hearing transcripts to provide data that further validates the information collected from each. Natcher and Hickey (2002) indicate there is difficulty in understanding the depth of meaning that is shared with the narrative style of responses frequently provided by aboriginal respondents that flows from the ‘Cree worldview’. It is difficult to categorize “social, cultural, spiritual, and economic aspects of environmental interaction” (p.355). This was addressed in part by sharing results on an ongoing basis with members of the Fort Albany FN chief and council for their feedback.
Chapter 4

Contemplating Landscapes: An Overview of the James Bay Lowlands Past, Present and Future
Holly Youden, Graham Whitelaw¹, Dan McCarthy² and Len Tsuji³

Abstract

Mounting pressure from development in Ontario’s Far North has highlighted the need for community-based land-use planning throughout the region. In the summer of 2009, the Ontario government announced Bill 191, An Act with Respect to Land-Use Planning and Protection in the Far North to provide a legislative framework to guide future planning processes. The activities surrounding this exercise have attracted several important policy actors and stakeholder groups wishing to contribute to the development of community-based land-use plans. This article explores the abiotic, biotic and cultural features of the James Bay Lowlands region, also known as part of the Mushkegowuk Territories, for the purposes of informing future community-based land-use planning. A reconnaissance resource survey technique designed to initiate synthesis of interdisciplinary information for planning purposes was applied. Data collection included literature review and document analysis, semi-structured interviews and evaluation of testimony with respect to Bill 191. Results present a synthesis of information in keeping with a First Nation holistic outlook that will contribute to ongoing land-use planning in the Mushkegowuk Territories.

Introduction

In the summer of 2009, the Ontario Minister of Natural Resources announced Bill 191, An Act with Respect to Land-Use Planning and Protection in the Far North for first reading (Bill 191, June 2, 2009). The Act is meant to enable First Nation’s (FNs) led community-based land-use planning in Ontario’s Far North, an area consisting of 43% of the province (Government of Ontario, 2008). Bill 191 is intended to have the following outcomes:

• Promote a leadership role for First Nations in the planning process;

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² Assistant Professor School of Environmental Studies, University of Waterloo, Waterloo, ON
³ Professor, School of Environmental Studies, University of Waterloo, Waterloo, ON
• Identify areas where new economic development opportunities will benefit local First Nation communities and the province;
• Create a network of conservation lands, covering a minimum of 225,000km² to help fight climate change and preserve Ontario’s biodiversity (Government of Ontario, 2008).

Organizations representing FNs (e.g., Chiefs & Councils, Tribal Councils) and the Province of Ontario are among key policy actors involved in the legislative process. Nishnawbe Aski Nation (NAN) is the supraregional body that has a membership of 49 communities under Treaty No. 5 and 9 (Nishnawbe Aski Nation (NAN), 2010a). The NAN communities fall within a land base that roughly corresponds to the area considered in Bill 191. Within this larger region is the Muskegowuk Territory (MT) located within the Hudson and James Bay lowland area. The MT is inhabited by approximately 10,000 people residing in FN communities along the western James Bay Coast including, Moose Factory, Moosonee, Fort Albany, Kashechewan, and Attawapiskat (Whitelaw et al. 2009; Fraser and Keddy, 2005). The regional political organization representing the western James Bay FNs is the Mushkegowuk Tribal Council (MC), which has taken a leadership role in assisting communities with land-use planning activities.

A critical first step in any such planning process involves understanding the “big picture (Nelson and Lawrence, 2009:xv)” . This first step requires the collection, collation and synthesis of landscape data, so that it can be used appropriately in the planning process. This is an activity that is often overlooked in the planning process (Nelson and Lawrence, 2009). The concept of ‘landscape’ includes natural, economic, and cultural components (Pollock-Ellwand, 2001). In Ontario, the concept of ‘landscapes’ entered planning policy in 1995 (Ontario Planning Act, Policy B13, 1995) and has continued to be defined and considered in decision-making (Pollock-Ellwand, 2001:101).
Understanding landscapes and translating this understanding for use in planning continues to challenge planners and policy makers in the province (Pollock-Ellwand, 2001).

The research approach we applied is based on the abiotic, biotic and human cultural (ABC) resource survey method developed by Nelson and Lawrence (2009), specifically, a rapid reconnaissance version of the ABC method. The ABC method was chosen for application to the western James Bay landscape to:

i. provide an overview of the abiotic (soils, climate, geology, and hydrology), biotic, (flora and fauna) and cultural (people and lifestyles) resources of the region; and

ii. gain an understanding of the complexity and uniqueness of the western James Bay Lowland region (e.g., the Mushkegowuk Territory).

Existing knowledge was drawn from the scholarly works of biologists, geologists, archeologists, geographers, and information contained in government documents. Hearing testimony given with respect to Bill 191 was also evaluated. Primary information was obtained through semi-structured interviews with FN peoples and staff working with and for FNs. This broad range of existing and new information provided an interdisciplinary view of this region based on multiple perspectives. It should be emphasized that the reconnaissance version of the ABC method was used in the present study and the survey is not comprehensive. A rapid reconnaissance ABC survey was carried out to initiate information collection and synthesis, and to contribute to a broader understanding of the western James Bay region from a diversity of perspectives to inform planning.
activities associated with Bill 191 and emerging planning efforts in the MT. A comprehensive ABC survey should be carried out subsequently.

The overall purpose of our research is to foster a dialogue among the many policy actors and stakeholders active in the process in an effort to advance planning with a more grounded sense-of-place based on the unique perspective of the Omushkego Cree along with western science.

The article is divided into two main parts; the first briefly discusses the formation of the region through its geology, climate, soils, and changes in the coast to examine landscape change overtime, as well as the wildlife and vegetation that are characteristic of the region. The second part explores the cultural resources of the region, beginning with early archaeological records, settlement, hunting, natural resource development and protected areas. The paper concludes with a discussion of some of the features and issues that emphasize the importance of a taking a comprehensive perspective to the planning of the MTs.

**Methods**

“[T]he ultimate aim of the ABC method is to get the user to think consistently about bringing Abiotic, Biotic, and human or Cultural information together in understanding and planning for place”(Nelson and Lawrence, 2009:3). The process involves:

i. the collection of a comprehensive set of maps and information to describe the area;

ii. review of the collected material to evaluate the issues, concerns and challenges with respect to potential development; and
iii. creation of a planning strategy to respond to existing or potential development proposals (See Nelson and Lawrence, 2009 for a collection of literature detailing various approaches to the application of the ABC method).

There are several approaches to the ABC method identified as: ‘Detailed Analytical Studies’, ‘Focused Summaries of Detailed Studies’, ‘Comprehensive Overviews and Assessments’, ‘Communication and Education’, and ‘Rapid Reconnaissance Studies’ (Nelson and Lawrence, 2009). As mentioned previously, the present study utilized the less-resource intensive ABC ‘Rapid Reconnaissance Resource Survey’ technique. Nelson and Lawrence (2009) used this method as a first step towards a more detailed review of the Great Arc, a significant landform that is present throughout much of Ontario and several northern U.S. states. Typically the ABC method is a structured, intensive and comprehensive exercise carried out using a standardized framework to achieve a relatively consistent outcome for planning and management purposes. Following the approach, we use existing maps, literature and reports, hearing transcripts into Bill 191 and semi-structured interviews with Omushkego Cree as complementary ways of characterizing the western James Bay region.

The above-described process was first informed by a selective literature review of the geology, flora, fauna, and cultural features that form the James Bay Lowland through the natural and social sciences. Information collected through semi-structured interviews and Bill 191 hearing transcripts were used to ensure that the local perspective was adequately represented. Government documents (parks reports (Oski-Machiitawin, 2009), media releases (Government of Ontario, 2010a, 2010b, Government of Ontario, 2008), policy strategy documents (Muskegowuk Council, 2008a, 2008b, 2008c, Ontario
Power Authority, 1993, Ministry of Northern Development Mines and Forestry, 2009) and correspondence (Department of Indian Affairs, 1901, Ministry of Environment and Energy, 1993) were also reviewed for information about planning and ongoing development in the Mushkegowuk Territory.

Examples of search terms used to carry out the literature review included subjects relevant to natural features of the James Bay Lowlands (geology, soil conditions, landforms, vegetation, wildlife, and climatic conditions), cultural features (traditional land-use, harvesting surveys, Hudson’s Bay Company, archaeology), and planning (protected areas and development). The database searches were carried out using Google Scholar, as well as academic databases (e.g., JSTOR, EBSCOhost and Scholars Portal). In addition, the National Archives of Canada database was searched for terms relevant to the James Bay region and its human history (Treaty No. 9, Western James Bay Cree and settlement).

During the month of February, 2010, eight interviews were conducted in the communities of Fort Albany, Kashechewan and Timmins, Ontario (see Chapter 2 for detailed description of interviews). The interviews were with local government representatives (Chiefs or Band councilors), community members, land-use planning coordinators and Ontario Ministry of Natural Resources (OMNR) staff. The interview questions explored the level of local knowledge about Bill 191 with respect to land-use planning activities (e.g. the balance between conservation and development).

Additional information for the ABC rapid reconnaissance was taken from a series of four public hearings that focused on amendments to the Mining Act (Bill 173) and Bill 191. The hearings were led by the Standing Committee on General Government through
the Legislative Assembly of Ontario and began August 6th, 2009. The hearings ended with a clause-by-clause reading and official debate in October 2009 (See Chapter 2 for detailed description of hearings). The hearings took place in Chapleau, Thunder Bay, Sioux Lookout and Timmins, Ontario. The Standing Committee heard testimony from resource and economic development agencies, special-interest groups, individual citizens, municipal-government representatives, and regional and local FNs political organizations (e.g., Chiefs and Tribal Councils). Combined, the information we present is a first step in considering the unique value of the MT landscape and perspectives of the Omushkego Cree for use in community-based land-use planning.

**ABC Rapid Reconnaissance Survey**

1.0 Abiotic Resources

1.1 Formation of the Hudson and James Bay Lowlands

The major geological periods that formed the current James Bay Lowlands included: the Ordovician, Silurian, Devonian and Cretaceous periods within the Paleozoic and Mezozoic eras (Baldwin et al. 2000). The Pleistocene and Laurentide ice sheets were two major glacial events affecting the lowland area. As the ice sheets receded they left behind “sediments (till, diamicton), landforms (such as eskers, moraines) and glacial and glaciomarine deposits”, and “marine silty clays” (Martini, 2006: 53, 55). The glacial and postglacial processes described above have been the determining factor in the terrain of the Province of Ontario. These processes formed a ridge that extends “from the north shore of Lake Superior, across the Algoma highlands, through the Sudbury region and north of Manitoulin Island, and across the Madawaska Highlands” (Baldwin et al. 2000:3). This ridge, considered ‘the height of land’ in the province, forms the divide...
between Arctic and Great Lake river basins (Baldwin et al. 2000). The proximity of the ridge to the Great Lakes means that many of the major rivers in the province flow north (Baldwin et al. 2000). The topography in the northern drainage basin is gradual from the height of land. As a result most northern river basins have “low total relief and deranged drainage patterns” which result in poor drainage (Baldwin et al. 2000:3).

The larger area of the Hudson Bay Lowlands is dominated by bedrock composed of “carbonate sedimentary formations” (Baldwin et al. 2003:3). There are at minimum two significant karst formations in the lowland region, the first considered “mature gypsum karst” located south of Moosonee, Ontario, and the second, a “youthful limestone Karst” located in close proximity to the Attiwapiskat River (Cowell, 1983:169). The ‘Attawapiskat Karst’ deposit covers an area of 200km² and developed during the middle Silurian (Cowell, 1983). This karstification of limestone deposits results in complex ground and surface water interactions throughout the area. Much of the areas limestone is covered by a layer of alluvium, which acts as an aquiclude (Cowell, 1983). Breaches in the limestone result “where the peat blanket comes into lateral contact with reef knolls” that result in surface water “draining vertically into the limestone beneath” (Cowell, 1983:172). Isostatic rebound in combination with the entrenchment of rivers into the limestone layer will continue to contribute to the expansion of karst terrain over time (Cowell, 1983).

As a result of low elevation and poor drainage, the lowland areas are dominated by peat and organic deposits, resulting in a surficial geology classification of the area dominated by ‘organic deposit’ (Baldwin et al. 2000:3; Figure 2, Baldwin et al. 2000:5).
The area is also interspersed with small ‘beach and Aeolian’ deposits concentrated in the northern part of the James Bay Lowland (Baldwin et al. 2003).

Figure 2 Surficial Geology of Ontario, showing organic deposit as the dominant surficial geology type in the James Bay Lowland region (adapted from Forest Landscape Ecology Program 1996 from Baldwin et al. 2003:5)
1.2 Coastal Morphology and Major Rivers

The area was covered by the Laurentide Ice sheet that melted between 7800 and 8000 years ago (Cowell, 1983; Glaser et al. 2004).

“The load from this ice mass depressed the earth’s surface, permitting the Tyrell Sea to flood across the Hudson Bay Lowlands immediately after deglaciation. Once the loading from the ice mass was removed, the land surface began rising isostatically with the maximum rates of uplift centred around the mouth of James Bay”, a process which continues today (Glaser et al. 2004:1047).

The rate of isostatic rebound in the region is the continent’s most rapid, rising between 0.7 and 1.2cm/year (Klinger and Short, 1996; Fraser and Keddy, 2005). Many authors have studied the changing landscape of the Hudson Bay Lowlands, particularly as a result of the isostatic rebound that is occurring and its implications for the coastal morphology, succession of vegetative growth and climate change (Martini, 1981; Klinger and Short, 1996; Glaser et al. 2004; Fraser and Keddy, 2005; Tsuji et al. 2009). Martini (1981) briefly outlined the general conditions of the coast as having:

“…readily available sources of sediments, from frost shattered carbonate bedrock, Pleistocene tills, glacio-fluvial materials, and Holocene estuarine silt and clays. The sediment(s) are re-distributed along the coast by slow but continuous anticlockwise marine currents, by tides that range from micro-tidal to meso-tidal, by storm surges by strong local longshore currents associated with wave refraction and to funneling of tides along nearshore channels and Akamiski strait, by strong onshore winds, and sea ice action. As a result of the interaction of these processes, variable sets of features develop on this flat coastal plain” (Martini, 1981:92-93).

Martini (1981) divided the area into four sections; the southern section up to the outflow of the Albany River that extends between the Ontario-Quebec border; the section between the Albany River north, just beyond the Attawapiskat River to the Ekwan River; the Ekwan River north to the Lakitusaki River and finally from that point north to Cape
Henrietta Maria which roughly corresponds with the transition between the James Bay
and Hudson Bay coastlines.

Two of the most southerly sections are of interest for this research; those between
the Quebec-Ontario border to the Albany River and north to the Ekwan River. The
former is characterized by major river systems, the Moose and Albany Rivers, that are
described as including “parallel to immature dendritic system[s] of tributaries” with
“wide, flat, and poorly drained tidal flats and marshes” (Martini, 1981:83). The intertidal
zones are sparsely vegetated and act to trap sediment present in river outflows. The
coastal area shows signs of some scouring and scattered patterns of boulders and pebbles
(Martini, 1981). Changes in this coastal landscape can be viewed through the beach
ridges that have formed parallel to the shoreline (Klinger and Short, 1996). These beach
ridges are formed through storm waves pushing sediment, organic matter and ice onto the
land (Klinger and Short, 1996). Many of the ‘beach ridges’ are forested and clearly
outline ancient coastlines (Klinger and Short, 1996). Coastal freshwater fens and open-
water pools develop further inland beyond the coastal salt marshes. These freshwater fens
and open water are confined by the ‘beach ridges’ described above (Klinger and Short,
1996).

The second area, the Albany River to the Ekwan River is transected by the
Attawapiskat River, a major river along the coast. The morphology on the coastline to
the north and south of the Attawapiskat River is distinct as the northern section forms the
narrow strait between the coast and Akimiski island (Martini, 1981). The shelter
provided by the shore is evident in a steeper shoreline with well-drained coastal marshes
(Martini, 1981). The area between the Attawapiskat River and the Albany River is also
The shelter provided by Akimiski island (Martini, 1981) influenced the area, characterized by wide salt marshes grading into wide, shallow tidal flats (Martini, 1981:85). The intertidal zone is poorly drained and is covered by sparse algal and vegetation growth (Martini, 1981:85). Also, the area is largely absent of the signs of ice scouring typically found further south. Beach ridges are less pronounced and show the formation of ‘serpentine lakes’ or ‘slot lakes’ caused by flooding that occurs behind the beach ridges as they restrict drainage (Martini, 1981:86).

The process of isostatic uplift contributed to the formation of the Albany River after the glacial period through the emergence of new land and a changing coastline leading to the multiple channels at the mouth of the river. “Higher rates of uplift near the advancing coast decreased the grade of the rivers, promoting rising water-levels and rapid spread of peatlands across the lowlands. The decreasing gradient also tended to back up flow in the Albany and Kenogomi rivers, which periodically spilled over and cut new drainage channels...” (Glaser et al. 2004:1048).

One of the most apparent signs of isostatic rebound, in the James Bay region, is the outward emergence of shoreline. Tsuji et al (2009) explored two processes at work in the region. The first is the emergence of coastline associated with isostatic rebound (Tsuji et al. 2009). The second is sea-level rise occurring as a result of global-warming (Tsuji et al. 2009). Clearly, one action has the potential to limit the effect of the other (Tsuji et al. 2009). Tsuji et al (2009) presents a series of future scenarios that integrate these two processes to project the possibility that current islands in James Bay may one day become a part of the mainland (Tsuji et al. 2009). Figure 3 shows the projected shoreline changes that are anticipated in 100-year increments that reveal emergence of significant additional
lands. The authors conclude that based on current estimates of sea-level change many of the islands in James Bay will become a part of the mainland within the next 1000 years.

Figure 3 Projected coastline changes as a result of isostatic rebound with projected sea level change associated with global warming (1.8mm/yr in 100 year increments), with red line indicating the current coastline (Tsuji et al. 2009:463)

1.3 Vegetation

Ontario is predominantly forested (74%) with forests classified from north to south as boreal forest, Great Lakes and St. Lawrence forests, and Carolinian forests (Thompson, 2000). The boreal forest in North America forms a significant ecosystem that stretches from Alaska to Labrador (Carleton and Maycock, 1980).

Boreal forest stands are dominated by coniferous tree species including:

“jack pine (*Pinus banksiana*), and black spruce (*Picea mariana*). Mixed stands include: jack pine and black spruce mixed with white birch (*Betula papyrifera*) and trembling aspen (*Populus tremuloides*); trembling aspen, white spruce (*Picea glauca*) and black spruce; trembling aspen and balsam fir (*Abies balsamifera*); black spruce and balsam fir...Wetter sites support either pure stands of black spruce or mixture of black spruce with tamarack (*Larix laricina*) or less commonly, eastern white cedar (*Thuja occidentalis*)” (Thompson, 2000:31).

The boreal forest is populated by a limited number of tree species compared with other forest types in Canada (Thompson, 2000). The forest dynamics are influenced by
climate and a variety of disturbance types including fire, insect infestation, forestry, road construction, agriculture and natural resource extraction (Thompson, 2000). The boreal ecozone vary across Canada with the James Bay Lowland region dominated by the 'Hudson Plains. The different boreal zones have similar forest types but can be distinguished by a drier climate in western boreal areas and wetter conditions in the Hudson and James Bay region, these different conditions are evident in the fire cycles (Bergeron and Harper, 2009). Figure 4 shows the variability in fire frequency across all boreal ecozones in Canada for a 38-year period.

Figure 4 Ecozones of Canada showing range of Boreal zone types throughout with the James Bay region dominated by Hudson Plains and bound by Boreal Shield (East and West). The grey dots show the fire frequency in each zone between 1959-1997 (adapted from Stocks et al. 2003:3) Abbreviations: AC (Artic Cordillera), NA
(Northern Arctic), SA (Southern Arctic), TP (Taiga Plains), TSW (Taiga Shield West), TSE (Taiga Shield East), BSW (Boreal Shield West), BSE (Boreal Shield East), AM (Atlantic Maritime), MP (Mixedwood Plains), BP (Boreal Plains), P (Prairies), TC (Taiga Cordillera), BC (Boreal Cordillera), PM (Pacific Maritime), MC (Montane Cordillera), HP (Hudson Plains)

1.4 Wetlands

The Hudson Bay Lowland is the third largest wetland in the world (Fraser and Keddy, 2005) covering an area of 325,000km$^2$ (Riley, 2003; Martini, 2006). The area is divided into three main ecoregions: Coastal Hudson Bay Lowland, Hudson Bay Lowland and James Bay Lowland (Fraser and Keddy, 2005). The James Bay Lowland is covered with 75-100% wetland (Burbier et al. 1993). The area is described as falling in the low and high subarctic wetland regions (Burbier et al. 1993).

The wetland area is dominated by peatland with a discontinuous layer of permafrost (Rouse, 1991). ‘Peatland’ is a general term describing a variety of wetland types (Cowell, 1983). “Peatlands occur when plant production exceeds organic losses from a site. This usually occurs in wetlands where very cold or anaerobic sediments inhibit soil respiration” (Ovenden, 1990:377). The James Bay region includes “…predominantly bogs, fens, and permafrost peatlands. Near the coast, well-drained beach ridges supporting spruce occur in parallel, alternating with wetlands…The shoreline is dominated by marshes, tidal flats, and shallow water” (Fraser and Keddy, 2005:119). Glaser et al (2004) studied the changes in vegetative patterns along the Albany River, a study area of 24,000km$^2$. The authors described the area as being comprised of “55% fen, 35% bog and 10% mineral soils” (Glaser et al 2004b:1054). The proportions of wetland types used to describe the wider lowland region of Ontario vary slightly from the above, more site specific findings, with “bog (36%), fen (24%), permafrost peatland (palsa and peat plateau, 22%), swamp (13%), and marsh
The majority of the area is dominated by a diverse pattern of wetlands with few areas of expansive stretches of homogenous wetlands types (Riley, 2003).

Vegetative patterns can vary between bogs and fens, though both can range from treeless to heavily wooded areas (Riley, 2003). The ‘understorey’ of bog and fen formations can vary as well “from pure sphagnum or moss systems to pure graminoid (sedge) and shrub-dominated systems (both still on live moss substrates)”(Riley, 2003:5). The dynamic landscape resulting from the above-described poor drainage, wetlands, beach ridges, peatlands and permafrost all influence a diversity of plant communities in the region (Kerbes et al. 1990:244).

“Coastal ecosystems occupy a broad belt, especially on James Bay, where they include off-shore bottom vegetation, tidal salt marsh, and supertidal meadow-marsh systems, as well as diverse beach-ridge complexes supporting tundra, lichen woodlands, conifer forest, swamp, and treed bog, depending on their distance from the coast and their latitude “(Riley, 2003:6).

An important wetland type located along the James Bay Coast is the salt marsh. Salt marshes are critical to migratory birds and also separate salt and freshwater communities (Cargill & Jefferies, 1984). These wetland types are interspersed with vegetation that is sensitive to disturbances that serve to protect the “intertidal sediment” from “hypersalinity in summer, compaction of sediment, decrease in infiltration rate, loss of soil nitrogen, and depletion of seed bank” (Jefferies et al. 2006:235). Disturbances of this vegetation type can lead to desertification and elimination of the barrier between freshwater and salt-water communities resulting in the disappearance of the “vegetative mosaic in the intertidal zone”(Jefferies et al. 2006:235).
1.5 Wildlife

The Hudson Bay Lowland is home to approximately 300 bird species, most often migratory birds, and a variety of mammal species (Fraser and Keddy, 2005). Only a few rare mammal species are found in the lowland region, most notably, woodland caribou (boreal population), polar bear and wolverine (Fraser and Keddy, 2005).

Preferred caribou habitat includes “mature and overmature pine (Pinus sp.) and spruce (Picea sp.) forest…open muskegs, lakes and islands [used] for foraging, bedding, escape and calving” (Fraser and Keddy, 2005:87). The decline in caribou herds has been attributed to human disturbance including development, logging and fires forcing herds out of their preferred habitat. Hunting and predation are also thought to impact caribou (Darby and Duquette, 1986).

Climate change is identified as a potential threat to polar bear populations in the James Bay Lowland (Obbard et al. 2006). The effect of increasing temperatures will include earlier ice break-ups resulting in reduced access to prey leading to a decline in reproductive success for polar bears (Gagnon and Gough, 2005; Obbard et al. 2006).

In contrast to the polar bear’s decline, there is a population explosion in lesser snow geese along the coast. This is a leading cause of habitat destruction and loss of sensitive vegetation in coastal wetlands (Kerbes et al. 1990; Tsuji and Nieboer, 1999; Riley, 2003; Jefferies et al. 2006). The increases in population are associated with landscape changes along the migratory routes of snow geese that include increased access to food from agricultural fields, and refuge (Tsuji and Nieboer, 1999 and Jefferies et al. 2006). In addition, hunting practices that favour reproductive success in some species of migratory birds, while targeting others at less favourable times, has led to increased
population growth within the lesser snow geese population (Tsuji and Nieboer, 1999). In 1999 more liberal limits and length of hunting season for this species was implemented and may have resulted in a recent reduction in population growth (Jefferies et al. 2006).

**1.6 Climate and Climate Change**

“[T]he region is part of the subarctic, with a mean daily maximum temperature of 20°C to 23°C in July to -15 to -18°C in January, and 200-240 cm mean annual snowfall” (Ohmagari and Berkes, 1997: 201-202). The large river systems that drain into the Hudson Bay Lowland including the Moose, Albany, Hayes, Severn and Churchill rivers, act to reduce the salinity of water in the bay (Riley, 2003). The bay is “a third of the average ocean salinity” allowing the water to freeze and influence the weather conditions throughout the area (Riley, 2003:4). As a result, a good indicator of climate trends in this northern region is the duration of ice cover. Gough et al (2004) examined trends in ice break-up in Hudson Bay between 1971 and 2003, based on temperature, currents and wind. The authors found that there is a trend towards a longer ice-free season in the Bay associated with increasing spring temperatures (Gough et al. 2004).

Further study into river ice break-up along the Moose, Albany and Attawapiskat rivers that used both scientific analysis and local knowledge helped identify the seriousness of this issue to local populations who rely on ice conditions to maintain transportation routes. Ho et al (2004) undertook a statistical analysis of break-up of these rivers. The analysis revealed very weak trends that were inconsistent among river systems (Attawapiskat River trend towards later break-up, and one site on the Albany River trends towards earlier break-up not shared with other sites on the same river) (Ho et al 2004). The supplementary findings of this study were perhaps more informative.
Local observations of ice condition throughout the year, both freezing and thawing, and
the way these changes occurred, gradually or abruptly, provided a greater depth of
understanding of this issue. The changes in break-up patterns may be an important
indication that climate change is occurring but, in this case, were lost in the rigid
procedures used as part of conventional scientific study (Ho et al. 2004). These changes
in ice patterns noted through local observation highlight the importance of an approach to
data collection that integrates local knowledge in monitoring changes related to climate.

The effects of climate change on this area are expected to be extreme. Tarnocai
(2006) studied the sensitivity of peatlands to temperature in Canada and found “that the
greatest effect of climate change will occur in the Subarctic Wetland Region, where about
85% (314.27 thousand km\(^2\)) of the peatland area and 78% (33.96 Gt\(^4\)) of the organic
carbon mass will be severely or extremely severely affected by climate change” (p.229).
Warmer temperatures will influence the hydrologic cycle with impacts on sensitive
wetlands. These changes may lead to a break down in the permafrost and peatland
structures, resulting in the release of methane (CH\(_4\)) and carbon dioxide (CO\(_2\)) into the
atmosphere in addition to the loss of important species habitat (Tarnocai, 2006).

2.0 Cultural Resources

2.1 Human History

The James Bay Lowland area is inhabited by approximately 10,000 people
residing in FNs communities along the coast (Figure 5) including, Moose Factory, (also
the Town of Moosonee), Fort Albany, Kashechewan, and Attawapiskat (Fraser and
Keddy, 2005; Whitelaw et al. 2009; NAN, 2010a). These FN people are Mushkegowuk

\(^4\) Carbon mass (Gt)
Cree, also referred to as the Omushkego people (Ohmargari and Berkes, 1997). Omushkego translates to mean ‘people of the muskeg’ (Ohmargari and Berkes, 1997). The Muskegowuk people are the original peoples of the James Bay Lowland (Lytwyn, 2002). Muskegowuk Cree have a range of movement throughout the territory that corresponds with the lowland area, roughly 200-300km inland (Ohmagari and Berkes, 1997). Berkes et al (1991) describes the present inhabitants as descendents of the original hunter-gatherers of the region. This cultural group has, for the most part, maintained an oral history. Several studies have been undertaken to establish a written record of movement and human history in the area (Ray 1978; Bishop, 1984; Holly, 2002).

Archaeological studies are difficult in the area due to the natural features and climatic condition in the region (Lytwyn, 2002). Flooding and wet conditions make the preservation of artifacts detailing traditional lifestyles unlikely (Lytwyn, 2002). Furthermore, contributing to the difficulty of undertaking archaeological studies in the area is an important traditional teaching to leave the land as if no one had been there, often described in the literature (Lytwn, 2002; Berkes et al. 1995; Tsuji and Nieboer, 1999). Frank Beardy, Grand Chief NAN, highlighted this teaching:

“It is our land, and we govern and protect it by our inherent right given to us by the Creator. We have protected and governed the lands for thousands of years. The legacy of our care is that our use has been next to invisible…” (Hansard, August 12, 2009:953).

Some archaeological studies have been undertaken throughout the landscape, along the Albany, Hayes, Nelson and Brant rivers. These studies have unearthed artifacts that formed the basis of a discourse to establish the origins of pottery, bones, caribou
remains and projectile points (Lytwyn, 2002). Early efforts to establish the age of artifacts unearthed in the region have found them to be more than 1000 years before first contact with settlers and traders in the area (Lytwyn, 2002). Studies of the Albany river area, in the late 1970s, found artifacts dating back 5000 years, though no lowland sites were located, as researchers assumed the population would consider the conditions in the lowland region to be unfavourable (Lytwyn, 2002). This perception was challenged in the early 1980s by an archaeologist studying the lowland portion of the Albany River. Patrick Julig was able to locate sites on ‘high terraces’ suggesting the potential for ‘overwintering’ in the lowland region (Lytwyn, 2002). No single pattern of movement has been established. Rather a diversity of patterns of use have been identified including those who lived in the lowland region year-round and others for varying lengths of time. Movement was likely influenced by resource availability (Lytwyn, 2002).

2.2 First Contact

Many of the archaeological studies have focused on the area post-contact, examining the construction of the numerous trading posts along the coast (see Kenyon, 1986 and Lytwyn, 2002). The first of the European explorers to arrive in Hudson Bay was Henry Hudson, who arrived and wintered in southern James Bay in 1610 (Lytwyn, 2002). This expedition was one in a series that would take place between 1610 and 1631 (Lytwyn, 2002). These expeditions resulted in several accounts of contact with aboriginal peoples and descriptions of sites that had been previously occupied (described in detail in Lytwyn, 2002).

Missionaries began to visit aboriginal groups in the James Bay region in the 1630s (Lytwyn, 2002). Early trading between Cree groups and missionaries is well
documented and grew in popularity over time, attracting larger groups to the James Bay coast to participate in trade activities (Lytwyn, 2002). The first fur-trading post was established on the eastern shore of James Bay, near the mouth of the Rupert River (Lytwyn, 2002). The western James Bay region was later home to several trading posts operated by the Hudson’s Bay Company, beginning with the Moose River post around 1674, followed by the Albany river post around 1675. Others followed northward along the coast (Lytwn, 2002).

2.3 Traditional Land-Use

Traditional land-use patterns in the region were related to seasonal resource availability (Tsuji and Nieboer, 1999). People were found throughout the territory in small groups or bands corresponding to these seasonal resources (Ohmagari and Berkes, 1997).

Of particular importance, in the context of land as a shared resource, is the fluidity of boundaries among the people, who are guided by ethical principles that feature respect for other people and the land, which serve to determine the hunting activities to be undertaken (Berkes et al. 1994). ‘Okimah’ are leaders in the communities. These leaders’ decisions influence hunting and social relations. These leaders provide a glimpse into the dynamic social interaction that guide decision-making around social and hunting activities in the communities today (Berkes et al. 1991). Berkes et al (1991) described the decision-making process as one that emphasizes the leadership of the Okimah through consensus. Consensus ensures acceptance of the decision. The “okimah did not have the right to impose decisions on others” (p.14). Mike Morris of Kitchenuhmaykoosib FN
detailed the teaching passed on by Elders describing the land as a shared resource in testimony before the Standing Committee on General Governance examining Bill 191:

“Aboriginal title is a collective right to land is communal in nature. We’ve been there since time immemorial...It’s governed by two principles. One that the title gives our people the right to use the land for a variety of reasons for the way of life that God gave us. Number two, we can’t use land in a manner, which is not provided for us to use. None of us can say that we own the land as individual people and all decisions with respect to land and resources must be made by our people” (Hansard, August 11, 2009:926-927).

Subsistence activities in the Muskegowuk traditional territories continue to play an important role in the obtainment of food, transmission of cultural knowledge and the maintenance of social relationships (Ohmagari and Berkes, 1997). Berkes et al. (1994) found that the traditional economy, which examines the value of traditional food, plays an important role in both the regions mixed economy and consideration of the cultural and environmental sustainability in the region.

Mushkegowuk Cree hunting activities follow seasonal availability based on “6 or more harvesting seasons” (Tsuji and Nieboer, 1999:172). Traditionally the harvesting seasons were based on the abundance or accessibility of species (Tsuji and Nieboer, 1999). Typically, fall hunting targets waterfowl such as the lesser snow goose along the coast and moose hunting inland (Berkes et al. 1995). The Canada goose is the primary waterfowl species taken during the spring hunt (Berkes et al. 1995). Winter activities focus on hunting caribou, fishing and trapping while the summer is predominantly spent fishing, though fishing occurs throughout the year, primarily for whitefish (Berkes et al. 1995).
In Berkes et al (1995), harvesting patterns were examined. Results suggest that “[t]he harvesting area used by the people of the Muskegowuk region in 1990 shows a good fit with this [Muskegowuk Cree] traditional territory” finally concluding that the traditional hunting patterns may not have changed significantly over time (Berkes et al. 1995:88). However, the hunting duration has changed to reflect shorter stays facilitated by technology such as motorboats, snow machines, outboard motors, firearms, communication devices and helicopter/charter planes (Tsuji and Nieboer, 1999). This is supported by interview data:

“…they travel more distance for all the snow machines…helicopters and airplanes, they travel inland more like usually they used to…walk, snowshoe, whatever, took months and days to go but now they just fly into a lake…” (A6)

These advances have also increased the financial requirements of undertaking harvesting activities (Tsuji and Nieboer, 1999.)

“If you have a job you can do some of that, you gotta buy gasoline, a motor, a boat, all the equipment, shotguns, shells, ammunition, and the decoys. A tent is really expensive, I think it’s about $300 for a tent, in the old days they used to be $30 (laugh) not anymore!” (A7)

Information on shifts in the distribution of wildlife emerged from interviews with those involved in hunting. In particular, participants noted the movement of moose into the coastal areas when traditionally they were only located in inland areas:

“yeah…they have moose sightings along the bay now, every year…they were always further up river…but they think it’s because of all the logging” (A6)
2.4 Settlement

An important factor in the change in use of the traditional territory is as a result of the change from a nomadic lifestyle to one that revolves around established settlement areas (McLeod, 2007). The beginning of this transition was first noted with the advance of the fur trade but was formalized with the treaty process. The treaties led to the current permanent settlement areas found along the James Bay coast (Treaty No. 9). Figure 5 shows some of the permanent communities currently located along the James Bay coast.

![Figure 5 James Bay region showing the permanent communities along the James Bay coast and large river systems and water bodies in the region, the current location of the winter road and site of the Victor Diamond Mine (modified from Figure 1.1, Canadian Environmental Assessment Agency, 2005, as included by Whitelaw et al. 2009:2006:206)](image)

The initiation of treaty negotiations in what is now the Treaty No. 9 area was also prompted by pressure from settlers and developers as cited in correspondence between
the Office of the Inspector of Indian Agencies and Reserves and the Department of Indian Affairs dated June 3, 1901, in reference to ‘Indians’ north of the tract covered by the Robinson Treaties:

“These Indians had come from considerable distances and asked what the Government proposed to do about the rights of Indians residing between James Bay and the Great Lakes who had not been treated with by the Honorable Mr. Robinson (1850) saying that they heard that railroads were projected through their country, and that already miners, prospectors, and surveyors were beginning to pass through it is [in] such largely increased numbers that the game was disturbed, interference with their means of livelihood had commenced, and their rights were being trespassed” (Department of Indian Affairs (DIA), 1901)

This excerpt marks the beginning of an ongoing tension between the FNs people that reside in this region and the many developers and government officials that continue to advance development and exploration in the region.

“…but they still go out and dig up, or stake or explore…right now as we speak, I hear from our harvesters, they see planes, helicopters, marking without knowledge of First Nations, even our community…” (A6)

2.5 Natural Resource Development

Natural resource development in the James Bay region was limited prior to the 1940s, when a hydroelectric development was constructed on the Albany river followed by mid-Canada radar line installations (Whitelaw et al. 2009). There are nine hydroelectric generating facilities along the Moose River installed between 1911 and 1966 (Fraser and Keddy, 2005). The Albany and Attawapiskat Rivers have been recognized as holding some of the greatest hydroelectric potential in the province with two future potential hydroelectric sites on the Albany River located at Hat Island and
Chard, 490 MW and 370MW respectively (Ontario Power Authority (OPA), 1993).

However, the ‘Northern Rivers Agreement’, a government-to-government agreement, between the areas’ FN and the Government of Ontario, currently limits hydroelectric development along the Attawapiskat, Weenusk and Albany Rivers to less then 25 Megawatts (MW) and only with community consent (Ministry of Environment and Energy, 1993).

The source of much of the power in many communities along the coast was through diesel generators. Recently, transmission lines were extended from Moosonee north to Attawapiskat replacing the generators (Fraser and Keddy, 2005). Permanent road systems are limited to those within the communities in the lowland region. Communities are accessible in the summer by air and water. In winter months, between freeze-up and spring break-up, a winter road is maintained along the coast. There are two access points to rail lines from to the Hudson Bay Lowland, one at Churchill and one at Moosonee (Fraser and Keddy, 2005).

In October of 2009, the Ontario Ministry of Energy and Infrastructure and the Ontario Ministry of Northern Development, Mines and Forestry, released the “Proposed Growth Plan for Northern Ontario” (Ministry of Northern Development, Mines and Forestry, 2009). The document largely focuses on economic development in northern Ontario over the next 25 years (Ministry of Northern Development Mines and Forestry, 2009). Mining, forestry, green energy, agriculture and aquaculture, tourism, and cultural activities are the key areas identified in the report (Ministry of Northern Development Mines and Forestry, 2009). In the Mushkegowuk territory, the main ongoing and anticipated developments are mining and hydroelectric energy generation.
Mineral staking, exploration and extraction are ongoing on the landscape. In 2008, the first diamond mine in Ontario was commissioned approximately 90km west of Attawapiskat (Whitelaw et al. 2009). Additional potential mineral extraction projects are anticipated and were subjects identified in the March 8, 2010 Speech from the Throne (Office of the Premier, 2010). The Premier of Ontario indicated that the exploitation of the area known as the “Ring of Fire” (Figure 6) was a priority for economic growth in the province.

Figure 6 Map of Ontario highlighting the "Ring of Fire" (red) a large geographic region that extends along the Precambrian Shield (Ontario Minister of Finance, 2010)
The “Ring of Fire” area potentially contains the single North American source and largest source globally of chromite (Office of the Premier, 2010). The Premier stated “It’s the most promising mining opportunity in Canada in a century” (Office of the Premier, 2010).

2.6 Parks and Protected Areas

The designation of protected areas has emerged as an important issue in Far North land-use planning. The Ministry of Natural Resources has used the Ecological Land Classification approach developed by Hills (1960) to identify a series of features that describe the ecosystem both temporally and spatially (Davidson et al. 2000). The approach is based on the assessment of natural, wilderness and cultural features. The classification is designed to inform the land-use planning process related to protected area designation in Ontario. Davidson et al (2000) identified the existing inventory of wilderness by considering the presence and distance of the natural area from existing road and rail networks as an indicator of the extent of disturbance associated industrial and agricultural systems. This evaluation concluded that 513,673km² (52% of Ontario’s land base) falls in an area that is more than 5-10km from the nearest road (Davidson et al. 2000). The concentration of these undisturbed areas is in Ontario’s north and aligns closely with the area of the NAN traditional territories as previously described.

In Ontario, provincial parks are designated under the Provincial Parks and Conservation Reserves Act, 2006. The designation of provincial parks is meant to achieve a variety of conservation objectives including: the protection of representative ecosystems, recreational, education and research opportunities (Ontario Parks, 2009). Within the NAN territory there are six types of protected areas covering 50,600.67km²
(Oski-Machiitawin, 2009). These include: nature reserves (232), natural environment areas (978 km²), wilderness areas (40, 699 km²), historical areas (43 km²), waterway areas (8445 km²), and recreational areas (204 km²) (Oski-Machiitawin, 2009). These areas are regulated by the *Provincial Parks and Conservation Reserves Act, 2006* without input or consent from FNs, except with respect to boundary amendments (Oski-Machiitawin, 2009).

The largest protected areas in the Mushkegowuk traditional territory are Polar Bear Provincial Park and Wabakimi Provincial Park. Polar Bear Provincial Park was designated on April 30, 1970. The park is centred on Cape Henrietta Maria and extends south and west from there, encompassing an area of 24,087 km² (Davidson et al. 2000). The second, Wabakimi Provincial Park is located north of Lake Nipigon and extending further north to the Albany River. Wabakimi has expanded significantly since its designation to encompass an area of 8,920 km² (Davidson et al. 2000). The expansion of Wabakimi Provincial Park, and others, continues to be a source of conflict between the provincial government and the communities affected by the creation of protected areas within traditional territories. Chief Arlene Slipperjack, Whitewater Lake FN describes some of the existing concern in testimony before the Senate Committee on General Government:

“Wabakimi now covers much of our traditional territory…The expanded Wabakimi Provincial Park imposes severe restrictions on what we can do on our traditional lands. It is subject of a park management plan to be controlled by others. We are informed that the park management plan remains incomplete. Nearly 12 years after the creation of the park, our request for proper consultation and accommodation and related resourcing in the planning process remains unfulfilled.” (Hansard, August 12, 2009:947)
3.0 Planning strategies

The rapid reconnaissance ABC method requires an analysis of the collected information to inform planning. Land-use planning involves various stages including plan development, plan implementation and plan review. Each of these stages involves a number of steps usually referred to as the rational planning process. These steps include:

1. Problem identification and articulation of objectives and goals;
2. Assessment of the environment and identification of relevant resources and constraints;
3. Identification of alternative solutions, strategies, plans, programs, projects, courses of action;
4. Prediction of likely outcomes of each alternative.
5. Assessment of each based on the goal oriented criteria identified in step 1;
6. Selection of the best alternative based on the assessment;
7. Implementation of the decision;
8. Monitoring and evaluation.

(Friedmann, 1987)

The above steps were used to help evaluate the information presented on the abiotic, biotic and cultural resources (Sections 1.0 & 2.0) and to identify planning strategies for application in the Mushkegowuk territories. The discussion of planning strategies is presented based on the abiotic, biotic and cultural themes.

Abiotic

The review of subsurface conditions, surficial geology and hydrology of the region reveals complex and continuously changing conditions that require special consideration. The subsurface conditions, in particular karst subsurface geology, require special understanding due to the unique movement of groundwater, and potential direct influence of surface conditions on aquifer quality and quantity. As well, potential changes in hydrology may influence the current peatland vegetation, which is dependent on a high water table. Isostatic rebound and anticipated impacts of climate change will result in
changes in water levels and coastal geomorphology. In addition, the combination of large river systems and low relief result in a higher susceptibility to flooding in the region. This will have an effect on current and future development on rivers and adjacent lands. Coastal conditions and limited summer transportation to existing and future development (e.g. diesel transport to Victor Diamond Mine) along the coast are of particular concern.

Land-use planning needs to address these issues through additional study, using both western science and traditional ecological knowledge. The integration of the two forms of knowledge has the potential to create a greater depth of understanding of the region to contribute to planning. The plan needs to properly identify sensitive and constrained areas so that the appropriate studies can be undertaken when development is proposed in proximity to the abiotic features and processes identified above.

Furthermore, the plan should specify the types of monitoring that should be carried out to determine any changes that are occurring as a result of both natural and/or anthropogenic changes.

**Biotic**

Wildlife management is of ongoing concern related to a number of species in the region. Woodland caribou, polar bears and further assessment of endangered and threatened species in the region require special attention. Changes in wildlife patterns potentially attributed to development activities have also been noted and require further study. The flora of the region is important for wildlife habitat. In addition, particularly in coastal areas plants play a significant role in the capture of sediments and maintenance of a sensitive ecosystems (e.g. the salt freshwater barrier).
Land-use planning processes must include additional studies to address evident fauna and flora issues. These studies should be based on both Western science and traditional ecological knowledge. Land-use planning should translate findings from such studies into land-use designations that set aside areas so that valued fauna and flora species and the processes supporting them are properly protected over the long term. The protection of these areas should be described and managed in a way that has been agreed to by the Province and FN representatives. The plan should also detail the types of assessment studies necessary to evaluate the impact of development proposals on valued fauna and flora species.

**Cultural**

The cultural information presented indicates a dynamic and long-standing Aboriginal socio-cultural presence in the region. Of primary concern is adequate consultation and accommodation of FN communities present throughout the area. Aboriginal tenure on the land for 5-8000 years means an extensive footprint of living culture. The land-use planning process must include further study to ensure that past and current sites of cultural and spiritual significance are identified and protected. Both western science and traditional ecological knowledge studies are required. In addition, procedures that allow for the protection of yet undiscovered high value sites is necessary to prevent loss of knowledge that may lead to further understanding of the region’s history. This must be built into assessment studies required when development applications are received.

The consideration of shared lands, a belief central to FN’s culture, requires special consideration through land-use planning during the plan development stage before
development occurs in the region. This will be a challenge for existing land-use planning processes as most land-use planning processes have evolved within the context of private land ownership. For example, land-use planning will need to address and potentially integrate licensed trap line lands with communal traditional territories to ensure that both ideas about land-use are reflected in plan designations and plan assessment requirements (Tsuji et al. in press).

Traditional harvest contributes significantly to the diet of local residents and it is of critical importance to maintain access to viable resources. Identifying and addressing current food-security issues related to a potential reduction in available land base resulting from industrial development and future natural heritage protection is of critical importance to maintaining the well being of FNs in the region. Land-use planning must ensure that FNs are able to continue their subsistence activities on the land indefinitely.

Most importantly, any decisions made through land-use planning on future development and protected area designation must be done in accordance with Treaty rights. Existing protected areas and government regulations related to the delineation of protected areas have reduced access of FN peoples to resources necessary for the long-term well being of aboriginal culture.

Development in this highly complex landscape will have far reaching impacts on the environment, FN culture and traditional land-use. The implications resulting from changes to access to traditional territories require discussion and agreement between FN and Ontario Government representatives, and in our opinion the consent of FNs (Notzke, 1995, Lindsay and Smith (2001).
4.0 Conclusion

The overall purpose of this paper is to contribute to a dialogue based on the collection and evaluation of existing abiotic, biotic and cultural information among government and FN actors and other stakeholders involved in land-use planning in the Mushkegowuk Territories. The reconnaissance ABC has highlighted the importance of the James Bay Lowland region as one of the world’s largest wetland areas, a sensitive and constantly changing ecosystem that provides important habitat to a wide variety of flora and fauna. The territory is also the homeland of the Muskegowuk Cree people. The area is rich in natural resources and important to the economic future of Ontario and stability of the region. Within this context, we believe land-use planning must achieve the following in the Mushkegowuk Territories:

1. Additional and extensive study based on both western science and traditional ecological knowledge into abiotic, biotic and cultural values and processes as described in sections 1 and 2;

2. Explicit land-use planning designations that set aside areas from industrial development to ensure the protection of the natural environment and cultural resources;

3. Long term protection of FNs subsistence land-use practices; and

4. Most importantly, a process that recognizes Treaty rights and deals with the FN peoples on a Nation-to-Nation basis.
Chapter 5

Planning in Ontario’s Far North with a focus on the Mushkegowuk Territories: Opportunities and Challenges

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Abstract
The development of community-based land-use plans in Ontario’s Far North is a response to two related issues. The first is a current desire of local First Nation communities to preserve their traditional territories in a way that ensures that future generations will be supported by the land and resources therein. The second is a government initiative to address a number of planning and management issues including orderly resource development, natural heritage protection, climate policy and improved relations with First Nations. In 2009, the government of Ontario introduced Bill 191, \emph{An Act with Respect to Land-Use Planning and Protection in the Far North}, for first reading (June 2, 2009). Bill 191 outlined the process for the development and amendment of community-based land-use plans. The Bill is meant to foster a relationship that has the potential to reflect consensus-based decision-making for land and resource planning between the Province of Ontario and the areas’ First Nation communities. This article explores the opportunities and challenges related to the development of the legislation to assist land-use planning in the area with a focus on the Mushkegowuk Cree traditional territory. The process is examined using information from interviews with community members and policy actors, transcripts of Senate Committee hearings to discuss the proposed legislation and participant observation of regional land-use planning workshops. The outcomes contribute to both conceptual and practical aspects of land-use planning in Ontario’s Far North.

5.1 Introduction

Regional planning efforts in Canada date back 200 years (Hodge and Robinson, 2002). These planning activities addressed a number of objectives related to the expansion of urban areas, conservation of sensitive or highly valued areas, natural

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resource development, recreation and tourism and economic growth (examples include: The Laurel Creek Conservation Area Master Plan (Grand River Conservation Authority, 1981), The Region of York Official Plan, (York Region, 2008), Niagara Escarpment Plan, (Niagara Escarpment Commission, 2010), Oak Ridges Moraine Conservation Plan, (Ministry of Municipal Affairs and Housing, 2002). First Nation (FN) regional community-based land-use planning is emerging across the country. A number of plans have been completed and are underway, with many more expected in the next decade (Sahtu Land-use Planning Board, 2010, Gwich’in Land Use Planning Board, 2003, Nunavut Planning Commission, 2000a,b).

Currently, there is an Ontario Government initiated process underway, known as the ‘Far North Planning Initiative’, to enable planning activities in Ontario’s Far North region, an area that lies north of the existing regulated forest management lands in Ontario (Ontario Environmental Assessment Board, 1994). The area covers 43% of the province (Office of the Premier, 2008; Figure 7). The Far North land-use planning process is designed to enable the areas FN communities to play a significant role in the development of community-based land-use planning (Bill 191 2009 s.6.(1)). The government also intends to address a number of planning and management issues including orderly resource development, natural heritage protection, and climate policy through the Far North planning process. Figure 7 (OMNR, 2010) shows the area to be considered under Bill 191 and the northern boundary of regulated forest lands.
The development of community-based land-use plans (CBLUP) in Ontario’s Far North reflects a current desire among many local FN communities to preserve their traditional territories in a way that ensures that future generations will be supported by the land. Furthermore, FNs have interest in benefitting from current and future development in the areas of forestry, mining, electricity generation and tourism. In 2009, the Government of Ontario introduced Bill 191, *An Act with Respect to Land-Use*
Planning and Protection in the Far North, for first reading (June 2, 2009). This Bill detailed a process for the development and amendment of FN CBLUP. The Bill also details the establishment of a minimum of 225,000km² network of interconnected protected areas (Bill 191 2009 s.6(2)). The creation of these protected areas in the northern boreal region is highlighted as both a large intact ecosystem, home to a number of endangered and at risk species, and as a large land base that would act as a carbon sink, important for climate change policy (Government of Ontario, 2008).

This article explores the opportunities and challenges related to the development of the proposed legislation to enable land-use planning in Ontario’s Far North with a focus on FN issues, using a case study of the Mushkegowuk Cree traditional territory, Ontario. The Far North land-use planning process is examined using a conceptual framework adapted from Margerum (2008) based on institutional levels of analysis (see sections 5.4). Data and information for the research was collected through semi-structured interviews with community members and policy actors, analysis of transcripts of Senate Committee hearings of the proposed legislation and participant observation of regional land-use planning workshops held in Timmins, Ontario in September of 2009 and February of 2010 and September of 2010. The research findings contribute to the growing literature on resource development in Canada’s north, theoretical and practical land-use planning issues, and FN social justice.

Our paper is presented in five main sections. The first section provides background information on the Mushkegowuk Territories and development of Bill 191. The methods section follows. The literature review explores a number of planning related topics and links them through a conceptual framework that was developed to
guide the research. The results-discussion section presents the data organized around the three main themes that make up the conceptual framework: the operational, organizational and policy perspectives of the land-use planning process as it develops. Finally, a number of recommendations are made with respect to planning and additional research in support of Far North planning.

5.2 Background

The James Bay Region, also know as the Mushkegowuk Territories, is mainly populated by Cree and Ojibway FN people. The area is comprised of reserve lands, which are the existing sites of FN communities (Moose Factory, Fort Albany, Kashechewan, Attawapiskat and Peawanuck), and FN traditional territories used for various land-use activities such as hunting, trapping, fishing, transportation and resource development. Northern Ontario FNs including those within the Mushkegowuk Territories are represented politically by the Nishnawbe Aski Nation (NAN), which represents 49 communities that fall under Treaties 5 and 9 (Figure 7). The Mushkegowuk Council (MC), a part of the NAN structure, represents the seven communities located in the Mushkegowuk Territories. These communities include Attawapiskat, Kashechewan, Fort Albany, Moose Cree, Taykwa Tagamou, Chapleau Cree and Missanabie Cree (Muskegowuk Council, 2010). NAN and MC are working together with individual communities to develop strategies and policies to influence growth and development within the Muskegowuk traditional territories (Muskegowuk Council, 2010).
5.2.1 Muskegowuk Territory and Development

In 2007, the Province and NAN signed an agreement establishing the ‘Northern Table’ (later known as Oski-Machiiitawin (New Beginnings)) to facilitate a dialogue between the Province and FNs within Treaties No. 5 and 9 lands (Nishnawbe Aski Nation, 2010c). The first three priorities of the Northern Table were to:

- “Develop a Memorandum of Agreement between the Ministry of Natural Resources and NAN to implement the Provincial Parks and Conservation Reserves Act in NAN territory”.
- “Develop a protocol for Ministry of Natural Resources licenses and permits for resource development activities”.
- “Discuss land-use planning, including approaches for balancing traditional and non-traditional activities for NAN First Nations both in the Far North and southern parts of NAN”.

( Ontario Ministry of Aboriginal Affairs, 2007)

Under Oski-Machiiitawin, five groups were created to address parks, land-use planning, licenses and permits, mining and a common issues group. The overall objective was to undertake a bilateral process for discussions and negotiations between the Province and NAN (Nishnawbe Aski Nation, 2010c). NAN leadership passed a resolution in 2008 to continue discussions and negotiations through Oski-Machiiitawin until March 31, 2010 (Nishnawbe Aski Nation, 2010c).

In 2008, in response to development pressure within the Mushkegowuk territories, the MC passed three Council resolutions (Muskegowuk Council, 2008a,b,c):

1. Mining Activities in Muskegowuk First Nations Homeland;
2. Resource Development Activities in Muskegowuk First Nations, and;

The resolutions related to development projects, mine staking, exploration and advanced exploration, and the initiation of a CBLUPs. The resolutions stipulated that the
MC would not accept further development in the area until there was an agreement with the developer indicating consent by FNs, that land-use plans for the area were completed and approved, and finally that the requirements for regulatory approvals (Environmental Impact Assessments and other permits) be agreed upon by each party. The resolutions applied to future projects and stipulated that current projects may only continue with consent and a FN approved impact benefit agreement(s). The development of the land-use plans was to occur with administrative and technical support from the MC with the express goal of protecting indigenous knowledge throughout the process. The resolutions requested that the Province fund both the required mapping exercise and development of CBLUPs.

5.2.2 Bill 191

In June 2009, the government of Ontario released the proposed Bill 191 for first reading. The Bill applies to areas currently regulated as Crown lands by the Federal and Provincial governments and excludes reserve lands (Bill 191 2009:i). The FN communities that are within the planning area include those covered by Treaty #5 and #9.

There are four key objectives of the Bill (Bill 191 2009 s. 6.(1)(2)(3)(4)):

1. A significant role for First Nations in the planning.
2. The protection of areas of cultural value in the Far North and the protection of ecological systems in the Far North by including 225,000 square kilometres of the Far North in an interconnected network of protected areas.
3. The maintenance of biological diversity, ecological processes and ecological functions, including the storage and sequestration of carbon in the Far North.
4. Enabling sustainable economic development that benefits the First Nations.
The legislation applies to a significant portion of land in Ontario and is bound to the south by several forest management units, and Woodland Caribou and Wabakimi Provincial Parks (Bill 191 2009 s.2.(a)(i)(ii)(iii)(iv): Figure 7).

The Far North LUP process is designed to include a terms of reference to be prepared by each community with an interest in participating (Bill 191 2009 s. 8(1)). Once approved by the community (through a Band Council Resolution (BCR)), the Minister of Natural Resources approves and designates a planning area (Bill 191 2009 s. 8.(3)(a)(b)(c)). Each plan must include a determination of the land-use designations throughout the planning area, which may be prescribed in regulations, and the permitted land-use activities under each designation (Bill 191 2009 s. 8(8)(a)(b)). In addition, the plans are required to include a minimum of one protected area. Amendments to the plan are to be allowed at ten-year intervals (Bill 191 2009 s. 8(8)(c)(e)). The community approves their plan through a BCR (Bill 191 2009 s. 8(13)(a)). Subsequently, the Minister of Natural Resources examines the plan to ensure that the four objectives of the Act (listed above) have been included. Once satisfied the Minister approves the plan (Bill 191 2009 s.8 (13)(b)). In situations where a plan will not be created or has not been approved for a community, the Minister may allow developments that are deemed to be in the “social and economic interests of Ontario and takes into account the objectives” of the Act (Bill 191 2009 s. 11(3)(b)). There is a further exception clause which allows the Lieutenant Governor in Council to order, in areas where community-based plans have been created, to allow a development if it “is in the social and economic interest of Ontario and takes into account the objectives” of the Act (Bill 191 2009 s. 13(4)). Finally, “The Minister may make grants for the purpose of preparing a land-use plan
under subsection (5) or implementing or reviewing a community-based land-use plan and the grants shall be paid out of money appropriated for that purpose by the Legislature” (Bill 191 2009 s.8(18)).

The Minister, under this legislation will prepare land-use strategies and policy statements which are meant to guide the process and provide direction related to policy issues. The exchange of information on ongoing policy development and policy statements, as described in the legislation will be informed by ‘advising bodies’.

16. (1) The Minister shall establish one or more bodies to advise the Minister on the implementation and co-ordination of land-use planning in the Far North in accordance with this Act.
(2) When establishing a body under subsection (1), the Minister shall consider what role the First Nations should play in the establishment of the body and the extent to which First Nations should participate in the work of the body. (Bill 191 2009 s. 16, (1),(2))

Currently, Bill 191 has gone through first reading (June 2, 2009), a series of Senate Committee hearings to provide an opportunity for the public and stakeholders to comment on the Bill, a clause-by-clause review and debate, a first set of amendments meant to reflect input and a second reading on June 3, 2010. The third and final reading took place on September 23, 2010 and ended in a vote of 46 ayes and 26 nays to pass the Far North Act, 2010. The Far North Act, 2010 is currently awaiting Royal Assent (Hansard, September 23, 2010).

5.3 Literature Review

The literature review section has three main parts. The first presents general information on indigenous/FN land-use planning. This is followed by a discussion of planning theory, specifically rational planning, advocacy planning and collaborative
planning. The third part explores the institutional arrangements associated with decision-making at three levels - policy level, organizational level and operational level.

5.3.1 Indigenous/First Nation Planning

There is limited literature on indigenous planning traditions and approaches in general (Hibbard et al. 2008). However, planning has been recognized as a tool to promote greater empowerment and political autonomy in indigenous communities (Lane and Hibbard; 2005; Hibbard et al. 2008; Minkin, 2008). The application of more inclusive planning processes has the ability to ‘reshape’ political or traditional institutions and relationships among state governments (such as Canada and Ontario) and indigenous governments to achieve an array of community, social and economic goals (Lane and Hibbard, 2005). Some suggest that “[P]articipation in environmental planning inevitably involves the assertion of custodial, cultural, and other interests in land now designated as publicly or privately owned” (Hibbard et al. 2008:144). Many FN communities, however, would question the position held by the Province that this land base is publicly owned and exclusively under their jurisdiction (Davidson-Hunt and Burlando, 2010).

Many indigenous communities seek greater autonomy as they move towards self-governance. Planning has a potentially powerful role in achieving this goal (Hibbard and Lane, 2005). “[E]mpowerment represents a process of inclusiveness and accountability in an institutional framework that provides Aboriginal communities legitimacy in the planning and assessment process” (Natcher, 2001:119). Legitimacy refers to “the convincing character of reasons that justify political decisions or, more generally, validate practices and institutions” (Bohman, 1990:95 as quoted by Mason, 1996:659). Lane (2006) has highlighted a number of barriers to participation for indigenous groups.
in the planning process to include: “language and cultural barriers; geographic isolation; a lack of resources; consultation fatigue; cynicism about whether consultative efforts are genuine and a lack of familiarity with mainstream planning and decision-making processes” (p.386). A less well-researched barrier is the impact land-use planning may have on Treaty and inherent rights (Natcher, 2001, Robinson and Ross, 1997)

5.3.2 Planning Theory

Friedmann (1993) defines planning as a “professional practice that specifically seeks to connect forms of knowledge with forms of action in the public domain” (p.482). Past and current inequality within civil society is a major driver in the advancement of planning traditions towards greater participation and open processes to create more inclusive planning (Arnstein, 1969, Healey, 1992, Lane and McDonald, 2005).

Rational planning is described as the dominant planning model (Friedmann and Hudson, 1974, Hudson et al.1979). Rational planning has four components - “goal setting, identification of policy alternatives, evaluation of means against ends, and implementation of decisions” (Hudson et al.1979). This model, applied in indigenous planning, has been associated with the exclusion of cultural or religious factors, and disempowerment and marginalization of indigenous communities (Hibbard et al 2008). The reason for this is the same reason for similar disempowerment and marginalization in non-indigenous planning regimes. The rational planning process has been criticized for its assumption of full information on the planning problem and acceptance of the political and economic status quo (Forester, 1982, Alexander, 1992).

Advocacy planning emerged in response to the criticisms of rational planning in the 1960s. Advocacy planning is characterized by activities that act to defend lesser-
resourced groups “against the established powers of business and government” (Hudson et al. 1979:390). The application of this planning tradition is associated with greater transparency of policy development and sensitivity towards the potential implications of decision-making on all peoples and sectors of society (Hudson et al. 1979). The approach seeks to achieve greater equity through planning by including the less resourced, or disenfranchised group, into the political process (Forester, 1982). “Advocacy planning provides citizens with technical resources, giving them tools with which to compete with other interests” (Peterman, 2004, p. 273).

More recently, collaborative planning has emerged as an important approach to foster more inclusive planning (Healey, 1998). Increased public participation and inclusion in the process has been a frequently identified tool for more meaningful results in the advancement of planning theory (Arnstein, 1969; Forester, 1982; Selin and Chavez, 1995). The integration of “disempowered groups into the mainstream of economic and social life while preserving cultural diversity including the notion of sustainability; gender equality; and respect for the natural world” into the planning process is an approach to accomplishing this (Friedmann, 1993:483). Collaborative planning is defined as “an interactive process of consensus building and implementation using stakeholder and public involvement” (Margerum, 2002:237). Thus “[c]ollaboration implies a joint decision-making approach to problem resolution where power is shared, and stakeholders take collective responsibility for their actions and subsequent outcomes from those actions” that apply to policy making and implementation and “emphasize sustained dialogue between stakeholders to resolve differences and advance a shared vision of the future” (Selin and Chavez, 1995:190). This definition highlights the
elements of inclusion in decision-making, local participation and local values through knowledge guided by a legislative framework. Co-management and community-based land-use planning are two examples of planning approaches and techniques that are applied in promoting ‘bottom up’ or collaborative planning (Lane and McDonald, 2005).

5.3.3 Community-based land-use planning

CBLUP is a complex undertaking occurring in “institutional, socio-cultural and ecological” contexts concurrently (Lane and McDonald, 2005:728). It “refers to the deliberate, pragmatic decentralization of authority and resources to communities for the purposes of environmental management and land-use planning. CBLUP seeks to secure the benefits of ‘bottom-up’ knowledge and action yet the opportunities and possibilities of community engagement are formed by state policy and action” (Lande and McDonald, 2005:710). Elements of rational planning are present, e.g., a structured process that involves data collection, evaluation and decision-making (Hudson et al.1979). Advocacy planning can also be present especially at the beginning or emergence of such activities in efforts to force the government into a more inclusive, pluralistic process consistent with CBLUP (Peterman, 2004). And collaborative planning is also usually a part of the process, especially during plan development and plan review (Selin and Chavez, 1995 and Healey, 1998).

5.3.4 Institutional Theory

Institutional arrangements in the context of political science and economics are described as “the rules used by individuals for determining who and what are included in decision situations, how information is structured, what actions can be taken and in what sequence, and how individual actions will be aggregated in collective decisions” (Kiser
and Ostrom, 2000:56). In describing the typologies of collaborations that are occurring in the context of environmental management and land-use planning, Margerum (2008:488) draws on work done by Ostrom (1986) and describes three institutional levels:

1. Policy level - “a focus on government legislations, policy and rules.
2. Organizational level – a focus on the “policies and programs of organization”
3. Operational level - a focus on “direct action or ‘on the ground’, monitoring, education and restoration”

These three institutional levels are described below in the context of planning.

5.3.5 Policy Level Institutional Arrangement

5.3.5.1 Planning areas

A preliminary step in initiating a planning process involves establishing the planning area. Planning area boundaries can be determined in a number of ways, typically they follow political or ecological boundaries (Barham, 2001). Increasingly, in an attempt to incorporate a more holistic approach, ecosystem-based planning boundaries are being selected (Barham, 2001). Mitchell (2005) highlights some of the issues with establishing ‘ecosystem-based’ planning areas. From a scientific perspective, it is difficult to establish a single boundary given the infinite number of ‘spatial variables’ to consider. Both Hodge and Gordon (2008) and Mitchell (2005) recognize the difficulty in establishing a permanent or long-term boundary for planning, because environmental conditions are not fixed. Hodge and Gordon (2008) found that in order to overcome this issue it is “more productive to plan explicitly for the boundary area in conjunction with the adjacent region. It is wise to remember that wherever the region’s boundaries are drawn, there is another region on the other side” (p.230).
5.3.5.2 Legislation / “rules”

The creation of legislation in Ontario follows a ‘Westminster-style of parliament’, which means that legislation that involves ‘expenditure of public monies’ is described as a ‘Government Bill’ (Office of the Legislative Assembly of Ontario, 2001). Government Bills are introduced by a Minister (who sponsors the Bill), though support of the Cabinet is implied (Office of the Legislative Assembly of Ontario, 2001). The introduction of a Bill follows a ‘pre-legislative’ phase (Office of the Legislative Assembly of Ontario, 2009). Four factors are central to the ‘pre-legislative’ phase (Office of the Legislative Assembly of Ontario, 2009):

1. The process is largely restricted to government officials flowing from rules of confidentiality.
2. The process varies between governments (structure and process) based on determinations made by the Premier.
3. The development of legislation is guided by the Cabinet Office, the Premier’s Office and the Ministry(ies) involved.
4. The expectation is that new legislation will flow from strategic priorities as described in the government’s policy agenda.

A piece of legislation becomes law when 1st, 2nd and 3rd readings have occurred and are adequately supported by a vote in the Legislative Assembly of Ontario (Office of the Legislative Assembly of Ontario, 2009). Following third reading royal assent is declared and the Bill becomes law (Office of the Legislative Assembly of Ontario, 2009).

The development of legislation involves both a description of activities to occur and a ‘structural framework’ that describes anticipated outcomes of the activities. Mascarenhas and Scarce (2004:30) describe this as a “structural framework” imposed by the government that requires specific targets to be met. In situations where these specific targets are described, they are viewed as “restrictive”, “preventing true collaboration” and
“constraining outcomes” which means that “control was built into the process” serving to limit participation (Mascarenhas and Scarce, 2004:30). In addition, where specific targets are set, participants were left with a sense that the “real power” that had far reaching and long-term impact was retained by the government (Mascarenhas and Scarce 2004; and Lane and McDonald, 2005).

5.3.5.3 Jurisdiction

Large-scale planning initiatives that encompass areas with multiple governing bodies require a consideration of new forms of institutional arrangements that involve the integration of responsibility and jurisdiction. In most cases, however, progress on improving planning processes is limited because of what Mitchell (2005) calls the ‘silo effect’. This is “a term frequently used to characterize or describe the separation of responsibility among resource-management agencies as well as their inability or unwillingness to consider their mandate relative to those of other organizations…” (p.1340).

In Canada, the relationship between FNs and the state was formalized in many cases through the Treaty making process and more recently through comprehensive land claims. Natcher (2001) defines Aboriginal title and rights as:

“a right to exclusive use and occupation of a specific geographical area. It is a proprietary right held communally and cannot be transferred or alienated by anyone but the federal government. Most importantly, however, it is a right to decide to what uses the land can be put, including the ability to restrict activities that would limit the opportunity to continue those activities that made those land Aboriginal lands in the first place…the court also found that Aboriginal title would be justifiably infringed upon by the government for the purposes of land settlement, economic development, environmental protection, although in such cases financial compensation may be
required as part of the justification for infringement” (p. 114-115).

This right is embedded in the Canadian Constitution Act (1982) and the Royal Proclamation (1763), and has been reaffirmed through several court cases including R v. Sparrow (1990), Van der Peet (SC.C.1996), Delgamauukw (S.C.C. 1997) (Natcher, 2001).

Provincial responsibility with respect to land-use and environmental planning and resource management is also outlined in the statutes under the British North America Act (1867) and the Constitution Act (1982). Provincial responsibility includes jurisdiction over resource management and this is why the Province has a leadership role in land-use planning (Robinson et al.1985).

Zaferatos (1998) examined tribal planning in the United States and found that in order to achieve greater participation in regional decision-making to overcome jurisdictional issues between state, county and local governments a “cooperative relationship” between these governments could be developed that takes the form of a “co-regulatory model…in which tribal and non tribal interests are simultaneously applied to shape public policy”, thus avoiding “jurisdictional conflict by fostering a regional ‘plural’ public policy” (p. 403). This collaborative approach to land-use planning is emerging across Canada’s north today (Sahtu Land Use Planning Board, 2010, Gwich’in Land Use Planning Board, 2003, Nunavut Planning Commission, 2000a,b).
5.3.6 Organizational Level of Institutional Arrangement

5.3.6.1 Planning Bodies/Distribution of Power

Committees are often struck to make decisions, assist with conflict resolution and provide technical assistance throughout a number of planning phases including plan development, implementation and review. The arrangement that is created through these committees has the potential to reflect joint governance through decision-making. A Canadian example of the way planning bodies contribute to advancing joint governance is the Nuu-chah-nulth First Nation who began by negotiating a government-to-government relationship to guide decision-making in the Clayoquot Sound area (Lane and Hibbard, 2005). Planning is administered through the Clayoquot Sound Central Region Board (CRB) whose membership includes equal representation from tribal communities and appointees from the Provincial government (Lane and Hibbard, 2005). The CRB follows a consensus-based approach to decision making involving a management approach that incorporates ecosystem-based planning while working towards achieving the community’s economic and social goals (Lane and Hibbard, 2005).

Planning committees/bodies can be an important part of inclusive planning by promoting interactions between state and civil society. The creation of committees requires consideration of representation, approach to decision-making and the distribution of power and control throughout the process (Margerum, 2002, Mascarhenas and Scarce, 2003, Bradshaw, 2003, Lane and McDonald, 2005).

5.3.6.2 Representation

Mascarhenas and Scarce (2004) studied the dynamics in stakeholder groups formed to consider and participate in the planning processes. They examined
representativeness, through the inclusion of “local and outside interest” (P.26). Participants expressed concerns about ensuring that there was adequate local representation to ensure that their concerns were considered and “not overwhelmed by distant bureaucrats” (p.26). In addition, more localized planning and decision-making means that decision-makers are directly aware of the outcomes of their decisions (Bradshaw, 2003). Margerum (2002) also found that inclusiveness was of greater value to the process than limiting the size of the group in an effort to achieve greater productivity.

Another dimension of representativeness is the consideration of scientific and local or indigenous knowledge. A critical component in the transition towards “decentralized planning”, which is implied in community-based land-use planning, “is the need to complement scientific knowledge with other forms of knowledge” (Lane and McDonald, 2005:723). One such form of knowledge is traditional ecological knowledge defined as “a cumulative body of knowledge, practice and belief, evolving by adaptive processes and handed down through generations by cultural transmission” (Berkes 1999:8, as quoted by Berkes, 2004:627). The inclusion of traditional ecological knowledge is a critical component needed to inform research, policy direction, land-use plan preparation and implementation. “Indigenous people often hold intergenerational knowledge that spans long time frames, have an understanding of causal processes based on a depth of experiential learning” (O'Faircheallaigh, 2007:324).

5.3.6.3 Consensus Based Decision-making

Collaborative planning is seen as a tool to advance greater public participation through a “consensus-driven participatory approach to decision-making” (Peterman,
2004:271). This provides the means to negotiate between marginalized groups and those who have traditionally held more power in the process (state governments, special interest groups, industry)(Peterman, 2004). Several tensions can arise as these distinct groups collectively address issues in the planning process and attempt to reach consensus. Margerum (2002) found that the task of achieving consensus is not well understood by many and requires continuous training to highlight strategies. Planning committees often require the involvement of government staff. Under a consensus based model there can be difficulty redefining government staff roles and responsibility (Margerum, 2002).

Government staff is not always familiar with consensus processes where all are to be considered equal. Margerum (2002) found that government stakeholders defined “their role in terms of “providing expertise”, “advice”, and “technical assistance” rather than participating in an interactive exchange of information” (Margerum, 2002:247).

Facilitation is central to consensus decision-making and requires skills to overcome conflict and promote effective communication (Margerum, 2002). The development of these skills requires support and ongoing training (Margerum, 2002). Communication skills are also integral to the collaborative process. Margerum (2002) notes that structured reporting is required to ensure that all members of the group see that their input is being considered and influencing the process. Furthermore, individuals on the committee or body working toward consensus must ensure that the groups they are representing are well informed regarding the progress towards reaching consensus (Sinclair and Smith, 1999). Collaborative planning with its requirements for consensus decision-making also may require additional time and resources to reach consensus (Sinclair and Smith, 1999, Margerum, 2002).
5.3.6.4 Power and Control

Forester (1982) explored how power can be exerted in planning processes through the transfer of information and misinformation. Margerum (2002) categorizes power within stakeholder groups in two ways. First, “power relates to the capacity to influence process through the control of agendas, information and pervasiveness” (2002:249). The second power category identified by Margerum (2002) “is the ability to mobilize, influence and organize action or resistance through stakeholder constituencies” (p.249) with a particular emphasis on the selection of committee members, the sharing of power among members, and the chair and coordinator role to ensure proper member group communication. Margerum (2002) makes an important observation in terms of the concept of power sharing. He suggests that in order to achieve desired results “government agencies in particular may need to be encouraged to give up some of their autonomy in exchange for increased respect and support.”(p.251).

5.3.7 Operational Level of Institutional Arrangement

5.3.7.1 The Community in Community-Based Planning

Within the CBLUP process the way the ‘community’ is conceptualized is central to the level of engagement and, thus, representativeness of the planning process. Lane and McDonald (2005) describe communities as sometimes being idealized as a ‘homogenous’, ‘spatially fixed social group[s]’ sharing a sense of community expressed through ‘social consensus and solidarity’ (p.713). This definition is somewhat narrow and may miss differences within communities based on gender, age, class, ethnicity (Lane and McDonald, 2005) education, worldview, economic status and religion (Natcher and Hickey, 2002:350). Diversity is sometimes overlooked in favor of this
narrow definition, which has been found to contribute to “failure, dissension, and critique…[that] serve to entrench elites, marginalize certain social groups and fashion unjust outcomes” (p. 715). “The success of community-based [planning and] management will in the end depend largely on the efficacy of community participation” (Natcher and Hickey, 2002:351).

“[L]anguage and cultural barriers, geographic isolation, lack of resources, and lack of familiarity with planning and decision-making” can limit participation (Hibbard et al.2008: 144). Most Indigenous communities are economically disadvantaged and require financial support to effectively participate in environmental management (O’Faircheaellaigh, 2007). “Insufficient access to organizational resources and limited organization capacity” can limit indigenous community participation in the process (Hibbard et al.2008:144).

An example of a process that is working to overcome some of these barriers was launched in 2008 by the Province of Manitoba. Manitoba passed the East Side Traditional Lands Planning and Special Protected Areas Act (Wellstead and Rayner, 2009). This followed a 2006 agreement recognizing the government-to-government relationship signed by the province and 16 First Nations called the “Wabanong Nakaygum Okimawin Council of Chiefs Accord” (Wellstead and Rayner, 2009). This legislation was meant to guide CBLUP development in the aboriginal communities found on the East side of Lake Winnipeg and was largely in response to growing pressure for the development of hydro transmissions lines and associated roads that would transect much of the province (Wellstead and Rayner, 2009). The initial outcomes of this initiative have recognized difficulties in building community capacity to develop plans. As a result, a series of
workshops were developed to introduce the concept of land-use planning and the steps to initiate plan development (Wellstead and Rayner, 2009). Targeted training was also provided to community land-use coordinators outlining the steps of CBLUP and approaches to collecting the necessary information (Wellstead and Rayner, 2009). “[R]egional resource management boards” were struck to provide support related to land and resource related activities (Wellstead and Rayner, 2009). Further “legal support, financial and technical guidance” as well as assistance with ‘onerous’ requirements set out in government regulations can be provided by regional governments (Bradshaw, 2003: 145).

5.4 Conceptual Framework

A conceptual framework was developed based on the literature reviewed that attempts to link indigenous land-use planning with institutional arrangements at three scales (Figure 8). The three institutional levels described by Margerum (2008) provided an ideal framework to base our research, specifically the analysis of the development of Bill 191 and related planning activities at the community level (see methods section for more detail below). Figure 8 shows the conceptual framework outlining the main focus of this research in terms of collaborative, advocacy and rational planning theory as they influence the three institutional levels - operational, policy and organizational.
Figure 8 Conceptual Framework linking planning (rational, advocacy and collaborative planning) with institutional arrangements (operational, policy and organizational levels) in the context of aboriginal/indigenous community-based land-use planning.

5.5 Methods

The research involved evaluative methods using a case study approach (Yin, 2009). Multiple methods were used including participant observation, semi-structured interviews, and analysis of hearing transcripts and other relevant government documents. Participant observation involved attendance at three LUP workshops between August 2009 and February 2010. The first was a local workshop with community members from
the communities of Fort Albany and Kashechewan held in Fort Albany in August 2009. Three regional land-use planning workshops were attended in September 2009 and February 2010 and September, 2010 in Timmins, Ontario. All regional land-use planning workshops were hosted by the MC and attended by First Nations representatives, OMNR staff, academics and consultants.

This research included the use of long interviews described by McCracken (1988) (see Chapter 2 for a detailed description of the interview process). Between February 9th, 2010 and February 28th, 2010, eight long interviews were completed in the communities of Fort Albany, Kashechewan and Timmins, Ontario. The interviews were completed with local government representatives, community members, land-use planning coordinators and OMNR staff. The interview questions explored the level of local knowledge about Bill 191, LUP activities, concerns related to the balance between conservation and development, current feelings related to land tenure security, state of Aboriginal rights, federal, provincial and local relations, and opportunities and tensions related to the land-use planning exercise.

Natcher and Hickey (2002) indicate there is difficulty in understanding the depth of meaning that is shared with the narrative style of responses frequently provided by aboriginal respondents through long interviews. This is due to their ‘Cree worldview’. It is difficult to categorize “social, cultural, spiritual, and economic aspects of environmental interaction”(p.355). This limitation was addressed, in part, by sharing results on an ongoing basis with members of the FAFN Chief and Council for their feedback. The interviews were also limited by time and resource constraints. This meant that interviewing representatives from all levels of FN organizations and the provincial
government was not possible. This limitation was addressed through analysis of Standing Committee hearing transcripts (discussed below) to provide additional data for validation purposes.

Analysis of transcripts from four hearings to discuss amendments to the Mining Act (Bill 173) and Bill 191, along with relevant government documents was undertaken. The hearings were led by the Standing Committee on General Government through the Legislative Assembly of Ontario and began August 6th, 2009 and ended with a clause-by-clause reading and official debate in October 2009. The hearings took place in Chapleau, Thunder Bay, Sioux Lookout and Timmins, Ontario. The committee heard testimony from resource development and economic development agencies, special interest groups, individual citizens, municipal government representatives, and regional and local First Nation bands and organizations. The majority of testimony was contributed by special interest groups, mostly prospector associations. Twenty of twenty-six presenters from special interest groups were either pro- or anti-mining groups concerned with Mining Act amendments and were not included in this evaluation because the topic was outside the scope of this exercise. First Nations representatives made up the second largest group of contributors to the hearings. Nineteen local and regional level First Nation representatives presented during the four days of hearings.

The transcripts and meeting notes from the Regional Land-use Planning workshops were analyzed and coded based on themes that emerged from the literature review. Table 3 identifies the categories and themes used for the analysis along with the supporting literature.
Table 3 Analysis Framework describing the three institutional levels (policy, organizational and operational), coding themes used to evaluate the data and relevant literature used to inform the analysis of Bill 191 and the related community-based land-use planning.

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Coding Themes</th>
<th>Literature</th>
</tr>
</thead>
<tbody>
<tr>
<td>Political/policy</td>
<td>History</td>
<td>Mason, 1996; Zaferatos, 1998; Margerum, 2002; Bradshaw, 2003; Mascarenhas and Scarce, 2004; Hibbard et al. 2008; Hibbard and Lane, 2005; Mitchell, 2005; Wellstead and Rayner, 2009</td>
</tr>
<tr>
<td></td>
<td>Political Autonomy/Unilateral Government role/structural framework</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Institutional Change</td>
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<tr>
<td></td>
<td>Jurisdiction Planning Areas,</td>
<td></td>
</tr>
<tr>
<td>Organizational</td>
<td>Committees/representativeness</td>
<td>Forester, 1982; Mason, 1996; Margerum, 2002; Bradshaw, 2004; Mascarenhas and Scarce, 2004; Hibbard and Lane, 2005; Berkes, 2007; Hibbard et al. 2008</td>
</tr>
<tr>
<td></td>
<td>Concensus decision-making</td>
<td></td>
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<tr>
<td></td>
<td>Indigenous and Scientific knowledge</td>
<td></td>
</tr>
<tr>
<td>Operational</td>
<td>Training and Funding</td>
<td>Margerum, 2002; Bradshaw, 2003; Mascarenhas and Scarce, 2004; Hibbard et al. 2008; Wellstead and Rayner, 2009</td>
</tr>
<tr>
<td></td>
<td>Technical Complexity</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Language and Cultural barriers</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Community Capacity</td>
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</tr>
<tr>
<td></td>
<td>Participation, local vs. outside knowledge</td>
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</tr>
</tbody>
</table>

The government document analysis was carried out using the same coding themes.

5.6 Results and Discussion

5.6.1 Policy Level

Results presented in the section below are based on evaluation of the Far North planning process at the policy/legislation level. Two main themes emerged: the Ontario Government and FN government relations; and issues around planning boundaries.

5.6.1.1 Government-to-Government Relations

The relationship between the Province of Ontario and the regions FNs is central to the development of Bill 191. The history of this relationship, beginning with Treaty No.
9, is an important aspect of the process. FN views of Bill 191 in relation to Treaty No. 9 were articulated by many of those providing testimony to the Standing Committee on General Government in consideration of the Bill 191. The overarching understanding with respect to Treaty No.9 among FNs is that they agreed to share the land, not hand it over to the Government of Canada and Ontario.

“Our relationship to you (Ontario) became formalized through Treaty 9 in 1905. Our extensive memories of that agreement were that we agreed to share the land but our use of and relationship to the land would not be changed or challenged by the Province of Ontario” (Hansard, August 13, 2009:984).

This view is slowly being asserted through the courts in Canada (Supreme Court ruling regarding Haida and Taku River (2004), Mikisew (2005), OgilvyRenault (2007) (Whitelaw et al.2009). A First Nation participant at the Hearings stated:

“The commitment of First Nations people to have our rights taken seriously is demonstrated by the hard-won and growing mass of case law supporting our rights to be consulted and to accommodate our rights to share in decision-making and benefit from our resources” (Hansard, Aug. 12, 2009:941).

A fundamental issue with Bill 191 stems from one of the objectives of the Bill that indicates FNs will have a significant role in land-use planning (Bill 191, 2009 s.6(1). As a result, it was anticipated that this legislation would mark the beginning of a new relationship between the Government of Ontario and FNs, but participants have indicated that changes to the legislation will be needed to achieve this vision.

“We started out on a government-to-government basis. That was something that we could get behind, something that shared respect for all the participants, a government-to-government relationship based on
our elders’ understanding of the treaty…what did we get instead? The same old thing, the old relationship; not a partnership a wardship.” (Hansard, Aug 12, 2009:952).

“…[T]hey [NAN] have demanded that the government of Ontario start fresh on a new government-to-government dialogue regarding a treaty-based governance dialogue approach regarding lands and waters of the Far North” (Hansard, Aug 12, 2009:943).

First Nations representatives have described several concerns about moving forward with this process without establishing a meaningful and tangible agreement on the governance structure to be created as part of the process. This ongoing dispute is detailed below in an exchange between a resident of Kitchenuhmaykoosib (KI) and the MPP for the area (Gilles Bisson):

“The proposed legislation maintains the unilateral decision-making power of the minister. Aboriginal and treaty rights are treated more as a burden on provincial jurisdiction and at the total discretion of the minister, despite the fact that we as indigenous peoples have our own jurisdiction and rights over our territories that are not substantively taken into account in the legislation” (Hansard, Aug 11, 2009:913).

“Just wondering…where do we go from here? Because the province certainly feels that it has jurisdiction” (Hansard, Aug 11, 2009:928).

“That’s the ongoing issue that should be looked at. Instead of these acts, we should take a step back and talk about that treaty relationship” (Hansard, Aug 11, 2009:928).

“Ontario thinks it’s already resolved that because it’s always been the position of Ontario that it has jurisdiction. We’re responsible for crown lands” (Hansard, Aug 11, 2009:929).

Several aspects of Bill 191 provide the Government with exclusive control over the final outcomes to be achieved. The requirement to include a minimum of
225,000 km$^2$ of protected areas in advance of the planning process is a primary example of exclusive control exercised by the Minister. Concerns were raised with this government control by FNs in the testimony related to Bill 191.

“Land-use planning must be led by the First Nations, including the development of objectives, strategies and land-use designations. These will guide how planning occurs and should not be developed by the MNR. A good example is the provincial commitment to plan to 225,000 km$^2$ of protected areas. Given the opportunity, the 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. The current thinking is strictly against the spirit and intent of Treaty 9 and more recently, the stated desired of Ontario to improve relationships with First Nations in the province” (Hansard, Aug 13, 2009:984).

“The 50% edict (area to be protected) … is against proper land-use planning and also goes against the constitutionally embedded rights of the First Nations to be consulted” (Hansard, Aug 11, 2009:916).

Another concern with Bill 191 deals with the role of the Minister where no community-based plan has been developed. The Minister retains control through the exempting order (Bill 191 2009 s.11 (3) b.). Furthermore, there is an exception order (13(4)) allowing development to advance even though there is a community-based plan in place if it is deemed to be in the social or economic interest of Ontario. The testimony below articulates this issue from the FN perspective:

“…[T]he government has the ultimate power, with the explicit discretion under the Bill, to override any land-use plan and permits a new mine to be developed if it is in the economic and social interest of the Province to do so. I take this as an insult. This is essentially saying that my community could prepare a land-use plan, identify an area of land which, for whatever reason- whether cultural, traditional or environmental- is off limits for mining development and the government has the authority to basically say that there are economic and social interests of the Province which are more important than my
community’s interest and proceed to permit the mine” (Hansard, Aug 13, 2009:932).

“…[I]t’s almost like the Province supersedes the treaty and they get to go ahead and do what they want to do” and this Bill “I find it really odd…who spoke on behalf of First Nations? Nobody spoke on behalf of First Nations…I couldn’t do that to another human person, to suppress that human person, tell them that you’re worthless, I’m superior to you, I can’t do that to anybody…these people could and I can’t believe it…even today it’s happening…that’s my issue with Bill 191…I don’t really believe in what they’re doing, it’s all pro-development, even though they say they’re going to protect an area, but they have a clause in the protected area, they take it to develop within the area and there is no real talk about partnerships only participation so you look at those factors, you…don’t have anything in your hands to say no to any development” (A1)

5.6.1.2 Planning Boundaries

Establishing planning area boundaries and designations represent the first step in initiating the land-use planning process. Two issues have emerged based on this component of the Bill 191 legislation. The first is that the planning boundary established by the Government in Bill 191 transects or divides many individual First Nation traditional territories. The traditional territory of First Nations such as Moose Cree straddle the ‘Far North’ line with lands both south of the Far North or cut line, as it is sometimes referred to (Figure 7).

Participants of the Regional Land-use Planning workshop outlined a number of concerns with the ‘Far North’ area as delineated in Bill 191 and again described them in testimony before the Senate Committee:

“The current version of Bill 191 would split the Muskegowuk Territory and only allow the participation of the northern part. The Far North land is arbitrary and meaningless, and it was drawn for the administrative ease of the MNR. It cuts through the ecological regions, it cuts through watersheds, it cuts through Treaty 9 and it cuts through Mushkegowuk..a far better alternative would be to consider all the
northern watersheds as a part of the Far North. The height of land separating the rivers flowing north and those flowing south is also very close to the boundary of Treaty 9” (Hansard, Aug 13, 2009:984).

The second issue involves the delineation of individual community planning areas for each FN. This is problematic due to shared traditional territories.

“Aboriginal title is a collective right to land is communal in nature…we’ve been there since time immemorial. It’s independent of any form of non-native legislative enactment, like Ontario or Canada. It’s governed by two principles. One that title gives our people the right to use the land for a variety of reasons for the way of life that God gave us. Number two, we can’t use land in manner which is not provided for us to use. None of us can say that we own the land as individual people and all decisions with respect to lands and resources must be made by all of our people” (Hansard, Aug 11, 2009:926).

In an effort to address this issue of overlapping traditional territories, the MC has initiated a regional planning effort that has support among its communities. This approach offers a solution to intercommunity boundaries in favour of shared lands and resources to advance planning.

“The Far North Act (Bill 191) must allow for the potential for greater co-operation between First Nations. For example, Mushkegowuk First Nations have agreed to work together to produce one regional land-use plan that is community-based but shares common resources and information amongst First Nations. The bill, as it stands, makes no provision for such scenario” (Hansard, Aug 13, 2009:985).

The delineation of boundaries that divide Treaty areas and separate communities will result in the need for multiple land and resource regulatory requirements, and plans and associated planning guidelines. This will lead to confusion in the consultation process as well as potential variability in the benefits to be received by FN communities from development on their homelands (Regional Land-use Planning Workshop (RLUP) September 2009 and February, 2010).
5.6.1.3 Summary: Evaluation of Far North planning process at the policy level

Evaluation of the Far North planning process at the policy level has highlighted the ongoing concern of FNs in this process related to control and power dynamics. Left in its current form, we believe the process will impact the potential for CBLUP to achieve community goals. The literature suggests that a more equitable approach requires the government to surrender some of the power to gain a more cooperative relationship (Zaferatos, 1998). There have been some moves recently by the government to move toward more of a power-sharing relationship, however, the details have not yet been released (Regional Land-use Planning Workshop (RLUP), Timmins, September 2010).

5.6.2 Organizational Level

Two main issues emerged based on evaluation of the Far North land-use planning process at the organizational level: role and efficacy of supporting committees; and ability of FNs to operate from a consensus-based approach.

5.6.2.1 Committees

Currently three committees are working on issues surrounding community-based land-use plans: The Far North Advisory Council, The Far North Science Advisory Panel and more recently the planning board called a ‘Joint Body’ (which has only recently been described and yet to be formed) (Bill 191 June 3, 2010, s. 6.2 (1,2,3,4,5,6).

The Far North Advisory Panel is meant to provide NAN and Ontario with recommendations to assist the development of the planning process currently underway.

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5 information regarding the creation of committees and activities of those committees was taken from www.mnr.gov.on.ca/en/business/FarNorth accessed May 25, 2010.
The membership of the council includes an assistant deputy minister of the Ministry of Natural Resources (chair), seven environmental organizations, and seven members representing the forestry, mining and hydroelectric generation sector. The council has met 12 times between September 30th, 2008 and February 20, 2009. One report has been submitted by the Advisory Council titled “Consensus Advice to the Ontario Minister of Natural Resources” dated March 2009 (Far North Advisory Council, 2009).

The Far North Science Advisory Panel was created on December 16, 2008 to consider the scientific implications of climate change, permafrost, mineral resources and terrestrial and aquatic ecosystems and to provide technical advice to assist the planning process. The membership includes research scientists from the academic, federal and provincial government, and environmental organizations.

Notably absent from both committees is representation from First Nations including resource users, Elder groups, youth, and members of the public. First Nations are not represented because they are considered a government and not stakeholders. Concerns about representativeness and inclusion of TEK were raised several times in interviews and hearings.

“[T]hey may only appoint like maybe two members and they always get out-voted if they have to vote on something, it’s just the way the government works” (A3)

“[W]e have much more knowledge about our territories than any settler or scientist will ever be able to acquire” (Hansard, August 11, 2009:914)

Another concern related to the committees is the reporting structure.
“The AC (Advisory Council) respectfully offers its input and advice to the Minister of Natural Resources, Hon. Donna Cansfield, in the context of government-to-government dialogue with the Nishnawbe Aski Nation (NAN) territory tribal councils and First Nations.” (Advisory Council, 2009:3)

If a government-to-government process is being developed, the products created by involved committees should be presented jointly to both the Minister and the NAN Chiefs. In addition, mechanisms should be worked out to ensure more inclusive group representation from the wider NAN population. Committees might be co-chaired by a NAN Chief or negotiator.

5.6.2.2 Consensus Decision-Making

Consensus-based decision-making is the dominant form of reaching a decision in First Nations governance systems. First Nations have indicated that participation in the process to date has not allowed for proper consensus to be reached among its membership.

“I feel that we’ve done a lot of work as First Nations in how we want to proceed with our territory and foresee how it’s going to develop. Yet we are always pressured on how we’re going to make decisions at the end of the day. We’re getting tired of that, that you come to us and basically say, “You’ve only got so many days to come to these hearings…to say your say”, and yet you don’t listen to us anyway” (Hansard, August 12, 2009:954)

“We don’t have enough time to get together, to analyze and develop a common position. Cree and Ojibway territory relationships are based on principles of collective rather than private property, and the process (Far North legislative process) undermines the ability for a collective response to development. A collective takes longer as it needs to be based on meaningful community-oriented dialogue where everyone understands the issues using the Cree language, etc” (Hansard, August 13, 2009:978).
5.6.2.3 Summary: Evaluation of Far North planning at the organizational level

Four main concerns have been raised by FNs related to committee structures to-date under Bill 191. First, the creation of committees and boards to undertake planning give rise to concerns related to the structure of the committee, the nomination of members with particular political views and representation that reflects the diversity of the affected community. Second, local representation is not included in the membership of the committees. Third, expert and traditional knowledge is not incorporated into the current committee structure or process. Finally, consensus-based decision-making has not been effectively incorporated into the Far North land-use planning process. FNs are unable to operate from a consensus-based approach through the process detailed in Bill 191.

5.6.3 Operational Level

5.6.3.1 Community Consideration

This section considers local level activities related to land-use planning that will be carried out under Bill 191 if passed. These activities include participation, use of traditional language, local training, and funding.

Many local community representatives expressed concerns about participation in land-use related activities.

“…it’s really hard to get input from the community, only a few people come forward…even when we call for a general meeting there is only maybe a quarter that shows up and…that’s one thing that we need to work on, is getting more community involvement…and when decisions is made we try to base it on what the community wants…” (A3)
Many families are currently dealing with very difficult social, health and economic issues (see Raphael, 2004). These pressing issues make participation in longer term planning activities almost impossible.

First Nations have also indicated that participating in a land-use planning process that was conceived outside of the language and traditional approaches of FN peoples presents a challenge to local residents:

“I think that the community awareness training is a first step. People have to understand the whole project using the Cree language. We need facilitators to spread the word. Then, once we get consent from the people, the project can proceed from there” (Hansard, Aug 13, 2009:979).

“…so we had been doing land-use planning but the trouble is we get lost in the terminology, semantics…we never use one word to describe land-use planning it’s all so many words saying land-use planning and the elders do not understand land-use planning”(A7).

“…it’s just that everything is being done in the English language and the people they don’t understand these are the people…that we meet are professional people, technical people, lawyers...mediators, I guess, but they all speak English and they don’t understand what is going on…and we just agree with whatever they say” (A7)

In addition to the language issue, a lack of understanding or adequate knowledge of the requirements of the land-use planning exercise was a common concern of interviewees.

“I think honestly some of them [the communities] are just maybe not the most well informed, you know and that’s certainly because there just isn’t enough data, and they need more…”(A8)

“…They won’t say much because they don’t know what the land-use planning really means…where it’s going and why it came up, they don’t know that..if it were explained more like the whole thing…who
started it? Why did they start it? Why do they want that now? How come they didn’t do it before?” (A5)

Local training is an important component to this process and has been initiated in the Mushkegowuk territory with the Mushkegowuk Council staff through the provision of support to member communities related to land-use planning (MC, 2010). However, funding continues to constrain the amount of support that MC is able to provide.

Many representatives from the mining industry, environmental groups and First Nations agree that funding has been inadequate. Most of the funding has been directed towards OMNR-based projects such as resource mapping. Significant financial resources are necessary to undertake FN land-use studies to contribute to the planning process, but these are not being funded. FN individuals presented the following on this issue to the Hearing Panel on Bill 191.

“The legislation cannot achieve its goals unless greater governmental resources are dedicated to enhance the capacity for land-use planning in the Far North...In embarking on the monumental task of land-use planning in the Far North, the government needs to ensure the necessary funding mechanisms are in place or it won’t work” (Hansard, Aug 11, 2009:921).

“We support the Far North advisory council recommendation of a new investment of $100 million over five years. If you’re going to plan 43% of the province, you’d better put your money where your planning is. This initiative will fail if it is not properly resourced...to date the province has allocated approximately $10 million over 4 years to plan for 45 million hectares or 43% of the province” (Hansard, Aug 13, 2009:995).
5.6.3.2 Summary: Evaluation of Far North planning process at the implementation level

Ensuring participation from individuals representing the diversity of the community is key to ensuring that a plan is created that incorporates a collective vision for the future of a community’s traditional territories (Lane and McDonald, 2005). Adequate funding and resources (O’Fairchealellaigh, 2007), local training, and proper use of both English and Cree to deliver information (Wellstead and Rayner, 2009) will promote greater participation throughout the process.

Further educational outreach is clearly necessary to ensure that the plan created is representative of a collective vision for the community’s traditional territories.

The financial demands of undertaking the collection of local knowledge, new technologies for mapping land areas and resources, the human resource requirements and in this case the high cost of transportation between isolated communities are all factors that require adequate long-term funding.

5.7 Conclusions/Recommendations

Although community-based land-use planning presents a potentially significant opportunity to improve the quality of life of First Nations in Ontario’s north through empowerment and political autonomy, there remains much to be done to realize this potential. The overarching theme that has emerged from this research is a very serious concern from FNs with regard to the lack of a proper government-to-government relationship that is required based on Treaty rights. Unless the Government of Ontario moves to a process that adequately addresses these concerns, it is very unlikely FN
support for Far North planning will be achieved. In moving forward, the entire process would benefit if both governments would initiate formal dialogue to:

i. reach an agreement that adequately describes the role of each within the process;

ii. explicitly recognizes Treaty rights within the land-use planning process; and

iii. Identify how power within the land-use planning process and wealth from natural resource exploitation will be shared.

The government should also revisit the Far North planning area boundary. FNs properly indicate that their traditional territories will be divided, with those south of the cut line regulated by existing land-use and management processes such as the Class EA process, while those north of the line will be subject to a new and completely different regime. Much has been written regarding ecosystem-based approaches and the role of boundaries. In fact, Ontario is a leading jurisdiction in the use of watershed boundaries in southern Ontario, through the Conservation Authorities Act (1946) (Shrubsole, 1996). There is potential common ground between the Ontario government and First Nation governments with respect to the use of watersheds. FNs prefer more holistic approaches to the consideration of their traditional territories (Berkes et al. 2000). This common ground represents an opportunity to achieve more integrated planning outcomes that align with the objectives of Bill 191 (e.g. through protected areas, “maintenance of biological diversity, ecological processes and ecological functions…” (Bill 191 2009 s.6(2)(3)) and meet the desire of FNs to avoid having their traditional territories divided by Bill 191. Unfortunately, such an approach is unlikely as the outcome would reduce the benefits
provided by existing legislation to the government and private sector in terms of access to resources.

Current Far North planning committee structures are unlikely to advance input that is inclusive of those who actually live in the Far North. A reconsideration of the representativeness on each committee is required within the context of Treaty rights. In addition, the co-chair positions should be held by representatives from Ontario and FNs. Finally, the reporting from committees should be made jointly to the Minister of Natural Resources and the NAN Chiefs. These are clear examples of how a true government-to-government relationship would be manifest. This issue of Committee structure and reporting also extends to the power issue presented in the results section. The government retains all the power with respect to decision-making e.g. the ability to over-ride community-based plans if in the interest of Ontario (Bill 191 2009 s. 13(4). Unless the government makes a decision to share power with FNs then support for Far North planning by those living in the area will not emerge. Sharing power might take the form of a northern commission of planning with significant representation from the government and FNs (Irlbacher-Fox, 2004).

Adequate, long-term funding for Far North planning must be provided directly to the communities or FN regional governments. The Far North Science Advisory Panel and many who testified before the Senate Committee hearings made this point. Unfortunately, the government has not provided adequate funding; to date funding has gone to OMNR and its Far North land-use planning activities. This has led to marginalization of FNs in the process and is a clear example of the government using funding to maintain control through the type of information generated and its use (Forester, 1982, Margerum, 2002).
Finally, local level training targeting diverse groups within communities is necessary to raise awareness about the process and describe its value and potential for maintaining and preserving the culture of the Omushkego Cree. Community land-use planning coordinators should be permanently hired in each community. These coordinators should be responsible for overseeing planning processes in partnership with MC and NAN, and a northern commission if established. The coordinators should also be responsible for land-use planning training.

The issues raised and discussed above are matters of social justice. We have the opportunity to share power and resources in the Far North with FNs to address many of their grim social, economic and health challenges. The process of developing legislation may be completed as early as the Fall of 2010. The FNs have made it clear that unless significant improvements are made then free access to traditional territories will not be continued (NAN, 2010d, 2010e). The implications of a move to such a strategy are significant for FNs, the Ontario government and others living in Ontario.

This research has provided a critical examination of the development of legislation to guide FN community-based land-use planning in Ontario’s Far North. In doing so, the dominant issues of the current case (Far North land-use planning) have been described. The findings suggest an urgent need for both conceptual/theoretical and practical development to improve land-use planning in northern areas that are also traditional territories of FN peoples.
Chapter 6

Conclusions, Future Research and Recommendations

This chapter presents the findings/implications from the two papers and discusses each in the context of the likely outcomes of land-use planning in the Far North and Mushkegowuk Territories.

The objective of the abiotic, biotic and cultural resource survey was to gather readily available information and evaluate it for scoping purposes to contribute to the process of identifying what issues should be addressed through land-use planning. This exercise was effective in highlighting the diverse and continuously changing environment that has been home to the Muskegowuk Cree for centuries. Chapter 4 presents initial implications from this analysis that require further study and consideration in the planning process. We suggest the following activities are of importance:

1. Additional and extensive study, based on both western science and traditional ecological knowledge into abiotic, biotic and cultural values and processes as described in Chapter 4 (Section 3.0);
2. Explicit land-use planning designations that set aside areas from industrial development to ensure the protection of the natural environment;
3. Long-term protection of FNs subsistence land-use practices; and
4. Most importantly, a process that recognizes Treaty rights and deals with the FN peoples on a Nation to Nation basis.

The current approach as detailed in Bill 191 and based on recent initiatives of the Ministry of Natural Resources, indicates that activities above are not likely to be
achieved. The Ministry of Natural Resources has directed the majority of the resources set aside for Far North planning on resource mapping. This mapping is based on western science and there has been no collaboration on what should be mapped. Furthermore, resources provided for traditional ecological knowledge studies have been minimal. The Province has also been unable to deal with FNs on a government-to-government basis. This is the most serious flaw in the approach to land-use planning in the Far North.

Bill 191 has the potential to set aside significant areas from industrial development through the protected area network of 250,000 km². However, the issue of access to these areas for FN subsistence activities is yet to be resolved.

The objective of Chapter 5 was to explore the institutional arrangement emerging at the policy, organizational and operational levels in the community-based land-use planning process in Ontario’s Far North. These three levels emerged from the literature review and development of a conceptual model designed to guide the research for this paper.

The use of the conceptual framework (introduced in Chapter 5) was an effective tool in exploring this complex issue. The literature provided a basis to consider the features of land-use planning and related policy that contribute to achieving community goals, the overarching objective of the process. Greater participation is a common theme in the literature and has the potential to contribute to successful FN land-use planning (see Chapter 5, Section 5.3.2).

The following section discusses the degree of participation at each institutional level based on Bill 191 and the process to date.

Policy-level considerations examined in this research incorporated the
consideration of those features associated directly with the legislation, the negotiation of agreements to consider planning issues, the consideration of jurisdiction over the land considered under this planning policy and the structural framework of the legislation. This is the first level to consider whether FNs have/will have a significant role in the planning process, an objective of Bill 191. The research highlighted the fact that the government retains overarching, ultimate decision-making power over the land-use planning process through the requirements of the Bill (e.g. 225,000 km² protected areas, ability of the Minister to set aside CBLUP in the provincial interest and the enduring position that the province has sole jurisdiction over the land base). This contrasts with the FN position rooted in historical and Federal statutes (Treaty rights, Aboriginal rights, duty to consult and accommodate) that imply there should be a shared approach to the creation of legislation. Our findings suggest that there requires greater incorporation of FN input to move towards actually demonstrating a ‘significant role of First Nations’ in the planning process.

Organizational level considerations included the role of committees that are created to inform ongoing policy development. The role of committees in potentially achieving adequate FN participation are rooted in the decision-making process that is strongly connected to power and control. In this case, participation is reflected in the representativeness of people and forms of knowledge (western science and traditional ecological science). The evaluation of this institutional level displayed limited inclusion of FN representatives in consideration of the policies and programs associated with this legislation.

Operational-level considerations included the degree of participation that could be
achieved at the community level. The general finding that emerged was that currently there are barriers limiting participation in the process that included difficulty in understanding language and cultural components of land-use planning in terms of the Cree world view. Another limiting factor that was recognized by many participants was a lack of financial resources to carry out CBLUP activities that would reflect traditional teachings and cultural practices. A lack of resources to encourage these types of activities represents another factor limiting participation of FNs in the process.

These results indicate serious shortcomings with the current process. As discussed in Chapter 5, FNs appear to be moving to a more confrontational approach in an attempt to be accepted as an equal partner in the process. This is troubling as the Far North planning process, as initially conceived, appeared to be dealing with FNs on an equal basis. As the process progressed, however, it has become clear the Government is not committed to power and resource sharing. The future may be significantly more contentious as FNs struggle with development that takes place without adequate FN input and control.

**Future Research and Recommendations**

1. Additional research on the complex subsurface and surficial geology, hydrology and vegetation of the region is required, especially in light of the ongoing influence of isostatic rebound and climate change. Research should be carried out from both western science and TEK perspectives and should address the implications of future industrial, infrastructure, transportation and community development.
2. Ongoing studies including comprehensive monitoring of flora and fauna of the region should be carried out to better understand ecosystem structure and function and subsistence resources used by communities throughout the region. In order to thoroughly consider the impacts of complex conditions in the region, a framework that integrates western science and TEK is necessary to ensure that the greatest depth of understanding is achieved in advance of determining land-use designations (protection or open to development). This may require the development of special processes that protect traditional knowledge.

3. The region is the traditional territory of the Muskegowuk Cree meaning that much of the territory holds sites of cultural and spiritual significance. The identification and protection of these resources are critical to the people of the region.

4. A broad area of future research is needed to further develop the conceptual and theoretical underpinnings of aboriginal land-use planning, along with practical applications. These are discussed below.

   - The issue of planning boundaries needs immediate attention. Our findings indicate that the current process has resulted in the delineation of planning areas that transect watersheds, traditional territories and communities presenting serious challenges. Planning must ensure that the importance of lands as a shared resource among FN is properly taken into consideration.

   - Research is needed to determine how land-use planning processes, both plan development and implementation, will ensure continued and unobstructed access for FN peoples to traditional territories as
provided for in treaty and Aboriginal rights. The exercise has revealed that to date the delineation of protected areas in the region has interfered with these traditional uses. The creation of additional protected areas, to reflect climate change policy, or to ensure future biological diversity, should be done in a manner that ensures FN access and ongoing traditional stewardship of the lands.
References


Bill 191 (First Reading June, 2, 2009) *An act with respect to land use planning and protection in the North, 39th Legislature, 1st Session.*

Bill 191 (Second Reading June 3, 2010) *An act with respect to land use planning and protection in the North, 39th Legislature, 1st Session.*


Department of Indian Affairs (1901). *Treaty No. 9 The James Bay Treaty – Reports, correspondence, drafts, memorandum, order in council, correspondence between office of the Inspector of Indian Agencies and Reserves and the Department of Indian Affairs*. RG


Appendix A- Ethics Approval

February 2, 2010

Ms. Holly L. Youden
Department of Environmental Studies
Queen’s University

GREB Ref #: GENSC-032-09
Title: “Exploring the social, political and environmental factors that influence past and present policies related to land and resource planning in the James Bay Region with an emphasis on the community of Fort Albany, ON”

Dear Ms. Youden:

The General Research Ethics Board (GREB), by means of a full board review, has cleared your proposal entitled “Exploring the social, political and environmental factors that influence past and present policies related to land and resource planning in the James Bay Region with an emphasis on the community of Fort Albany, ON” for ethical compliance with the Tri-Council Guidelines (TCPS) and Queen’s ethics policies. In accordance with the Tri-Council Guidelines (article D.1.6) and Senate Terms of Reference (article O), your project has been cleared for one year. At the end of each year, the GREB will ask if your project has been completed and if not, what changes have occurred or will occur in the next year.

You are reminded of your obligation to advise the GREB, with a copy to your unit REB, of any adverse event(s) that occur during this one year period (details available on webpage http://www.queensu.ca/or/researchethics/GREB/forms.html - Adverse Event Report Form). An adverse event includes, but is not limited to, a complaint, a change or unexpected event that alters the level of risk for the researcher or participants or situation that requires a substantial change in approach to a participant(s). You are also advised that all adverse events must be reported to the GREB within 48 hours.

You are also reminded that all changes that might affect human participants must be cleared by the GREB. For example you must report changes in study procedures or implementations of new aspects into the study procedures on the Ethics Change Form that can be found at http://www.queensu.ca/or/researchethics/GREB/forms.html - Research Ethics Change Form. These changes must be sent to the Ethics Coordinator, Gail Irving, at the Office of Research Services or irvingg@queensu.ca prior to implementation. Mrs. Irving will forward your request for protocol changes to the appropriate GREB reviewers and / or the GREB Chair.

On behalf of the General Research Ethics Board, I wish you continued success in your research.

Yours sincerely,

Joan Stevenson, PhD
Professor and Chair
General Research Ethics Board

cc: Dr. Graham Whitelaw, Faculty Supervisor

JS/kr
Appendix B – Sample Interview Questions

Interview Thematic Overview
First nation participant’s questions will focus on:

- Treaty #9
- Bill #191
- First Nation’s land and water resource rights
- Land Use Classifications
- Building capacity
- Self-governance

Sample questions:

What do you think the purpose of Bill 191?

How do you think the provincial / FN relationship has been affected by this Bill?

What are your feelings [past and present] with respect to your access to the land. How do you think Bill 191 may influence your access or lack of access to your traditional lands and waters?

Can you describe the traditional approach to land management and conservation?

How do you feel this proposed legislation aligns with land and resource rights in Canada?

How do you feel this proposed legislation aligns with the global standard for aboriginal land and resource rights?

Mushkegowuk Council and MNR staff questions will focus on:

- Treaty #9
- Bill #191
- Protected lands
- Policy development
- Public consultation
- First Nations’ collaboration

It is anticipated that two interviews with the Mushkegowuk Council staff and three interviews with MNR staff and management will be conducted.

Sample questions:

What do you think the purpose of Bill 191?
How do you think the provincial / FN relationship has been affected by this proposed bill?

What are the goals and objectives of the [MNR/MC] related to land and resource management?

What ways does the proposed bill accomplish these goals and objectives?

Can you describe the approach to land management and conservation by the province?

How do you feel this proposed legislation aligns with land and resource rights in Canada?

How do you feel this proposed legislation aligns with the global standard for aboriginal land and resource rights?