UNEARTHING RECOGNITION

Examining Indigenous Agency in the Land Development Process in Ontario

Master’s Research Report
School of Urban and Regional Planning
Queen’s University at Kingston

May 17, 2017

Scott Alain
# Table of Contents

1.0 Executive Summary ................................................................................................. 1

2.0 Introduction ............................................................................................................. 3
   2.1 Research Question ............................................................................................... 3
   2.2 Relevance of Research ....................................................................................... 6

3.0 Methodology ........................................................................................................... 8
   3.1 Literature Review ............................................................................................... 8
   3.2 Document Analysis – Legal and Policy Framework ............................................ 10
   3.3 Document Analysis – Media Coverage ............................................................... 11
   3.4 Case Study Analysis - Active Development Applications in Three Municipalities .......... 11
   3.5 Interviews .......................................................................................................... 14
   3.6 Research Limitations .......................................................................................... 16
   3.7 Precedents ......................................................................................................... 17

4.0 Findings and Case Analysis ..................................................................................... 18
   4.1 Legal and Policy Framework ............................................................................. 18
      4.1.1 Provincial Legislation .................................................................................. 18
      4.1.2 Municipal Legislation ................................................................................ 22
   4.2 Media Coverage ................................................................................................. 26
      4.2.1 St. Lawrence Market redevelopment, Toronto ............................................. 27
      4.2.2 Allandale Train Station, Barrie ................................................................... 28
      4.2.3 Zibi, Windmill Development Group, Ottawa ............................................. 28
   4.3 Analysis of Active Development Applications: Ottawa, Guelph and Kingston ......... 33
      4.3.1 Ottawa ....................................................................................................... 35
      4.3.2 Guelph ...................................................................................................... 38
      4.3.3 Kingston ................................................................................................. 39
   4.4 Interviews .......................................................................................................... 40
      4.4.1 Indigenous Engagement ............................................................................. 41
      4.4.2 Indigenous Voices ..................................................................................... 43
      4.4.3 Archaeological Assessment ....................................................................... 45
      4.4.4 Where Archaeological Assessment Does Not Happen .................................. 48
      4.4.5 The Future of Indigenous Engagement and Archaeological Assessment .......... 49

5.0 Discussion .............................................................................................................. 50
6.0 Recommendations ........................................................................................................................................... 53
7.0 Conclusion .......................................................................................................................................................... 56
8.0 Bibliography ....................................................................................................................................................... 59
Appendix A – Application Analysis Data Table .................................................................................................. 64

Table of Figures

Figure 1: Map locating active development applications for three municipalities in southern Ontario: Ottawa, Guelph, and Kingston. .......................................................................................................................... 33
Figure 2: Highest Stage of Archaeological Assessment Reached Where Performed in Ottawa, Guelph, and Kingston. ................................................................................................................................. 34
Figure 3: Map of Archaeological Potential in Ottawa - GeoOttawa 2016 ......................................................... 35
Figure 4: Comparative Demonstration of Archaeological Assessment Performed where Required in Ottawa, Guelph, and Kingston ........................................................................................................ 37
Figure 5: Map of Archaeological Potential in Guelph (Oriented Counter-clockwise) - Guelph Official Plan ................................................................................................................................................. 38
Figure 6: Map of Archaeological Potential in Kingston - Kingston Archaeological Master Plan 39

Acknowledgments

As urban planners, our achievements are continually tempered through our interaction with communities – whether comprised of colleagues or strangers. A sincere thank you to those who have offered me solace, mentorship, patience, and direction. Thank you to Dr. Leela Viswanathan for a rewarding and fruitful report supervision. Of utmost importance, I am grateful to the Anishinaabe and Haudenosaunee peoples in Kingston; and the Algonquin peoples in Ottawa, for allowing me to complete my research project on their unceded territory. May Canadian planning professionals continue to use their unique position of influence to foster equity and agency among marginalised groups.

This research is supported by a Social Sciences and Humanities Research Council of Canada (SSHRC) Joseph-Armand Bombardier Canada Graduate Scholarship.
1.0 Executive Summary

The purpose of this report is to analyse the degree to which urban planning policy and legislation in Ontario which concerns Indigenous interests is embodied in the observed practice at the local level. In doing so, specific attention was drawn to the two major policy foci which address Indigenous interests: Indigenous consultation and engagement; and archaeological assessment. While the association of the former is more apparent, the connection between archaeological assessment and Indigenous interests is more complex. Archaeological assessment pertains to all artifacts and landscapes of cultural significance; however it is of key significance to Indigenous peoples as findings can provide evidence for land claims and fill in many of the gaps in Indigenous histories caused by forms of cultural genocide undertaken by previous Canadian governments. As a result, in assessing the ways Indigenous engagement and archaeological assessment policies and laws are applied in practice, it becomes possible to determine the amount of influence on the planning process, or agency, Indigenous peoples may have.

This report made use of multiple methodologies to ensure the research findings were robust. A literature review situated the subject of this report within the relevant academic discourse. A document review analysed the legal and policy framework in addition to any media treatments that were relevant to my research. A case study analysis of active development applications Ottawa, Guelph, and Kingston was undertaken to assess the ways by which these municipalities applied and practiced provincial guidelines pertaining to Indigenous interests. Finally, six practicing professionals from the fields of municipal planning, land development consulting, heritage planning, archaeology, and Indigenous law were interviewed in order to substantiate any findings and to probe deeper into the intricacies of the issues being discussed.

This research determined that planning practice at the local level does not consistently meet the expectations and intentions laid out in provincial policy. It was further made clear that this gap between policy and practice comes at the expense of Indigenous agency within the planning process. Five recommendations are provided with particular audiences in mind with the intention to more effectively recognize Indigenous interests within planning process. They are organized by priority:
1. The Province: Develop a technical document at the provincial level to guide Indigenous engagement, thereby elaborating upon the ways by which the PPS policies on this subject are to be interpreted.

2. Municipalities: Enrich policy language in official plan documents to allow for input from Indigenous groups not considered to be the key Indigenous group designated for engagement.

3. Municipalities: Improve online municipal development application interfaces so they clearly identify whether an archaeological assessment is required for a site, and if it has been performed where required.

4. The Province: Mandate Indigenous engagement at Stage 1 of archaeological assessments where the site is believed to have significant Indigenous archaeological resources.

5. The Ontario Professional Planners Institute: Make Indigenous engagement training a mandatory requirement for planning certification (RPP) in Ontario.
2.0 Introduction

The ongoing and important narrative of Indigeneity in Canada pervades and engages with all the avenues of business, politics, and daily livelihood and constitute contemporary experiences. Therefore urban planning, which is often situated at the nexus of these three components, is a key space to observe the ways which Indigenous interests are being thought about, addressed, and interpreted (Walker et al. 2013:xix). Indeed, an analysis of the relationship between Indigenous peoples and urban planning policy makes it possible to plot a future trajectory which respects both the opportunity for meaningful improvements in Indigenous agency and the nature of such improvements themselves. Indeed, development of the role of Indigenous peoples within planning practice is not fostered through rumination, but through an active and ongoing analysis of the existing federal, provincial, and local policy guidelines. These can then be held against the observable practice in order to allow for substantial improvements to Indigenous livelihoods through an increased ability to have an impact in this domain.

2.1 Research Question

In my research, I have aimed to move forward with the above theoretical direction by asking: what is the interface between Indigenous urban planning policy and “on-the-ground” planning practice? In doing so, I have investigated the ways that Indigenous interests are thought about and addressed by municipal staff and other professionals. In particular, by “Indigenous planning policy”, I am referring to Canadian legislation, whether federal, provincial, or municipal, that acknowledges (or should acknowledge) the role Indigenous peoples have in the planning

---

1 In this report, “Indigenous” is used to address First Nations, Inuit, and Metis peoples as a collective – however is not intended to imply homogeneity among these groups. “Indigenous” is also used throughout the interview findings for this report (Section 4.4) where it is applied to protect the anonymity of specific Indigenous groups discussed by research informants.
process. By “on-the-ground practice”, I am referring to the way that the aforementioned policies are interpreted by agents, such as municipal staff, and subsequently applied in the context of development applications.

More tangibly, I am concerned with the way that policy supportive of Indigenous interests set out in the 2014 *Provincial Policy Statement* (PPS) is implemented at the local level firstly through the way it influences required updates to official plans in Ontario municipalities and secondly as it is actually applied in the development process through interpretation by municipal staff and other professionals. In considering this, I have reviewed additional provincial legislation as well as municipal legislation and development applications pertaining to three Ontario cities – Ottawa, Guelph, and Kingston. I investigated shortfalls which occur through the translation of this information from the policy level to the individuals who contend with it daily; whether from a decision-making position, as a stakeholder, or as an Indigenous person or group with entitlement to the site in question.

Two specific contexts in the contemporary Canadian planning process which engage prominently with Indigenous peoples are firstly, public consultation regarding areas wherein Indigenous groups possess significant entitlements (often referred to as “stakeholders” by the Canadian state), such as land which they have historic or current title to; and secondly archaeological assessments prior to development on land which might have cultural heritage features. Both of these processes (which often intersect where they are found) are mandated at the provincial level on relevant properties, and both are victim to shifts in interpretation as these policies are transferred to the day-to-day decisions of municipal staff.

Through a diverse body of methodologies (See Section 3), it has become apparent that there are present systemic, legal, and cultural shortfalls which challenge the Indigenous ability to
have a meaningful role in the land development process. At the present, it is apparent that admirable strides have been made to address disparities faced by Indigenous peoples in this process, however it is an ongoing battle that requires guidance at every cross-section in order to ensure productive and meaningful steps forward through the implementation of new policy and legislation.

My core theoretical basis for the way I depict the Indigenous role in planning is through the notion of agency. This is a well-developed concept in the social sciences, especially sociology and anthropology, which refers to an individual’s ability to act within and influence the world around them (Barker 2005:448). In this case, agency refers universally to an individual Indigenous person’s ability to have an influence on the land development process or to one or multiple Indigenous groups’ abilities. This term appropriately addresses my research in that it has been my intention to examine the degree to which Indigenous groups in Ontario are able to operate within the planning process in a way that reflects that which they are entitled to individually and as groups given both present legislation and histories.

The primacy of how these planning domains greatly affect Indigenous peoples lies in the reality that both public consultation with Indigenous groups and mandatory archaeological assessments are relatively new additions to the Canadian planning process and as such pose a great opportunity for elaboration and improvement while they are still malleable from a policy standpoint (Etzioni 2008:835). In their current state, they appear victim to holes of vagueness and lack of specificity which affect successful outcomes in actual planning practice; especially from the Indigenous perspective. As the Canadian nation state continues to contend with the importance of Indigenous agency and culture to our shared experience and livelihood, there is an opportunity to advocate for and elaborate upon the ways by which the planning process can be augmented by
improved partnerships with Indigenous peoples throughout the urban planning process; both in policy and in practice.

2.2 Relevance of Research

A growing body of academic literature, notably within the field of urban planning, has identified the historic and present policy issues which have limited Indigenous peoples from having an active role, and indeed, an influence, in the development of urban spaces (Walker, Jojola, and Natcher 2013). On one level, this literature has appeared in response to the racist assumption that Indigenous peoples and urban livelihoods are mutually exclusive entities; a mythology perpetuated by longstanding popular notions of the noble savage who is at home in the wild (Ellingson 2001) and subsequently embedded in government legislation from the federal level to the local level. Nonetheless, part of this burgeoning interest is connected to the growing urbanity of their population – 56% of Canadian Indigenous peoples now live in cities (INAC 2012)\(^2\). Given the confluence of both the growing urban Indigenous population and these groups’ historical ties to this land as the first peoples of Canada, it is a necessity that they have a legitimate role in its planning.

With Canada’s Indigenous peoples being its fastest growing population segment (INAC 2010), it is crucial to sincerely consider whether or not their interests are being voiced and effectively implemented in contemporary planning. The contemporary planning climate offers an important turning point where the successful future of our cities relies not simply upon thinking

\(^2\) The federal department known currently as Indigenous and Northern Development Canada (INAC) has changed titles numerous times in recent history. While the department may have been known under a different name at the time of completion of reports cited in this document, the current department name has been used throughout for clarity and consistency.
about the importance of Indigenous voices in planning, but also critically considering whether municipalities are following through with these notions in a productive and meaningful way.
3.0 Methodology

The completion of this report was grounded upon a combination of the following methods: literature review; document analyses of varying types; an analysis of active development applications in three municipalities; and expert semi-structured interviews.

3.1 Literature Review

A close analysis of the academic discourse which discusses the relationship between planning and Indigenous people was an essential component to this project. The literature underpinning this interface is relatively recent but nonetheless well-established. Ted Jojola, a leading scholar in the field, situates the Indigenous planning discourse as forward-looking yet grounded in the context of Indigenous histories, both shared and distinct, which come to inform and interact with the field of planning both in theory and practice (Jojola [2008] in Walker et al. 2013:xviii). Furthermore, Walker and Belanger note that “Planning as a colonial cultural practice, conceiving the shape and form of modern cities, scarcely engages in relational processes with Indigenous peoples that might expand its repertoire” (Walker & Belanger in Walker et al. 2013:196). This conception of planning is a foundational concern and in many ways incited the investigation which became this report.

Beyond the theoretical introduction traced above, it is key to note that Indigenous planning is not a new invention – North American communities have planned for themselves since long before the onset of European settlement and colonialism (Walker and Matunga 2013:15). While much has been lost through the implementation of residential schools and other forms of cultural genocide performed by the Canadian government, what is known is that Canadian Indigenous planning in its historical context is not limited to matters of spatiality, but extends to draw attention
to well-being, kinship, resources, and the environment. In this sense, calls for Indigenous planning do not demand the creation of something new, but instead suggest a resurgence to once again apply the self-determination they previously had in contributing to the holistic formulation of their lived experience (Walker and Matunga 2013:15-16).

The primacy of this report is associated with the complex relationship between Indigenous peoples and planning which precludes them from an ordinary role in the process. As Libby Porter remarks, “We cannot…simply ‘add’ Indigenous people to the list of stakeholders because the particular constellations and outcomes of colonial violence and power constitute the contemporary rights claims of Indigenous peoples in very different ways” (Walker et al. 2013:290). This is a key notion to grasp in relation to this report. It is not adequate to merely “check the box” that the relevant Indigenous groups have been acknowledged – there is a long project of reconciliation that needs to be undertaken (and in some communities, is finally beginning) which requires a far wider frame of discourse. These notions have guided my report and have provided a foundation from which to develop the theory further.

As will be explored in the conclusion of this paper, the direction forward relies upon a bottom-up approach where awareness of Indigenous voices in the land development process originates with advocacy at the municipal level. Despite characterizations of Canada as a progressive and comfortably diverse nation, there are underlying and silent forms of systemic racism that challenge and discount the importance of Indigenous issues within the urban planning process. Given the readily apparent success stories where progressive municipalities have championed Indigenous interests as a non-negotiable component of the planning process, it is clear that this is a feasible direction forward.
3.2 Document Analysis – Legal and Policy Framework

The primary legislative and policy documents which I draw from are the 2014 Provincial Policy Statement; the Planning Act (R.S.O. 1990); Municipal Act (S.O. 2001); and the Ontario Heritage Act (R.S.O. 1990); and the Official Plans and Archaeological Master Plans for my case study municipalities (Ottawa, Guelph, Kingston). These documents are key in that they provide the framework for land development, including its relationship with Indigenous interests and archaeology, thereby offering a basis from which to assess the way that planning in practice adheres to the requirements laid out therein.

Gordon Waitt (2010) outlines that Foucauldian Discourse Analysis is key to interpreting and coming to appreciate the nuances inherent within texts and the implications stemming from their influence. More particularly, he suggests that it has become possible to understand notions of power and ideology through the ways by which systems of knowledge become embedded within texts; in this case the policy which affects the Indigenous interests discussed in this report (Waitt 2010:218). Indeed, the construction of policy, its basis, and its subsequent influence on social mechanisms can be better understood through such an analysis.

Policy documents are key to this research because of the expectations they put forward for municipalities concerning Indigenous interests and entitlements in the planning process. The Provincial Policy Statement (PPS) sets out explicit guidelines which mandate consultation with Indigenous peoples where relevant, and prioritise the preservation of cultural heritage landscapes and artifacts (both Indigenous and otherwise). Further, along with the Ontario Heritage Act, the PPS directs municipalities to identify and map local areas of archaeological potential. Following this, it is then required that an assessment is undertaken prior to any development where there is believed to be potential.
3.3 Document Analysis – Media Coverage

Contemporary articles and publications from news outlets which discuss the relationship between Indigenous peoples and ongoing development projects were also analysed for this project. Parallels between what is communicated in the academic literature and what has been observed through primary research into active development applications was investigated. More particularly, these indicated public perception on the issues being investigated and elucidated where priorities lie among the public. Research into media coverage was performed largely through the use of Google News. This made it feasible to research a wide gamut of news outlets through a solitary portal in addition to the use of Google Alerts which notify the researcher when a new article pertaining to the selected keywords is released. The keywords used, in various combinations, included: Aboriginal; Indigenous; First Nations; Ontario; planning; development; policy; archaeology; Provincial Policy Statement; and land claim.

3.4 Case Study Analysis - Active Development Applications in Three Municipalities

A central focal point for this project was an effort to go beyond policy language and attempt to examine the actual planning “practice” behind consultation and archaeological assessment. This was achieved in part by selecting Ontario municipalities and using their online resources to access active development applications.

Research into case studies is an effective qualitative research method whereby the close analysis of a real-world situation can help affirm or explore theoretical ideas which underpin the situation. Baxter (2010) suggests two different roles of the case study methodology: the first is to test theory, and the second is to expand or generate theory. My approach followed that of the latter; as the case studies were used to generate and expand theory.
In doing so, I used my three municipal case studies: Ottawa, Guelph, and Kingston, to determine a baseline theoretical understanding of the ways that the development process interacts with Indigenous interests on a general level. Baxter makes a concerted effort to explain that including multiple case studies is not necessarily done in order to establish statistical generalizability, and nor did I intend to – instead, in line with Baxter, I used multiple case studies to form a wider basis for explaining the phenomena and for broadening the theoretical understanding of it (2010:89-90). The analysis of the development applications was conducted as described below:

1. Access the subject municipality’s online portal for viewing active development applications and individually open each active development application file.
2. Cross-reference the address of each development application with the municipality’s archaeological potential map.
3. If the map indicates that the development application is on a property with archaeological potential, review the online documents associated with the development application to determine whether an archaeological assessment and/or consultation with the relevant Indigenous group was undertaken where required.
4. Maintain an ongoing record of the frequency with which archaeological assessments and consultation are waived by the municipality to create statistics which can approximate how often this is done.
5. Repeat for each municipality.
6. Conduct a comparative analysis of the municipalities.

A requirement for the selection of the case study municipalities was that they had an online portal to view active development applications and download associated documents. Additionally, it was essential for each municipality to have an existing archaeological potential map to compare each development site to. These factors were essential to be able to perform this research from a remote location.
There are several limitations to this method that should be established from the onset. The first limitation is that there are numerous reasons why an archaeological assessment may not be available on a municipality’s public database for a particular area. This is because it is not mandated under the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA) for municipalities to make archaeological assessments publicly accessible. Accordingly, these assessments may be withheld by the municipality in an effort to protect high-profile archaeological sites from looters and what one informant called “amateur archaeologists”.

Nonetheless, the public is able to submit formal requests to the Ontario Public Register of Archaeological Reports in order to view archaeological assessments. The reports have any sensitive information, including location of sites, removed. It was not viable to make 69 individual requests to the Register to determine whether archaeological assessments for particular sites were undertaken, and so this resource was not leveraged. It can also be noted the licensed archaeologists have access to the Ontario Public Register of Archaeological Reports with the site information retained, however the author of this document does not possess such a license nor is qualified to attain one.

As a result, it is possible that certain sites may have had an assessment performed, but it would appear to the public that one was not undertaken (this is a separate issue which will be discussed further). To mitigate this as much as possible, all available documents for relevant development applications were reviewed. Often, applications which include a planning rationale (sometimes called a planning justification, planning report, or planning summary) will note whether or not an archaeological assessment was performed as part of the application process, and are helpful in this regard. The interviews performed for another component of this report also helped substantiate any findings discovered through the case study methodology.
The second present limitation is that, as far as broadening the study to further municipalities in Ontario is concerned, it is the case that many municipalities were unfit for research within this project either because their development application database was not online, or they did not have a complete or up-to-date archaeological potential map. This makes a review such as the one performed here impossible to do remotely.

3.5 Interviews

Individuals who have a role or stake within the development process as it pertains to my research question were interviewed. Interview questions were designed to determine to what degree that which is suggested by the media, academic literature, and existing planning practice is actually reflected in the opinions and experiences of those who were primarily involved in this interface.

Six informants were interviewed at length and their anonymity was preserved. Those interviewed occupied are from the following roles: Licensed consultant archaeologist; two heritage and land development consultants (cited as Heritage Planner 1 and Heritage Planner 2); active municipal planner; land development and planning consultant; and indigenous rights lawyer. These informants were all intermediate or senior in their experience level in their field, and therefore were able to offer in-depth knowledge pertaining to the intricacies of the development process. All informants had experience working with and/or engaging with Indigenous peoples in the planning process; however the degree of expertise ranged from a general familiarity from select projects over time to a very close and ongoing relationship with numerous Indigenous groups.

Kevin Dunn offers four key reasons for the use of interviews: To fill in knowledge not attainable by other methods; to investigate behaviour and motivations; to collect a diversity of
meaning or opinion; and to respect and empower the individual providing the knowledge (2010:102). While all of these components figured into my basis for incorporating interviews, my key interests were to derive expert/specialized knowledge about this phenomenon and to investigate a suspected diversity in opinion offered by different stakeholders. Along this line, I carried out semi-structured interviews. This approach allowed me to follow a guide which can be used to keep the discussions on track, but remained flexible in order to probe further upon noteworthy statements and lines of conversation (Dunn 2010:110).

The approach to selecting interviewees (also referred to as informants) was by means of purposive sampling (Bradshaw & Stratford 2010:75). This method refers to sampling where the interviewees are selected due to their specialized knowledge or specific relationship with the subject. Bradshaw and Stratford note that this method does not generally result in statistically defensible information (2010:75). Because I am not in search of statistical generalizability and am instead attempting to broaden a theoretical framework through the agglomeration and interpretation of specialized knowledge, this approach is appropriate. I have an advantage in using this process given my existing network of contacts in the field of urban planning. I reached out to the experts I know already (municipal staff, planning consultants, archaeologists, etc.), and where necessary, requested for them to direct me towards others who can help me work through my research question. This process was successful in that my contacts were eager to connect me to people who they felt had more experience with Indigenous peoples and could help me better carry out effective research. As my research involves human participants, ethics clearance from the General Research and Ethics Review Board at Queen’s University was applied for and subsequently granted.
3.6 Research Limitations

My research is subject to limitations which arise for various reasons. A holistic report would review every municipality in the province and in doing so establish defensible numbers which indicate overall adherence to the PPS’ archaeological assessment and Indigenous consultation policies. The scale of this report, in addition to the practical limitations indicated in Section 3.4 of this document, do not allow for such a task to be achieved effectively. Instead, I aspired to do a far more focussed study which provides reliable baseline indications, suggests trends, and galvanizes future research.

Within my report, biases were mitigated where relevant. Biases include my position as an advocate for Indigenous agency, my role in the professional planning network of Ottawa, and any potential privilege given my gaze as part of Canada’s European-settler population. Accordingly, the validity of my approach will be vetted by other academics through the process of peer review to ensure necessary rigour is undertaken and any biases are removed.

The nature of generalizability concerning my report is complex. My findings will not produce firm statistics concerning the frequency by which archaeological assessments are waived on a provincial basis, but will elucidate a trend which is formed by evidence from distinctive municipalities throughout the province. My intention is that the theory itself can be viewed as generalizable insofar as it builds upon pre-existing work and demonstrates from a smaller context a trend which may be expressed on a wider scale upon further research.

Finally, it must be acknowledged that all interviews were with private or municipal planners and consultants. None of them were Indigenous peoples and so the focus on Indigenous voices and interests are largely derived from the standpoint of policy analysis and those planners who work alongside Indigenous people rather than Indigenous peoples themselves.
3.7 Precedents

As intimated earlier, the critical review of the Indigenous role in planning issues is an previously existing and growing domain. The dominant notions in this discourse are twofold – firstly, that what appears to be equitable planning practice through our constructed notions of objectivity within the western lens is actually not such, and that we must renegotiate our system to reduce this; with a major area in need of improvement being the Indigenous role. Secondly it is that by meaningfully engaging with the Indigenous perspective, we are not merely being ethical, but are in fact allowing for new and important growth in the field through exposure to new worldviews (Walker & Belanger in Walker et al. 2013:196).

While the review of active development applications as an indicator of adherence to Indigenous planning policies is an experimental approach, analysis of the policy behind it is not. I am largely indebted to the work of my supervisor, Dr. Leela Viswanathan, for the work that she and her colleagues have done (largely as part of the Planning with Indigenous Peoples [PWIP] research group at Queen’s University) to put existing legislation under scrutiny for the ways by which it addresses (or fails to address) Indigenous interests in planning (Viswanathan et al. 2013, McLeod et al. 2015). This body of work and theoretical mentality served as a foundation for my research to engage the notion of planning practice.
4.0 Findings and Case Analysis

The research findings have been organised below according to the method used to render them. They include: Legal and Policy Framework; Media Coverage, Active Development Case Analysis, and Interviews.

4.1 Legal and Policy Framework

In order to situate the significance of the findings to follow, a clear understanding of the relevant policy and legislative framework must be established. Indigenous interests and archaeology as aspects of land development in the Province of Ontario are established through four major components of legislation: The 2014 Provincial Policy Statement, The Municipal Act (S.O. 2001), The Planning Act (R.S.O. 1990), and the Ontario Heritage Act (R.S.O. 1990). In addition, municipal official plans and archaeology master plans were analysed. The different policy-related legislation are organized as follows:

4.1.1 Provincial Legislation

*The Provincial Policy Statement* is a document which aims to guide land use planning and development in Ontario in a manner that can remain consistent across the entire province and achieve goals of protecting resources of provincial interest, public health and safety, and the quality of the natural and built environment.

Archaeology is discussed largely in Section 2.6 of this document. Particularly, Section 2.6.2 states: “Development and site alteration shall not be permitted on lands containing archaeological resources or areas of archaeological potential unless significant archaeological resources have been conserved.” This policy explicitly denounces development within the
Province of Ontario on archaeologically significant properties unless mitigation measures have been undertaken.

Furthermore, Section 2.6.4 states that “Planning authorities should consider and promote archaeological management plans and cultural plan in conserving cultural heritage and archaeological resources.” This direction encourages the creation of Archaeological Master Plans like those considered for the case studies discussed in this report.

Indigenous interests are more directly addressed where Section 2.6.5 states that “Planning authorities shall consider the interests of Aboriginal communities in conserving cultural heritage and archaeological resources”. This is noteworthy direction given the strength of the wording. It is clearly against this policy to ignore or deny Indigenous interests with regard to archaeological resources. The language used implies that both the requirements of protecting areas with archaeological potential and consulting to determine the interests of Indigenous peoples concerning these sites are unconditional requirements.

*The Municipal Act* is a document of provincial legislation in Ontario, does not explicitly discuss archaeology or Indigenous interests (and indeed, neither term appears anywhere within the 240-page document), however this document is key in that it outlines the powers and authorities that the province allows municipalities to apply in constituting themselves and operating as distinct entities. Therefore, this legislation is significant insofar as it outlines that municipalities are subject to provincial policy and legislation and cannot defy their direction.

*The Planning Act* is another Ontario legislative document. This document outlines, in more detail than *The Municipal Act*, the system under which land use planning can occur within the province – including the rights and powers allotted to both the municipality and the citizen. The terms “Aboriginal” or “Indigenous” are not used in this legislation. Nonetheless, “First Nation” is
used, solely in the context of Section 62.1 where it is stated that, “The Minister, the council of a municipality or a planning board may by agreement with a First Nation vary or waive the prescribed notice requirements to a bind in respect of an official plan, a zoning by-law or any application under this act.”

Archaeology is first discussed in Section 2(d) of The Planning Act. This section outlines that government bodies, along with other matters, shall have regard to “the conservation of features of significant architectural, cultural, historical, archaeological, or scientific interest”. Archaeology is next discussed in Section 3.3, where the province permits that zoning by-laws may be passed “For prohibiting any use of land and the erecting, locating, or using of any class or classes of buildings or structures on land that is the site of a significant archaeological resource.” These two sections constitute the discussion of archaeology in The Planning Act and work to reiterate the policy laid out in the PPS.

The final piece of relevant provincial legislation is the Ontario Heritage Act. This act generally outlines the operational components of how archaeology and heritage preservation is to occur in the province, including matters of designation and licensing. While important in outlining the powers municipalities have with regard to designation and the protocols they must follow, it does not discuss Aboriginal interests in any direct manner.

The Ontario Heritage Act is generally enforced by The Ministry of Tourism, Culture, and Sport in Ontario. This department of government oversees the licensing and practice of archaeology in the province. Their Standards and Guidelines for Consultant Archaeologists (2011) outline what is required for each of the four stages of an archaeological assessment. It must be understood that not all stages are necessary for every project. They are as described below:

Stage 1 – Background Study and Property Inspection: The archaeologist determines whether there is potential for archaeological sites to exist on the property through a review
of geographic, land use, and historical information for the property and surrounding area. This also includes a site visit and contacting the ministry to confirm whether or not there are any known nearby archaeological sites. A Stage 2 assessment is required if areas of archaeological potential are found.

**Stage 2 – Property Assessment:** The archaeologist surveys the land in an attempt to identify any archaeological resources on the property. This includes walking any ploughed fields looking for artifacts on the surface; and where the surface is overgrown, digging test pits at regular intervals and soil sifting. Other strategies may be applied where properties are paved or filled in. A Stage 3 assessment will be required if any resources are discovered of sufficient heritage value or interest.

**Stage 3 – Site Specific Assessment:** The archaeologist determines the scale of the archaeological site, the cultural heritage value/interest, and where necessary, recommends any Stage 4 mitigation strategies. Along this line, they will conduct further background research and fieldwork to map the spatial limits of the site. They will acquire further information through the excavation of 1m x 1m test units throughout the site. This is the stage where Indigenous peoples are engaged if the site is believed to pertain to the local Indigenous heritage.

**Stage 4 – Mitigation of Development Impacts:** This stage is based around the implementation of conservation strategies for a site of archaeological significance. Determining the proper conservation strategy includes consultation with the development proponent, the municipality and/or any other approval authority, relevant Indigenous communities, and other heritage stakeholders.

The above stages do not require Aboriginal engagement in every instance as not all sites have resources which pertain directly to Indigenous people. Notwithstanding, it is worth noting that per Section 3.4 and 3.5 of these standards, archaeologists must engage Aboriginal communities in the following instances:

1. In Stage 3, when assessing the cultural heritage value of an Aboriginal archaeological site that is understood to or appears to have sacred or spiritual importance, or is associated with traditional land uses or geographic features of cultural heritage interest, or is the subject of Aboriginal oral histories.

2. At the end of Stage 3, when formulating a mitigation strategy to address the impacts of the following types of Aboriginal archaeological sites; through avoidance and protection or excavation: rare Aboriginal archaeological sites; sites identified as sacred or known to contain
human remains; woodland Aboriginal sites; Aboriginal archaeological sites where topsoil stripping is contemplated; undisturbed Aboriginal sites; and sites previously identified as of interest to an Aboriginal community.

While Aboriginal engagement is only required at Stage 3, the Province encourages the practice of engagement from Stage 1 onward where there is a possibility that a site has significance to Aboriginal groups. Informants from the interviews undertaken for this report state that many Indigenous groups would prefer to be engaged from Stage 1, but note that this seldom occurs.

Under Section 65.1 of the *Ontario Heritage Act*, the Ministry of Tourism, Culture, and Sport also maintains the Ontario Public Register of Archaeological Reports. While members of the public may gain access to any report in the register, doing so is accomplished through a formal request and the reports have any sensitive information, including location of sites, removed. This limits the viability of using this resource for the purpose of research. It must be noted the licensed archaeologists have access to all archaeological reports with the site information retained, however the author of this document does not possess such a license.

### 4.1.2 Municipal Legislation

Municipal legislation is also key within the policy and legislative framework for this report. The *Official Plan of Ottawa* discusses Indigenous interests most prominently in Section 5.6, “Algonquin Aboriginal Interests”. In this section, the City of Ottawa recognizes that lands within the City are part of historic Algonquin Territory and as such, will consult with this group on issues pertaining to major waterways, islands, and environmental assessments on unceded lands.

Further, Section 4.6.2 of this plan discusses archaeological resources. Policy 1 of this section is significant where it requires that,
Where development is proposed on land where archaeological potential exists, as identified on the City of Ottawa map, Areas of Archaeological Potential, the City will require an archaeological resource assessment to be conducted by an archaeologist licensed under the *Ontario Heritage Act*, as a condition of development approval.

This policy then outlines numerous conditions by which the above must be carried out. Policy 2 of Section 4.6.2 adds that the City will assess whether a site requires archaeological assessment when reviewing plans of subdivision and condominium, site-specific official plan amendments and site plans involved large portions of land. While the remaining policies of this section do not pertain to this discussion, Policy 5 of this section is significant. It reads:

“While the Archaeological Resource Potential Mapping Study shows the historic core of the city (as defined by the city limits at the time of its incorporation in 1855) as having archaeological potential, an archaeological resource assessment will not be required as part of the development review process. However, if archaeological resources are discovered during the course of construction in the city’s historic core area, the site must be protected from further disturbance until a licensed archaeologist has completed an archaeological resource assessment and any necessary mitigation has been completed. The City will develop information to assist developers, contractors and on-site workers in the recognition and reporting of potential archaeological resources discovered during the course of construction. A site monitoring assessment process for deeply buried remains will also be considered if significant archaeological resources are identified. Where new additional information within the urbanized city core indicates there is a high likelihood for archaeological remains to exist, a licensed archaeologist shall be retained for monitoring purposes and/or assessment prior to any major ground disturbances resulting from construction activities.”

Policy 5 is unique among the municipalities studied. It is problematic in the lack of oversight offered. None of the active development applications reviewed for this project that occurred within the original boundaries that the City of Ottawa had archaeological assessments performed. Given that the City is currently being dug up all through the core for the development of the new Light Rail Transit network, this policy acts as a beneficial tool to expedite the process
of development by allowing them to forgo archaeological assessment; provided that no significant artifacts and remains are discovered. Nonetheless, the aforementioned lack of oversight suggests that the workers underground could potentially turn a blind eye to any archaeological resources found.

Although a more detailed review of interviews is expressed in the findings in section 4.4 of this report, it is helpful to share some information regarding attitudes toward Policy and Planning of the Ottawa Official Plan here. Upon seeking verification for this report regarding the application of Policy 5, one of the professional consultants interviewed for this report (see Section 4.4) confirmed that such a policy is no longer legal. They noted that they have seen similar policies or by-laws previously in other municipalities, but the policies or by-laws have generally been phased out either by council decisions, or through enforcement from the province. This consultant noted that such policies or by-laws were more common before the enforcement of archaeological assessment became more prominent in policy. They suggested that it was unlikely that such a policy would hold up under review by the Ontario Municipal Board (Heritage Planner 2, Interview, 31 March 2017). Another informant suggested that it is possible that the City has this by-law on the books, but no longer adheres to it in practice (Archaeologist, Interview, 21 March 2017)

However, given that no archaeological assessments were found for the development sites within this boundary, this researcher cannot verify the truth of that supposition.

Within the Official Plan for Kingston (2010), Indigenous interests are discussed in various sections of the document, but do not constitute their own section or subsection at any point in the plan. Section 7 on Cultural Heritage Resources recognizes and promotes the importance of

---

3 It should be acknowledged that the City of Kingston is in the process of reviewing its Official Plan and has submitted the final draft of revisions to the Minister of Municipal Affairs and Housing (MMAH) for approval. The revised version includes greater reference to Indigenous peoples and while it does not yet have a section devoted to the discussion of Indigenous interests, it has embedded updated indigenous policy guidelines from the 2014 Provincial
meaningful consultation with First Nations groups on issues in which they have a stake; especially with regard to Indigenous burial sites. This discussion is embedded within a broader discussion regarding archaeology. Specifically, Archaeological Resource Conservation is discussed in Section 7.4. Particularly, Section 7.4.9 states the following:

Upon receiving information that lands proposed for development may include archaeological resources or constitute an area of archaeological potential, Council will not take any action to approve the development, and the owner of such land will be requested to have studies carried out at the owner’s expense by qualified persons to:

a. survey and assess the property;
b. assess the impact of the proposed development;
c. indicate methods to mitigate any adverse impact of the proposed development on any archaeological resources, including methods of recovery and preservation;
d. comply with current Ministry of Culture standards and guidelines for consulting archaeologists; and,
e. provide a compliance letter issued by the Province for any completed archaeological study.

Section 7.4.10 continues in mentioning that the City will encourage the conservation of archaeological resources in enforcing municipal and provincial legislation with respect to the discovery of such items on a property.

*The Official Plan for the City of Guelph* (2004) discusses the management of archaeological resources in Section 3.5.10. In particular, they state:

In instances where *archaeological resources or areas of archaeological potential* have been identified or may be present on lands proposed for *development*, the City will require the preparation of an archaeological assessment by archaeologists licensed under the *Ontario Heritage Act*” (emphasis from original text).

Policy Statement and in doing so has strengthened Indigenous agency at the Official Plan level. Nonetheless, the revised Official Plan has not yet been approved by MMAH and therefore is not the official legal document, so the 2010 Official Plan of Kingston has been used for the purpose of this report.
The section goes forward to note that if any portion of a property falls within an archaeological potential area, this portion is considered to have an archaeological condition in the location of the ground disturbance. *The Official Plan for the City of Guelph* (2004) does not discuss Indigenous interests at any point.

For the purpose of general discussion, it is worth recognizing that not all Ontario municipalities have completed an archaeological master plan – especially municipalities with smaller populations and less resources. This does not necessarily mean that these municipalities do not require any archaeological assessments whatsoever – the *Ministry of Tourism, Culture, and Sport* offers criteria for evaluating archaeological potential which are used to determine if an assessment is required where no local archaeological master plan is available. Both research and discussion have made it clear that many smaller Ontario municipalities have adopted policies within their official plans noting that an archaeological master plan should be created when resources become available.

4.2 Media Coverage

Discussions of Indigenous interests are gradually becoming more prominent in the media. In using the Google News application discussed in Section 3.3, the most contentious and widely reported cases in Ontario were selected for discussion. These include St. Lawrence Market in Toronto, Allandale Train Station in Barrie, and the Zibi Development in Ottawa.

Firstly, beyond active developments reported in the media, the relevant policy has also seen exposure. In June 2016, John Lorinc and Ron Williamson reflect on two major Toronto excavations which are yielding significant artifacts. They point to holes in policy which require archaeologists to hold onto discovered artifacts “in trust” on behalf of the province of Ontario;
thereby failing to ensure these objects are deposited into archives, museums, or returned to the group to which they belong. They identify the issue being that despite Ontario’s comparatively thorough archaeological preservation policy, little effort is invested into manage artifacts once they are discovered; thereby failing to act as stewards for the past history of the land. These issues are especially significant for Indigenous peoples – not only do these artifacts reveal much about Indigenous histories and identities, but they also offer key evidence for land claims (Lorinc & Williamson 2016).

4.2.1 St. Lawrence Market redevelopment, Toronto

In certain contexts, the call for change is propagated through activism. Chris Herhalt described the scene in November 2016, where the Haudenosaunee Development Institute determined that the St. Lawrence Market redevelopment failed to have an indigenous archaeologist monitoring the site, and so Aaron Detlor called for construction to halt through an exercise of his treaty rights. In particular, the Haudenosaunee people want their own archaeologist on the worksite to observe the conduct of workers. The City of Toronto views the site as a “Euro-Canadian archaeological site” and state that they would only permit the involvement of the Haudenosaunee archaeologists provided that it is determined that artefacts on-site are indigenous in origin (Herhalt 2016). The Haudenosaunee find this approach to fall short insofar as they suggest that the construction company’s archaeologist may be pressured not to intervene in the construction of significant items are discovered. Nonetheless, because the City is in compliance with all legislation and Official Plan policies, there is nothing further that they are required to do (Herhalt 2016). This is indicative of a broader issue where Indigenous interests are only integrated into the planning process through an active interest, and even so, sometimes policy falls short of enabling them to have a meaningful impact.
4.2.2 Allandale Train Station, Barrie

The ambiguity which exists within the current planning legislation complicates the way that archaeological matters are handled within the planning process. This issue is further apparent in the handling of the redevelopment of the Allandale train station in Barrie, ON. Grand Chief Konrad Sioui of the Huron-Wendat First Nation has formally requested an independent investigation into the redevelopment process. The land in question is believed to occupy a portion of what was once one of the oldest Indigenous villages in Ontario; including many buried ancestors on the site (Bruton 2016).

Numerous assessments have taken place in order to assess the site’s potential. The initial 2000-01 assessment cleared the land of any potential. Contrarily, a 2009 assessment indicated the site to have archaeological significance. In 2011, human remains were found in a crawl space on the site, which sparked another assessment that concluded that there was no evidence of a formal grave or intentional burial (Bruton 2016). What is apparent from this case is that in some senses, the role of the Indigenous agent is still one that requires an active role in order to influence the process in a meaningful way. More robust policy is essential to ensure that Indigenous interests are treated as an embedded part of the process where their interests are consulted without the requirement for a conscious intervention by the Indigenous agency.

4.2.3 Zibi, Windmill Development Group, Ottawa

A significant case pertaining to Indigenous consultation and archaeological assessment is currently unfolding in Ottawa. Zibi (which is an Algonquin term for ‘river’) is a planning project by the Windmill Development Group that proposes the construction of a major development
consisting of condominiums, shops, and offices on the Chaudière and Albert Islands situated on the Ottawa River; separating Ontario and Quebec. This 37-acre property, a brownfield which had been an industrial site for nearly 200 years until its recent abandonment, has held high cultural significance to the local Algonquin population since time immemorial (CBC News 2014, Windmill Developments 2014).

This area is acknowledged as an important Algonquin cultural landscape both from the account of Canadian Indigenous groups and based on archaeological and historical research; tracing the indigenous presence on this island back to accounts written by Samuel de Champlain, with uncovered cultural artifacts to reinforce this (Duffy 2015, Pilon & Boswell 2015). Considering all factors, there should be no question about the area’s legitimacy as an important site to the Algonquin people.

With this known, however, there is division among the interested Aboriginal groups regarding the prospect of development on this important site. Christopher Wong of the Odawa Native Friendship Centre calls for it to be returned to its natural state (CBC News 2014). Douglas Cardinal, the Anishinaabe architect who designed the nearby Museum of Canadian History has also been a vocal protestor of the development – he was involved in an appeal of the development approval to the Ontario Municipal Board (OMB). Joining these individuals in opposition are the influential author and indigenous ally John Ralston Saul, Algonquin elder Evelyn Commanda, The Assembly of First Nations of Quebec and Labrador (AFNQL), and groups among five Quebec-based First Nations – Eagle Village, Wolf Lake, Timiskaming, Barriere Lake and Long Point (APTN 2015, CBC News 2015, MacGregor 2015).

What complicates the issue, however, is that the opposition is not unanimous among and within Indigenous groups. For example, Wanda Thusky of the nearby Kitigan Zibi First Nation
operates a small construction company and views this development as a key opportunity to have Algonquin tradespeople trained and certified as construction workers on the development; leading to their people’s economic improvement (MacGregor 2015). Chief Kirby Whiteduck of the Pikwakanagan First Nation also views this as an opportunity to create Algonquin jobs and to raise awareness for their peoples’ history through the development’s proposed trilingual signs and Algonquin-influenced landscaping of greenspace, among other measures (CBC News 2015). Indeed, the Algonquins of Ontario, the body that The Ottawa Official Plan has designated for planning consultation matters (Ottawa Official Plan, S. 5.6) has also signed on to work with Windmill, making this a contentious and complex development scenario (OBJ 2015).

This issue is further muddled within the Aboriginal context because the land on which the development is to be built was never ceded by the Algonquin peoples and is the subject of an ongoing land claim (MacGregor 2015). On this note, Harry St. Denis, chief of Wolf Lake First Nation, explains that he does not take issue with the developer, but instead with the National Capital Commission (NCC) who previously expressed interest in purchasing the land but was not willing to pay the sale price (CBC News 2015). Given the NCC’s status as a Crown corporation and the Crown’s history with the Canadian Aboriginal population, if they bought the land, the Algonquin peoples could have potentially had more influence in negotiating for its future use.

Chief Whiteduck put forth an interesting point in stating that he respects that this land is Windmill’s private property and that because of which, the company has the right to develop it as they see fit (CBC News 2015) – an especially fascinating statement given that the condominiums will range in price from a quarter million to full million dollars, while the nearby Kitigan Zibi reserve has been under a drinking-water advisory for the past 16 years (MacGregor 2015). The Zibi project has the potential to create an exclusionary site that, while perhaps rife with Algonquin
symbolism, will not be one financially accessible to their people and will continue the growth of private ownership of unceded Aboriginal land by the dominant (often European-Settler) members of Canadian society.

Concerning the provincial role in this issue, the aforementioned appeal to the OMB was dismissed. The deputy commissioner argued that both the Windmill Development Group and the City of Ottawa followed proper protocol in the process of consulting with First Nations people and land rezoning as it is currently laid out in legislation (Jackman v. Ottawa [City]). While it can be argued that the OMB made the correct decision insofar as Windmill met the legal standards they had to reach, critics have argued that this trial has made it clear that the standards themselves are inadequate.

Contrary to the opinion of the OMB, Christopher Wong of the Odawa Friendship Centre felt that the First Nations were not thoroughly consulted by Windmill Development about the fair use of the space (CBC News 2015). Douglas Cardinal stated that “They didn’t consider indigenous rights,” to which his lawyer Michael Swinwood added, “It’s incorrect to say that the spirit of intent with the Algonquins has been respected” (Payne 2015, Ritchie 2015). Peter Stockdale, another ally against the development said that “The OMB is an old dinosaur that has new things it has to pick up. It’s had to respond to the Aboriginal policy, but it’s not integrated and they don’t really have to pay attention to it” (Ritchie 2015).

It is evident that this case, which is still developing as of present, serves as a fitting barometer for the current progress of Indigenous agency in the planning process. While Windmill Development had a duty to consult, and they fulfilled it by law, this did not provide a complete resolution for all affected indigenous groups. It is reasonable to infer that Aboriginal peoples still do not have self-determination and agency within cities if urban developments are able to be
approved despite vehement indigenous opposition, simply because the one group that was consulted (the Algonquins of Ontario) approved of the development plan.

What these case studies suggest is that while current legislation does indeed put indigenous peoples into conversations about development, it has some flaws which bring up new questions – firstly, which Indigenous peoples should be considered as stakeholders in a project? Secondly, what do you do if the Indigenous perspective is not unanimous? Thirdly, by what means can you consider a consultation with Aboriginal peoples complete? It is apparent that there needs to be an overhaul of the legislation in a way that more exhaustively outlines a comprehensive and long-term consultation process.
4.3 Analysis of Active Development Applications: Ottawa, Guelph, and Kingston

A total of 303 active development applications from three separate municipalities (Ottawa, Guelph, and Kingston), accessed between October 2016 and March 2017, were analysed and the data is discussed in this section. The development applications reviewed were distributed heavily towards Ottawa (72%), with the remaining portions of 18.5% and 9.5% being split between Kingston and Guelph respectively. The key contributor to this distribution is likely based on differences in size; where Ottawa occupies a metropolitan area three times larger than Kingston and 15 times larger than Guelph. Notwithstanding, the nuances of this difference are not being explored within this report.

Figure 1: Map locating active development applications for three municipalities in southern Ontario: Ottawa, Guelph, and Kingston.
Of the ongoing development projects reviewed, 47.2% were on land identified by their respective municipality’s Archaeological Master Plan as requiring an archaeological assessment – this itself suggests the actual significance of archaeology to the development process. Of the 143 development applications where an archaeological assessment was required, such an assessment was not performed in 48.3% of the instances (69 applications). With these being concerned, it is key to keep in mind the limitations to these numbers as described in Sections 3.4 and 3.6 of this report; which offer note the room for error in these numbers.

With regard to the 51.7% of instances where an assessment was successfully performed, the chart below illustrates the distribution between the maximum stage of archaeological assessment reached per development application:

Figure 2: Highest Stage of Archaeological Assessment Reached Where Performed in Ottawa, Guelph, and Kingston.

According to Figure 2, it was determined that most archaeological assessments reach a Stage 2 (55%) assessment; whereas Stage 1 (19%) and Stage 3 assessments (14%) are equally likely otherwise. Stage 4 assessments are highly unlikely (1%). 11% of the data was not available.
given that some active development applications were at a stage where the assessment was still ongoing (To Be Determined [TBD]), or there was insufficient data within the development application files to clearly determine what stage of assessment was reached (Unknown).

The were numerous distinctions in the results from the data attained between the municipalities surveyed. More nuanced data about the subject municipalities are discussed in the following sub-sections.

4.3.1 Ottawa

![Image: Map of Archaeological Potential in Ottawa - GeoOttawa 2016]

Figure 3: Map of Archaeological Potential in Ottawa - GeoOttawa 2016

The metropolitan capital of Canada; Ottawa is a single-tier municipality with a population of 934,243; growing at a rate of 5.8% (Statistics Canada 2016). It was incorporated in 1855. The
Ottawa River, referred to as *Kichi Sibi* by the Algonquin (meaning Grand River) was a key trading location for numerous indigenous groups given its node of three separate rivers. The group most established within the region, and present throughout the course of European contact, are the agglomerate of numerous distinct bands referred to collectively as the Algonquin peoples (Pilon 20). According to *The Ottawa Official Plan* (2015), the Algonquins of Ontario are the group to be consulted when necessitated by the development context.

Among the active development projects where an archaeological assessment was required but was not performed, 90% (44) of these applications packages had no acknowledgment of the archaeological potential on-site in any of the additionally supplied documents. In 6% of the cases, the applicants denied that there was archaeological potential – this is to say that, in an attached planning rationale or other document descriptive of the application, it is noted that there was no archaeological potential despite the mapping stating that there is. The remaining 4% of cases had the requirement for assessment explicitly waived by the municipality.

Among all active development applications in Ottawa, 42% were in areas with archaeological potential. As demonstrated in *Figure 3*, much of the areas of archaeological potential are throughout the rural, greenfield components of the City. Aside from major watercourses, it seems apparent that the older Ottawa suburbs (Nepean, Carlington, Vanier, and South Keys) are deemed to have little archaeological potential. As intimated earlier, the area within the original 1855 City boundary is noted as having potential, but Official Plan policy does not require an archaeological assessment within its perimeter.

Ottawa had the lowest rate of successfully performed archaeological assessments where required among the studied municipalities according to the research method used. Only 46% of the sites with potential were assessed, whereas city staff in both Guelph and Kingston successfully
required an assessment in approximately 60% of the cases where it should have been mandated (see Figure 4 below).

A key component influencing this disparity is that Policy 4.6.2.5 of the City of Ottawa’s Official Plan (Amendment 150) states that although the entirety of the historic core of the City (the City limits in 1855) is noted as having archaeological potential, an assessment is not required as part of the development review process for sites within this boundary and it is only required that an assessment be done if archaeological resources are discovered during development. Such a privilege accorded to development within the City core does not exist for the other municipalities studied, and the legal issues with such a policy is discussed in other points throughout this report (See Section 4.1).

![Archaeological Assessment Performed Where Required](image)

**Figure 4:** Comparative Demonstration of Archaeological Assessment Performed where Required in Ottawa, Guelph, and Kingston
4.3.2 Guelph

The seat of Wellington County, Guelph is a single-tier municipality with a population of 131,794; growing at a rate of 8.3% (Statistics Canada 2016). It was incorporated in 1879. Generally, prior to colonization, the area was considered to be a neutral territory among nearby indigenous groups who would meet in the area for trading. Nonetheless, archaeological evidence suggests that the area has been occupied by the Chonnonton, Haudenosaunee, and Ojibwe groups at different points in history prior to European contact (Stelter 2012).
In Figure 5, as is perhaps made apparent by the comparatively sparse amount of area marked in grey to note archaeological potential (most conspicuously absent in the majority of the urban center), Guelph subsequently had the least frequency with which archaeological assessments were required for active development applications. The frequency of archaeological potential noted in undeveloped greenfield areas suggests new development will be under scrutiny, however the lack of archaeological potential noted in areas that are currently developed is intriguing.

4.3.3 Kingston

Figure 6: Map of Archaeological Potential in Kingston - Kingston Archaeological Master Plan
A single-tier municipality, Kingston is a city with a population of 123,798; growing at a rate of 0.4% (Statistics Canada 2016). It was incorporated in 1838. At the time of European contact, this land was most prominently occupied by the Haudenosaunee; whereas the Wyandot (Hurons) are believed to have occupied the area prior to initial contact by the French (Master Plan of Archaeological Resources, City of Kingston: 2010).

Among the municipalities studied, Kingston was notable in having the most active development sites where there was archaeological potential; at a rate of 73.6%, whereas Ottawa (42%) and Guelph (34%) had a far lower likelihood of having archaeological potential on a development site. Kingston also had the highest results for archaeological assessments being performed in relation to their requirement. This was achieved at a rate of 62%.

4.4 Interviews

A total of six (6) interviews were conducted for this report. The purpose of these interviews was to assist in verifying and substantiating the findings attained through the other forms of research discussed in this report. The interviews ranged from 25 minutes to an hour. The key information discussed in the interviews were experiences and perspectives regarding indigenous engagement and archaeological assessment as they relate to the particular individual’s professional experience – whether as a land development consultant, an archaeologist, a municipal planner, an indigenous rights lawyer, or a heritage expert. The findings from the interviews have been grouped thematically and will be summarised generally below.
4.4.1 Indigenous Engagement

Municipal planners are eager to consult with indigenous groups where possible. It is acknowledged that this can sometimes be complex to arrange given that the western formula for planning and community engagement does not always translate to Indigenous ways of thinking or engagement. Further, there is the interesting role of the Indigenous participant who feels they have an important association with the site, but is not a member of the relevant Indigenous group that is supposed to be consulted.

Heritage Planner 2, having worked both in private (consulting) and public (municipal) planning spheres, suggested that as far as engagement is concerned, there are no practical differences between the way that the two groups engage with Indigenous peoples (Heritage Planner 2, Interview, 31 March 2017). This is to suggest that the tension and power dynamic between the planner and the Indigenous group are still evident regardless of the agent, and that there is still a present acknowledgment among both sides of their outsider status. In being aware of this, it becomes possible to support parallel expectations for both groups in the manner that both engage with Indigenous groups.

With this being considered, expectations for conduct are not always met by either group. The lawyer specializing in Indigenous issues provided one case where a small Ontario municipality [to remain anonymous] acted to ignore the requirement to consult indigenous peoples on an archaeological site where the archaeologist believed there to be significant cultural resources (Lawyer, Interview, 31 March 2017). The development was supported by the community and the local government and so avoiding involvement of the local Indigenous group, who may be viewed as an interference to the development, was seen as desirable. Once the local Indigenous group became involved in judicial processes, it became apparent that the conduct of the archaeologist
was in violation of numerous articles of the *Ontario Heritage Act* and they consequently lost their license. In the aftermath, the municipality settled with the Indigenous group outside of court and subsequently required a new archaeological assessment by a new archaeologist where it was determined that what was believed initially to be Indigenous burial mounds were actually the result of construction debris.

The lawyer noted that not all requirements for Indigenous engagement are handled egregiously. They cited another example where a municipality was proposing new soccer fields on a site which had some Indigenous significance. When the local Indigenous group was consulted, they were encouraging of the project, explaining that their children played soccer in the community as well and stood to benefit from the development too. The lawyer had observed that where there is an effective and consistent dialogue between an Indigenous group and the municipality, a lot more is accomplished than in situations where the relationship between both groups is continually adversarial (Lawyer, Interview, 31 March 2017).

One informant noted that applying a standard public meeting format to Indigenous consultation is not only problematic, but ineffective (Municipal Planner, Interview, 4 April 2017). They remarked that facilitation where in the planner controls how long individuals talk for and in what order does not cohere with how Indigenous peoples desire to engage with the planning process. Several of the interview informants recalled scenarios where a consultant had cut off an Indigenous person from speaking after a particular allotment of time and in doing so greatly offended the community and complicated the entire consulting process (Lawyer, Interview, 31 March 2017; Archaeologist, Interview, 21 March 2017; Land Development Planner, Interview, 20 March 2017). Another planning consultant noted that sensitivity to cultural differences goes a long way, especially where it comes to differences in engagement processes; which they had elaborated
on in the context of an Indigenous group that they had worked with, while noting that such cultural views are not necessarily universal to all Indigenous groups.

4.4.2 Indigenous Voices

In the interview process, this researcher felt there would be value in getting the informants to characterise their experience with a so-called “Indigenous stakeholder”. It did not take long for my informants to outline and emphasise that, in their experience, Indigenous peoples do not view themselves as stakeholders in the process. In this sense, “stakeholder” is a western construction that is too narrow in conception to encompass the extremely complex relationship that Indigenous peoples have with the land in Ontario; one tempered through narratives of exploitation, displacement, and cultural genocide that dramatically separate the roles and entitlements of Indigenous groups in the land development process from other stakeholders (Porter in Walker et al. 2013:289). Indeed, the lawyer interviewed for this report noted that the way that Indigenous groups are engaged with is unique in both the design and format of the engagement session and the way the community voices its perspective (Lawyer, Interview, 31 March 2017). Consequently, this report uses phrasing of “Indigenous Voices,” in order to refer to these Indigenous groups as agents who are entitled to a key role in the land development process which goes beyond that of a “stake” as it refers to non-Indigenous agents in the process. The use of “Voice” implies conversation, which itself suggests Indigenous peoples should be part of a dialogue and not simply the holders of an opinion that can be discarded.

Alongside this, some experts have noted that Indigenous groups are rightfully skeptical of planners wishing to engage in consultation given the historic offenses, both locally and from governments generally, to their group which have damaged the relationship between settler
populations and Indigenous groups (Heritage Planner 1, Interview, 30 March 2017). This complicates the engagement process and can lead to issues in the development process overall. Nonetheless, it is noted by informants that requirements for engagement and consultation provide the opportunity for a new dialogue with Indigenous groups that allows for a renewed relationship and a resurgence of Indigenous Voices in planning.

It must also be understood that among Indigenous groups, the vision for a particular project is not necessarily uniform. An informant described Indigenous peoples consulted for a particular project as occupying varying preferences ranging from the desire for a particular piece of sacred land to remain untouched; desiring for it to be altered slightly to allow for nature paths and other ways to interact with the land; or desiring the complete transformation of the land provided that the Indigenous group receive compensation and a role in the future of the property. It is suggested by the informants that the key priority is an effective involvement in the process which goes beyond a placative discussion with the Indigenous group (Municipal Planner, Interview, 4 April 2017).

The municipal planner consulted offered an optimistic view of the public perception of the Indigenous Voice. They recognised that there is a great deal of education required in order for the public to understand the profile and significance of the Indigenous role in land development, but suggested an openness by the general public to hear the perspectives of the local Indigenous peoples, (Municipal Planner, Interview, 4 April 2017). A heritage expert suggests that respect for the Indigenous Voice varies greatly by area, but notes that government programming, including the Truth and Reconciliation Commission (TRC), is doing a good job at spreading awareness about Indigenous interests (Heritage Planner 1, Interview, 30 March 2017). When interviewed, the lawyer suggested the same thing – that many groups, such as the judiciary and academic
institutions – are very encouraging of the significance of Indigenous land claims, whereas some lawyers and members of the public alike retain the opinion that Indigenous peoples should not be entitled to any of the same rights as non-Indigenous Canadians (Lawyer, Interview, 30 March 2017).

4.4.3 Archaeological Assessment

One heritage expert noted that towards the beginning of his career, most archaeological assessments were reactionary; and that one of the major points of progress is that archaeology has increasingly become proactive in the land development process (Heritage Planner 1, Interview, 30 March 2017). This is to say that archaeological assessments used to occur most frequently when development had already begun, whereas it is increasingly the case that archaeology is considered at the beginning of the application process. Heritage Planner 1 (Interview, 30 March 2017) suggested that this is due both to policy improvements as well as the improvement of GIS software that facilitates the ease of doing this work.

Heritage Planner 1 noted that the requirement for a Stage 1 assessment is now considered in nearly all cases. They also suggested that a citywide Stage 1 assessment which goes into greater detail than an Archaeological Master Plan would be an ideal situation, however will likely not happen unless there is an outcry regarding the cost of an archaeological assessment in relation to small development projects, or an upset over something that is discovered during development which should have been accounted for in advance.

This expert also suggested that whether or not their colleagues in land development are enthusiastic about the requirement for an archaeological assessment, they nonetheless respect that it has become a part of the land development process that has to be addressed accordingly where
a requirement is present (Heritage Planner 1, Interview, 30 March 2017). Another expert said that most developers consider it “just another checkmark or rubber stamp,” however suggested that as long as it is getting done, this is an important step forward.

Indeed, it is suggested that the need for an archaeological assessment has moved from an outlier study in the development process to become an accepted part of the development approval spectrum. Nonetheless, it is indicated that there is a steep learning curve with regard to how to address this requirement, especially since it is not a regular requirement for development in the same way a survey plan and site plan are. This expert also suggested that their archaeologist colleagues are still sometimes viewed as an irritant or afterthought in the process – especially given that an archaeological discovery can add years to a development project (Heritage Planner 2, Interview, 31 March 2017).

The public perception of archaeological assessment is purported to be poor. Some informants attribute this to the issue that the public as a whole is only gradually understanding the role that planning has in shaping our communities, and that archaeology is a very nuanced aspect of this that does not have a significant practical influence on property owners. Further, one expert alleges, much of the public do not think of archaeology as a part of urban development, and relegate it to notions from popular culture like the films Indiana Jones and Jurassic Park (Heritage Planner 2, Interview, 31 March 2017).

Heritage Expert 2 recognised that proponents for small-scale development tend to fear archaeological assessments as the total fee can be very unpredictable (Heritage Expert 2, Interview, 31 March 2017). While in many cases all that is required is a Stage 1 or Stage 2 assessment, if something of major significance is discovered, it could result in many more fees to complete later stages of assessment, in addition to increased fees in a general sense as the process of development
is delayed, or potentially called off. That said, this expert noted that there are very few cases where archaeological assessment totally stops development, as Stage 4 mitigation measures can typically deal with these issues (Heritage Expert 2, Interview, 31 March 2017).

From the perspective of the archaeologist interviewed (21 March 2017), the increased requirements and complexity present for archaeological assessments have made performing them so onerous that it becomes challenging to form a viable business doing such assessments as a consultant archaeologist. This informant suggests that they and their colleagues are challenged to turn a profit when the onus is on them to hold onto and manage any archaeological artifacts discovered (required under the *Ontario Heritage Act*) and to complete numerous rounds of revisions before their report can be accepted by the Ministry of Tourism, Culture, and Sport. Accordingly, the timeline for an archaeological assessment can stretch far beyond what is feasible or profitable. This informant suggests that there will be a decrease in new archaeologists (and subsequent increase in retainer fees) if new policy and legislation does not consider the burden an archaeologist takes on in performing an assessment (Archaeologist, Interview, 21 March 2017).

The archaeologist suggested that for more contentious cases, archaeological sites become political areas themselves (Interview, 21 March 2017). In their work on sites where the community was opposed to the development, there would be lots of support for the work of the archaeologist and any findings discovered in the process. On the contrary, on sites where the community is in favour of the development and see archaeological assessment as an obstacle, there would often be occurrences of verbal criticism and vandalism to the site to disrupt the assessment.

Heritage Planner 2 noted that the political climate at the municipal level also has a considerable influence upon requirements for archaeological assessments. In particular, they suggest that more progressive councils are more encouraging of the importance of archaeological
assessments than councils which are inclined to reduce strains on development which they may perceive to be frivolous, harmful to economic development, or unneeded (Heritage Planner 2, Interview, 31 March 2017).

4.4.4 Where Archaeological Assessment Does Not Happen

Multiple experts could recall situations where archaeological assessments were not performed where required in the development process. Heritage Planner 1 suggests that when this occurs, it is not necessarily a deliberate action, but is merely overlooked given that this is a small requirement in a network of many concerns and issues involved in approving land development projects (Interview, 30 March 2017).

Heritage Planner 2 suggested that archaeological assessments are waived frequently, and that this is done as a favour to homeowners and small development proponents who might otherwise be greatly impeded by the cost of an assessment. This expert suggested that this often occurs at the Committee of Adjustment level, and that if there is no political will or resources for somebody to appeal such a decision, then it can get waived as part of the process (Heritage Planner 2, Interview, 31 March 2017). They also corroborated Heritage Planner 1’s statement that sometimes a municipality simply might not ask for such an assessment in the first place. Whether a municipality overlooking the site’s potential deliberately or as an error is not something that can be determined. Along this line, an assessment will not be completed if the municipality does not require one, since it is near-impossible for a planning consultant to compel a developer to pay the considerable fee for an assessment and risk the viability of their project out of good will if the municipality has not required them to.
With these factors being considered, the archaeologist consulted suggests that, although different municipalities weigh the importance of archaeology in unique ways, they all take it seriously (Archaeologist, Interview, 21 March 2017). Nonetheless, an archaeologist is usually only involved in the process once the municipality has required an assessment, and therefore they would not have an opportunity for exposure to the cases where an assessment has been waived or overlooked.

4.4.5 The Future of Indigenous Engagement and Archaeological Assessment

Perspectives are universally optimistic about the future of Indigenous engagement and archaeology in land development. They are viewed as a growing part of the planning process that are become more accepted as they become more commonplace. Planners acknowledged the minimal amount of training available to become better versed in Indigenous planning issues, and some felt that they learned primarily by gradually working through prior mistakes and being guided by Indigenous groups in how to better involve themselves (Municipal Planner, Interview, 4 April 2017; Land Development Planner, Interview, 20 March 2017).

The lawyer consulted suggests that the judiciary is a major force in improving the agency of Indigenous peoples, especially in development contexts. They note that it seems clear that the current direction of this body is to further enable Indigenous peoples, and that through improvements to policy and legislation, it is a feasible thing to achieve. They suggest that although municipal governments may not always take Indigenous claims seriously, he can reliably depend on provincial and federal courts in his practice to advocate for their interests and wellbeing (Lawyer, Interview, 31 March 2017).
5.0 Discussion

What is most salient from the research conducted for this report is that there remains a tangible gap between Indigenous agency in the planning process and that for the remainder of the population in Ontario. While the present policy and legislation has improved in many ways from what was previously the case, it remains such that there is a vagueness which limits the successful execution on these intentions on the level of practice. Indeed, the actual “practice” of existing policy is what was primarily examined through the methodologies applied in this report and it was made apparent that this is where some of the greatest disparities are. It was also learned that the realm of “practice” is also where it is most challenging to accurately measure the amount of progress achieved. Nonetheless, this report has succeeded in demonstrating that there is a present gap.

The ways that policy and legislation concerning Indigenous interests on a provincial level are applied in municipal official plans shows that although a general adherence is apparent, concerns appear far more weighted towards issues of archaeology than those of Indigenous engagement. There are discussions of engagement present, but they are in vague enough terms that the actual process can be interpreted in numerous ways that might fail to meaningfully engage Indigenous peoples in the process. Further, where specific local Indigenous groups are named as the body to consult or engage with, this does not allot any authority or agency to other nearby Indigenous groups which might have meaningful interests or bases for contributing their own perspective.

The review of active development applications demonstrated, at the very least, that archaeological assessments are not sufficiently available. It is hard to imagine how Indigenous groups can, as important members of the development process and members of the public alike,
determine whether a site with potential has been sufficiently assessed or merely overlooked. Further, as substantiated by statements from the interviews, it appears that archaeological assessments are not being performed in every case where they are required. This is indicative of a relative lack of reverence for the significance of Indigenous histories in favour of economic development.

An interesting avenue for future comparison in this regard would be to assess the type of applications where archaeological assessments have been waived. Doing so was not possible within this research project given that the application type was not consistently noted between different municipalities. Notwithstanding, given insight offered by those interviewed it is likely that “scale” has a noteworthy influence on the requirement for an archaeological assessment. This is to say that major applications, such as subdivisions, Official Plan Amendments, and Zoning By-law Amendments probably require an archaeological assessment from the perspective of the municipality with far more regularity than minor variance applications, where the impact/risk is viewed as very minute. As intimated earlier by some of the interviewees, the cost of archaeological assessments make them appear to be a disproportionate obstacle for small-scale applications. While the lack of an archaeological assessment where required fails ethical and legal tests *prima facie*, municipalities remain to be simultaneously democratic and economic entities and are therefore challenged to weigh the role of both in their daily operation – which itself is subject to the political climate and the individual actions of each staff member.

While archaeology concerns all histories; settler and Indigenous alike, the Indigenous histories deserve a heightened priority due to the legacy of erasure by settler populations. This is to say that settler histories in Canada are broadly recorded and well understood, whereas past Canadian governments have destroyed much of the rich narrative that constitutes the Indigenous
Canadian experience. Much of what we are yet to learn about our Indigenous populations will come from the many archaeological findings that are sure to precipitate in the future. Therefore, when archaeological assessments are overlooked in the development process, it is a direct affront to Indigenous Canadians and their own legacy.

As indicated through the interview process, Indigenous engagement connects Indigenous histories, their present contexts, and their futures through an opportunity to negotiate and guide their own livelihoods as not only a growing and increasingly urban population, but as one with an important entitlement to the planning process. In order to fully embed the Indigenous perspective within the land development process, engagement is necessary. Engagement is currently limited by vagueness in policy which, while perhaps unintentionally, allows for systemic forms of racism to pervade through placative engagement.

The interviews undertaken for this project suggest that planners are increasingly eager and willing to work with Indigenous people. There remains the reality that a recognisable portion of this may exist simply because it is required and not as a sincere desire by the proponent, this nonetheless still indicates positive progress – the normalisation of Indigenous involvement in the planning process is necessary before one can expect professionals and the public alike to observe the value it brings to the process. Further, there is a great lack of knowledge for “how to engage” present among professionals – even a well-meaning planner is unable to engage Indigenous peoples in a meaningful way if they have no education with regard to doing it. This can be resolved through numerous measures, which will be discussed in the final section.
6.0 Recommendations

This report is not intended to offer a panacea for the present shortfalls experienced by Indigenous peoples in the land development process. If anything, the intention is to trace a direction forward. The five following recommendations offer steps which aim to increase the potential for Indigenous Voices in planning practice:

**Recommendation One – Directed to the Province of Ontario:** Develop a technical document or toolkit at the provincial level to guide Indigenous engagement, thereby elaborating upon and outlining the ways by which the PPS policies on this subject are to be interpreted. Guidelines and technical documents are widely used by the province to clarify and build upon policies in numerous fields to ensure adherence and proper practice of the legislation. Given the increasing significance of indigenous engagement, such a document or toolkit would assist practicing professionals in undertaking meaningful consultation.

**Recommendation Two – Directed to Ontario Municipalities:** Enrich policy language in official plan documents to allow for input from Indigenous groups not considered to be the key group designated for engagement. As learned through the media analysis and the interviews, the current system wherein a single Indigenous group is consulted for a particular municipality is short-sighted in so far as it fails to recognise the needs of other Indigenous groups which may have a practical stake in the project. Such groups are currently stripped of all influence despite being subject to the consequences of the project, whether they are cultural, economic, or otherwise.
Recommendation Three – Directed to Ontario Municipalities: Improve municipal active development application interfaces so that they clearly inform whether or not an archaeological assessment is required for a site, and whether or not it has been performed where required. It was recognised earlier in this work that in some cases, archaeological assessments are withheld from the public to protect specific archaeological site locations and the significance of the findings. While there is a legitimate basis for this in numerous cases, it then makes it unclear to the public whether the municipality has not required an assessment or whether it was withheld. This is problematic, especially for Indigenous groups who have important connections to the heritage resources that may be being ignored. By including indication on the case file for an active development for whether or not an assessment has been performed, it provides an easy reference point to the public without risking the release of any compromising information. It also allows for researchers interested in the compliance of municipalities to such regulations the opportunity to easily measure this without having to look over every provided document with a close scrutiny.

Recommendation Four – Directed to the Province of Ontario: Mandate Indigenous engagement at Stage 1 of archaeological assessments where the site is believed to have significant Indigenous archaeological resources. Currently, it is only at Stage 3 that Indigenous groups are required to be involved in the process of an archaeological assessment on a site that has Indigenous significance. Given that the province encourages proponents to engage with Indigenous peoples at Stage 1 in this context, it suggests that there is nothing problematic about having them involved from the onset. Further, informants interviewed for this project recognised that there is a desire on the part of Indigenous groups to be involved from the onset. Policy on this matter should reflect the most
desirable and effective measure, and in this context, it appears to be the early involvement of Indigenous peoples in the archaeological assessment process.

Recommendation Five – Directed to the Ontario Professional Planning Institute: Make Indigenous engagement training a mandatory expectation for planning certification in Ontario. The Ontario Professional Planning Institute (OPPI) employs rigorous requirements for becoming a Registered Professional Planner (RPP). Requirements vary by context, but generally include a post-secondary planning education at an accredited university, the passing of ethics and aptitude tests, and multiple years of experience in the field. What is conspicuously absent is the presence of any requirement for Indigenous engagement training. There are certainly opportunities to acquire it through workshops and various post-secondary courses in accredited schools, but it remains possible to become an RPP without exposure to such training. Given the growing importance of Indigenous interests in planning, it is a significant area for which improvement must be made.
7.0 Conclusion

The intention of this research has been to assess the ways by which Indigenous policy and legislation are carried out in practice at the local level. This was achieved through analysis of the relevant academic literature, legislation, and policy, which was then compared to media coverage, active development applications, and interviews with experienced professionals from relevant fields. It became apparent that there is still a significant disparity between the policy and practice of Indigenous planning policy. While this report cannot offer any metrics which measure this gap, the findings are sufficient to illustrate that it exists, and that future research is key to better understanding the constitution of this disparity.

The research question for this report, which asked, “What is the interface between Indigenous urban planning policy and “on-the-ground” planning practice?” cannot be answered in a conclusive manner – but this report has come to demonstrate that it is a dynamic and evolving interface. Both the policy and the agents interpreting it are continually changing. The findings of this report have suggested a positive trajectory, but have indicated that both the policy and the agents interpreting it can be improved upon.

The recommendations provided in the previous section are directed toward the bodies best capable of addressing them. This is to suggest that increasing Indigenous agency in the planning process is a shared responsibility. Municipalities are responsible for their own Official Plan policies and the online interfaces for their development application websites; and are capable of addressing issues within. The Province of Ontario has the power, jurisdiction, and resources to refine their policies and develop an Indigenous consultation toolkit. Lastly, the Ontario Professional Planning Institute, in an interest for its own reputation and legitimacy as well as its responsibility for overseeing the conduct of good planning in Ontario, should ensure that
Indigenous interests; such a crucial component of land development and community building; are understood and considered in practice by planning professionals.

What then, do the proposed recommendations suggest about the direction forward? Firstly, existing Indigenous planning theory has done a very commendable job to establish the profile and significance of Indigenous peoples in urban spaces and as part of the development process. It has become a widely-held opinion among academics in the planning sphere that Indigenous interests matter greatly and are of growing importance in the field. Further, policy in Ontario is moving in a direction closer to establishing the rights and impact in the planning process that Indigenous people are entitled to. What has been my suggestion through the completion of the report is that the next step is to investigate practice.

The most well-intentioned policy and legislation conceived is still weak if there is not an effective way to measure its influence upon the improvements of Indigenous agency and livelihoods. By examining practice, it becomes possible to occupy a bottom-up approach which investigates the ways by which what is occurring firsthand in ongoing development processes is meeting the intentions of the policy; or moving through potential loopholes and grey areas. The challenge with investigating practice is that it is beyond capture and measurement in many ways, and there are always factors that are invisible to the observer and researcher. It is my argument that in many capacities, these issues are outweighed by the rich insight offered by finding out how, and the degree to which abstract policy finds traction on the ground in practice. Indeed, policy and legislation are intended to improve the livelihoods within the domains which they govern and therefore can be considered a failure if the practice does not match the intention. Planners are unique agents given their multi-disciplinary skillset, their broad connections to communities and governments alike, and their considerable influence on the development of our collective futures.
It is for this reason that they are situated to advocate for greater Indigenous agency, if not because of the ethical burden, because it is the best way to achieve the best for our inextricably shared trajectory forward.
8.0 Bibliography


Province of Ontario.


Appendix A – Application Analysis Data Table

The table below serves as a summary of the findings from the analysis of active development applications carried out for this report. Each numeric value represents a count of active development applications pertaining to the relevant category.

<table>
<thead>
<tr>
<th></th>
<th>Ottawa</th>
<th>Guelph</th>
<th>Kingston</th>
<th>Overall</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Assessment Required</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td>91</td>
<td>10</td>
<td>42</td>
<td>143</td>
</tr>
<tr>
<td>No</td>
<td>126</td>
<td>19</td>
<td>15</td>
<td>160</td>
</tr>
<tr>
<td><strong>Performed where required</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td>42</td>
<td>6</td>
<td>26</td>
<td>74</td>
</tr>
<tr>
<td>No</td>
<td>49</td>
<td>4</td>
<td>16</td>
<td>69</td>
</tr>
<tr>
<td><strong>Max Stage Reached where performed</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Stage 1</td>
<td>11</td>
<td>0</td>
<td>3</td>
<td>14</td>
</tr>
<tr>
<td>Stage 2</td>
<td>23</td>
<td>3</td>
<td>15</td>
<td>41</td>
</tr>
<tr>
<td>Stage 3</td>
<td>7</td>
<td>0</td>
<td>3</td>
<td>10</td>
</tr>
<tr>
<td>Stage 4</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>TBD</td>
<td>1</td>
<td>1</td>
<td>3</td>
<td>5</td>
</tr>
<tr>
<td>Unknown</td>
<td>0</td>
<td>2</td>
<td>1</td>
<td>3</td>
</tr>
</tbody>
</table>