

**Hybrid Government Institutions:
Reconciliation or Institutional Colonialism?**

The Case of the Tłı̨chǫ Peoples, Northwest Territories

by
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Abstract

On August 25, 2003, the Tłıchǫ Peoples of the Northwest Territories signed a combined comprehensive land claim and self-government agreement with the Government of Canada. In addition to transferring ancestral lands back to the Tłıchǫ Peoples, the Agreement provides the Tłıchǫ Peoples with the right and freedom to define how their lands and its resources are managed. The establishment of such an Indigenous government presents an opportunity to create new institutions of governance that meaningfully include Indigenous values and that reflect traditional knowledge and practices of the Tłıchǫ Peoples.

This thesis poses two questions. Has Tłıchǫ self-government resulted in the creation of unique Indigenous government institutions that incorporate Indigenous approaches, customs and habits (Indigenous perspectives)? Have these Indigenous institutions been meaningfully incorporated by formal government institutions at the watershed and territorial level? This study is situated within the broader debates surrounding reconciliation. It argues that meaningful reconciliation requires more than simple acknowledgement of rights or a duty to consult; it requires meaningful integration of Indigenous practices and perspectives into formal institutions, and most importantly, formal government institutions.

A combined structural institutional analysis and discourse analysis of formal government institutions and documents of the Tłıchǫ Government, the Mackenzie Valley Land and Water Management Board and the Government of the Northwest Territories was conducted. Analysis focused on land and water management. It was found that the Tłıchǫ Government has created unique hybrid government institutions, grounded upon Tłıchǫ history, culture and practices and augmented by modern knowledge and practices through the principle of knowing two ways. However, the integration of Indigenous practices and perspectives remains limited in the formal government institutions and documents, and therefore formal practices, at the watershed and territorial levels.

This suggests the possibility of a new “two solitudes” separating Indigenous peoples and their governments from territorial, provincial and federal governments in the day-to-day activities of governance. This study also raises the question of whether hybrid formal government institutions can be created and if they can, whether these can become institutions of reconciliation or remain expressions of institutional colonialism under resilient settler colonialism.

Keywords: Indigenous governance, institutional colonialism, resilient settler colonialism, reconciliation

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List of Acronyms

WLWB – Wek’eezhii Land and Water Board

CERRC – Clean Energy for Rural and Remote Communities

IFI – Indigenous Forestry Initiative

RCAP – Royal Commission on Aboriginal Peoples

RRD – Responsible Resource Development

CBNRM – Community Based Natural Resource Management

IAD – Institutional Analysis and Development Framework

CIAD – Critical Institutional Analysis and Development Framework

CEC – Chiefs Executive Council

TLUPWG – Tlicho Land Use Plan Working Group

LPZ – Land Protection Zones

LPD – Land Protection Directives

MLA – Member of the Legislative Assembly

GNWT – Government of the Northwest Territories

ITI – Department of Industry, Tourism, and Investment

ENR – Department of Environment and Natural Resources

MVLWA – Mackenzie Valley Land and Water Act

PAS – Protected Area Strategy

MVLWB – Mackenzie Valley Land and Water Board

Part 1. Introduction to the Study

1. Introduction

On August 25, 2003, the Tłıchq Peoples of the Northwest Territories signed a combined comprehensive land claim and self-government agreement with the Governments of Canada and the Northwest Territories. This Agreement came into effect nearly two years later, on August 4, 2005. The *Tłıchq Land Claims and Self-Government Agreement* (or the Tłıchq Agreement) provided for the creation of a Tłıchq Government and transferred to it ownership of 39,000 square kilometres of land (part of the greater ancestral lands of the Tłıchq people, the *Môwhì Gogha Dè Nîîtâèè*) along with title rights to all surface and subsurface resources contained therein. The Agreement further recognizes Tłıchq rights to resource use and involvement in decision-making of a larger management area within the *Môwhì Gogha Dè Nîîtâèè*, known in the document as *Wek'èezhì*.

The signing of the Tłıchq Agreement is not simply about recognition of land claims and rights of the Tłıchq Government or of the People's control over their core ancestral lands. Equally important, the Agreement provides the Tłıchq Peoples with the right and freedom to define *how* their lands and its resources are managed. The establishment of such an Indigenous government presented the opportunity to create new approaches, policies, programs and institutions that meaningfully include Indigenous values that reflect traditional knowledge and practices of the Tłıchq peoples.

1.1. Purpose

This study examines the extent to which Indigenous approaches, customs and habits (collectively termed in this study as Indigenous perspectives) have been incorporated into the formal institutions of the Tłıchq Government. It then explores the extent to which non-

Indigenous government institutions have or have not also integrated these Indigenous perspectives. This is to ask whether new Indigenous-inspired institutions remain limited to Indigenous governments or have these institutions been embraced by non-Indigenous governments or their agencies.

This work examines both government structure and documents published by the Tłı̨chǫ Government, the Wek'eezhii Land and Water Board (WLWB) (and the Mackenzie Valley Land and Water Board), and the Government of the Northwest Territories. Given the centrality of land and water to Indigenous cultures, focuses on natural resource management institutions and documents. The reason for this approach is because of the intimate connections to the land of Indigenous peoples. One of many scholars who have written of these connections, Leanne Simpson (2014), writes of the intimate ties between Indigenous culture and the land, and the oppressive actions of settler colonization that have had significant health, social and cultural implications upon Indigenous peoples. She states (2014, p.19), “being engaged in land as pedagogy as a life practice inevitably means coming face-to-face with settler colonial authority, surveillance and violence because, in practice, it places Indigenous bodies between settlers and their money” and that “the practices of hunting, fishing and living off the land within [traditional] territory [is] a direct challenge to settler colonialism.”

1.2. The Study's Research Questions

This thesis poses two questions. First, *has Tłı̨chǫ self-government resulted in the creation of unique Indigenous government institutions that incorporate Indigenous approaches, customs and habits (Indigenous perspectives)?* Second, *have these Indigenous institutions been meaningfully incorporated by government land and water management institutions at the watershed and Territorial level?* The scope of this study raises a wide range of associated

questions. Are the institutions of government created by the Tłı̨chǫ Peoples for land and water management different from colonial institutions and, if so, in what ways? Do the Tłı̨chǫ institutions reflect a hybrid form of institution combining both Indigenous and non-Indigenous approaches into a model reflecting the Tłı̨chǫ concept of knowing two ways? Can the incorporation of Indigenous approaches, customs and habits in land and water management institutions be seen as a measure of progress towards meaningful reconciliation?

This work assumes that genuine reconciliation requires more than recognition; it requires inclusion of Indigenous views, knowledge and habits in institutions of governance. As a counterpoint to this position, this thesis raises the idea of institutional colonialism, which is defined herein as institutions that continue to promote settler-colonial approaches and practices. Building on the tradition that recognizes that settler colonialism is not a singular event but an ongoing process of domination, Anna Stanley's (2016) idea of resilient settler colonialism seeks to maintain its power when challenged by Indigenous challenges through adaption analogous to resilience of ecosystems to overcome disruptions. Therefore, the overarching question of this inquiry is: Can new forms of hybrid government institutions achieve genuine reconciliation or are these simply continuing examples of the resilience of settler colonialism?

This research identified 14 primary documents used when making land and water management decisions in the Northwest Territories generally, and on Tłı̨chǫ lands specifically. In addition to informing the structural analysis of formal institutions, these documents provide the primary materials used in the discourse analysis.

1.3. Positionality

In many disciplines, including geography, the importance of identifying one's position within their research has become an ethical imperative for ensuring a more responsible research

practice (De Leeuw and Hunt, 2017). This process provides context to the reader but also identifies and addresses some of the biases that are being brought to the table. While the researcher in this instance is neither Indigenous or from the North, this research topic is the product of upbringing, education and work experience. Growing up I was surrounded by family members who were actively pursuing careers in the environmental sector in areas including off-grid housing, alternative energy sources, and various recycling initiatives. These role models greatly shaped my own interests which led me to pursue an undergraduate degree in Environmental studies. During this time, I developed a keen interest in environmental and natural resource policy and was fortunate to secure a work placement during my final year with a local environmental consulting firm focused on sustainability, resource security and Indigenous energy sovereignty. What was initially a four-month placement evolved into three years of experience, and the focus of my work became heavily focused on supporting Indigenous communities perusing clean energy projects. This work brought to my attention the numerous barriers that Indigenous people face when undertaking natural resource development projects and led me to question how approaches to resource management differed between Indigenous communities or governments in comparison to institutions such as the Government of Canada or provincial/territorial governments.

Further, this topic is of interest to me having recently accepted a position within the Government of Canada's Department of Natural Resources as a policy analyst for the Clean Energy for Rural and Remote Communities (CERRC) Program and Indigenous Forestry Initiative (IFI). As two programs that specifically target Indigenous communities, much of my work as a policy analyst has been focused on working on ways to better ensure the inclusion of Indigenous people in each program's governance structure. As such, this research will augment

my understanding of complex institutional relationships and provide insight on how Indigenous perspectives are included at scales of government.

1.4. The Study's Organization

This thesis is organized into three parts. Part one, consisting of three chapters that introduce the thesis and its purpose, its rationale and the case study respectively. Part two consists of two chapters. Chapter 4 presents an overview of the literature concerning institutions in order to provide the theoretical context for the study, followed by a description of the methodologies used in chapter 5. Part three presents the results in chapter 6 followed by a discussion of the findings and their significance in chapter 7. Finally, chapter 8 concludes this research and presents possible directions for future research.

This thesis undertakes a document analysis situated under institutional ethnography. Due to unforeseen circumstances, this research was unable to include formal interviews as a part of the case study and therefore undertakes a discourse analysis of secondary resources made available online.

2. The Study's Rationale

2.1 Situating the Study under Reconciliation

This thesis is situated within the broader discussion of reconciliation. Progress towards reconciliation has been turbulent. The Royal Commission on Aboriginal Peoples (RCAP) (1996) sought a far-reaching and fundamental restructuring of Canada-Indigenous peoples' relationships based upon four principles: recognition, respect, sharing and responsibility. Such a renewed relationship involves more than simple recognition of treaty rights. The Truth and Reconciliation Commission (2015) elaborated upon this calling for an ongoing process of building respectful relationships between Indigenous peoples and Canada, stating reconciliation in its most simplistic form is about establishing and maintaining a mutually respectful relationship between Aboriginal and non-Aboriginal people (Truth and Reconciliation Commission of Canada, 2015). Ariss, Fraser and Somani (2017, p.12) argue that such reconciliation "reflects something beyond formal law, something that can guide both legal and social relationship building" (see also Walters 2008).

However, what is this "something" that Ariss, Fraser and Somani (2017) refer to? How can this be expressed in terms of practices and institutions, and particularly formal government institutions and practices? The creation of Indigenous self-governments and the signing of comprehensive land settlement agreements are important steps towards reconciliation. However, do we run the danger of creating a new "two solitudes" consisting of Indigenous peoples located within their returned self-governed territories with their own unique governmental institutions and the rest of Canada with its established government institutions?

The issue of institutions is an important one. Abrutyn and Turner (2011, p.295) write "as differing societies collide, unevenness in institutions and institutional actors can lead to conflicts

regarding recognition of rights and the ways in which decisions are made in shared spaces, both social and spatial.” As a result, “depending upon the relative dominance of one or more institutional domains, the environment of organizations will be disproportionately influenced by the ideologies of these dominant domains.” This has certainly been true of Canada (Crown)-Indigenous relations. It suggests that in order to achieve true reconciliation requires – perhaps – more pragmatic change in government institutions including an openness to incorporating Indigenous institutions.

This, however, may prove problematic. There are critics of reconciliation. Ariss, Fraser and Somani (2017) raise the concerns of some who see reconciliation as a “pacifying discourse” that fails to address what they see as “persistent colonialism.” Many Indigenous people reject the politics of reconciliation, arguing that it is simply the new face of the colonial project (Coulthard, 2014; Stanley, 2017). Both Alfred (2009) and Vermette (2011) argue that the narrative of reconciliation subsumes “Indigenous difference in efforts to reach consensus.” More recently, Anna Stanley (2016) has raised the possibility of a “resilient settler colonialism” which seeks to retain its power and control by adapting to Indigenous challenges of its authority in a manner analogous to the ecologist Crawford Holling’s (1973) concept of resilience. These challenges to reconciliation prompt Ariss, Fraser and Somani (2017, p.14) to conclude “that reconciliation is a risky proposition. In particular, where reconciliation is used to promote ‘balancing interests,’ Crown sovereignty is left unchanged with very little attempt to make substantial changes required by reconciliation as relationship.”

This represents the point of departure for this thesis. It considers whether Indigenous practices, knowledge and beliefs (the Indigenous perspective) are incorporated into government institutions both within newly created Tłı̨ch̨ government and beyond, in other levels of

government with the Northwest Territories and, if so, how? Is it sufficient to simply consider Indigenous interests and rights through a duty to consult within the framing of “reconciliation as relationship” as constituting reconciliation (see chapter 4) or do institutions have to change and integrate Indigenous institutions in order to achieve true reconciliation?

2.2. A Note on the Importance of Institutions

With self-government comes the need to create institutions of governance. These institutions are more than the departments or agencies and programs created by a government; institutions of governance consist of both formal rules and informal practices that structure social activities and interaction and that reflect shared habits of thought and behaviour within a community (Hodgson 2006). The institutional economist, Hodgson (2006, p.6), states that “persistent and shared habits are the bases of customs” and that customs, in turn, provide the foundation for a society in general and its formal institutions specifically.

Institutions are powerful organizers in a society. Informal institutions, consisting of ‘traditions, customs, moral values, religious beliefs, and all other norms of behavior that have passed the test of time’ (Pejovich, 1999, p. 166,), organize many practices operating within a society. Formal institutions consist of constitutions, contracts and forms of government (see North, 1990, 1991; Lowndes, 1996; Farrell and Héritier, 2003; Kaufmann and Van Witteloostuijn, 2012, 2016) and are organized around written enforceable “rules, procedures, instructions and communications” (Pugh et al., 1968, p.75). In pluralistic societies, such as Canada, these formal institutions are often defined by the dominant constituents of society. This thesis is concerned with formal government institutions insofar as it is around these institutions that actions are formally organized; that is, this work is concerned with what is included in

formal requirements outlined in these rules, procedures, instructions and communications in a formal institution and what is not.

The evolution of Indigenous institutions, based upon Indigenous customs and practices, is of importance today and likely to be increasingly so in the decades ahead as the processes of reconciliation continue to unfold. Differing theoretically, politically and geographically from metropolitan colonialism, the focus of settler colonialism is on the permanent occupation of a territory and the removal of Indigenous peoples with the express purpose of building an ethnically distinct national community (Wolfe, 1999, 2006; Veracini, 2011). To Coultard (2014), settler colonialism is an enduring structure that is predicated on the dispossession of Indigenous peoples' lands and political authority. However, given the focus of settler colonialism to dispossess and ultimately remove Indigenous peoples, settler colonialism is viewed by some, such as anthropologist Audra Simpson, as a failure, given the ongoing presence and increasingly vocal counter-claims of Indigenous people in settler-colonial geographies (Simpson, 2014).

Settler-colonial practices are not so-much an 'event' (Wolfe, 1999, 2006) as "an enduring and constitutive element of the broader field of power relations that shape outcomes in settler societies" (Hugill, 2017, p.6). These tensions are rooted in both historical and current events and continue to persist between Indigenous groups, territorial/provincial governments and the federal government. These tensions are often centred around natural resource management and exploitation due to the intimate connections between Indigenous culture and the land. These tensions are also situated in formal institutions where settler-colonial practices remain firmly entrenched in the written rules of these institutions.

The attainment of comprehensive lands settlements and self-government agreements is perceived as a means of redressing, in part, historical inequality and legacy of settler-

colonialism. Through these processes, Indigenous peoples are beginning to reclaim their rights and heritage through self-governance and control over their ancestral lands. However, to what degree have these processes provided for the creation of unique Indigenous institutions that reflect Indigenous knowledge, practices and beliefs? The geographer Harris (2004) encourages researchers to understand colonialism in its territorial and historical specificity, and as such, this question must be contextualized by the political and historical particularities between the Northwest Territories and Tłıchǫ people. The Tłıchǫ Agreement provides an opportunity to explore this question further.

3. Framing the Cast Study – The People and Self Government

The decision to focus on the Tłıchǫ people and land and water management was made as a result of preliminary research that revealed the dynamic governance regime consisting of a multi-layered structure including a relatively new Indigenous government, a majority Indigenous co-management board, and territorial government. This chapter provides the background information needed to set the context within which this research is situated and to understand the questions being discussed. This chapter provides an overview of the history of the Tłıchǫ people, their traditions and beliefs.

3.1. Tłıchǫ Nation in History

The Tłıchǫ, sometimes also referred to as the Dogrib (English translation of Tłıchǫ), are members of the Dene or Doné Peoples of the Athapaskan language family. The Tłıchǫ inhabited a vast expanse of land located between what is known in Tłıchǫ as Tidee (Great Slave Lake) and Sahti (Great Bear Lake). These lands are referred to by Tłıchǫ Elders as Tłıchǫ neeke. However, it is more commonly known as Môwhi Gogha Dè Nîttâèè following Grand Chief Monfwi's description during the negotiations of Treaty 11 and in the Tłıchǫ Agreement.

The traditional Tłıchǫ way of life was organized around yearly cycles that Legat (2012) refers to as the “ebb and flow of seasonality” which were linked principally to the movement of the caribou (Legat, 2012, p.23). The Tłıchǫ would follow “traditional trails in birchbark canoes to the barren lands in the fall to harvest the caribou herd; and then [head] below the tree-line for the long northern winter until the warmth and life of spring [returned]” (Zoe, n.d., p3). The importance of the caribou is further reflected in the many Tłıchǫ stories, traditions, and practices in which they play a part, leading Birlea (2018) to describe the caribou as a cultural “keystone species” for the Tłıchǫ people.

Since time immemorial, the Tłı̨chǫ have lived closely on the land relying on traditional knowledge passed down from generation to generation (Martin, 2013; Tłı̨chǫ Government, n.d). Knowledge needed to survive off the land was, and continues to be taught by Elders through oral stories recounting the experience of living and travelling on the land. In Tłı̨chǫ, the land is referred to as de. However, the concept of de is much more complex and inclusive than the “Western” understanding of land. Loosely defined by Legat (2012, p.208), de is as a concept that “includes everything that is associated with ‘land, ground, dirt, earth’ and with whom Tłı̨chǫ have a relationship that is responsive to their attention, action, and behavior.” This also includes the waters and animals that occupy the land alongside the people.

A key part of living off the land that speaks to the Tłı̨chǫ’s connectedness to de is the importance of respect. In *Trails of our Ancestors: Building a Nation* (n.d), Tłı̨chǫ lands are described as being “infused with the presence of innumerable entities, or ‘powers’, both benevolent and malevolent.” As such,

in traveling across the landscape, one must constantly mitigate the impact of personal actions by appeasing these entities with votive offerings, and by observing strict rules of behavior. For example, at each new water body encountered en route, offerings are left. In Tłı̨chǫ vernacular, it is said that these places, and the entities inhabiting them, are being ‘paid’. (Zoe, n.d., p.23)

Tłı̨chǫ also express respect, gratitude and the importance of the land through place names that reflect important historical, cultural and physical features in Tłı̨chǫ history and way of life (Legat, 2012; Tłı̨chǫ Government, 2013). In a report published by Dedats’eetsaa, the Tłı̨chǫ Research and Training Institute (2014) titled *Place Names as Indicators of Biogeographical Knowledge*, place names were identified as important indicators of topography, water flow and biodiversity in addition to experiences associated with animals, humans, politics and spiritual sites. Place names also serve as a record documenting Tłı̨chǫ history. The community of Whati

for example, used to be known as Tsoti, which translates to mean Excrement Lake. This name was chosen to memorialize battles between the Tetsq̄t̄'ı̄ (Chipewyan) and the Tłı̄ch̄o. A second example can be drawn from Gots'okati (Mesa Lake). Translated as Cloudberry Lake, Gots'okati was named as such to indicate the resources and biodiversity in the surrounding area and to represent a peace agreement made in the 1800s with the Tetsq̄t̄'ı̄. These two examples provide a glimpse into the ways in which place (land), place names, and Tłı̄ch̄o history are intertwined. By learning Tłı̄ch̄o history, one simultaneously learns about the land, and as one travels the land, place names help to tell the history of the Tłı̄ch̄o. As such, the ability to participate in traditional activities such as hunting and harvesting that require a deep appreciation, respect, and understanding of the land is very important in preserving Tłı̄ch̄o culture.

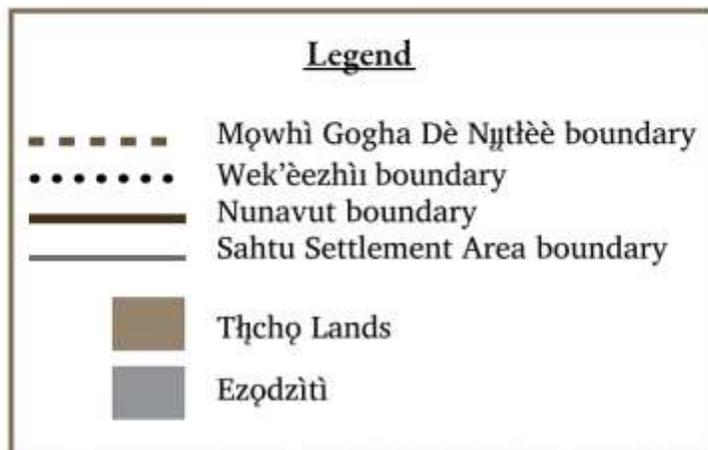
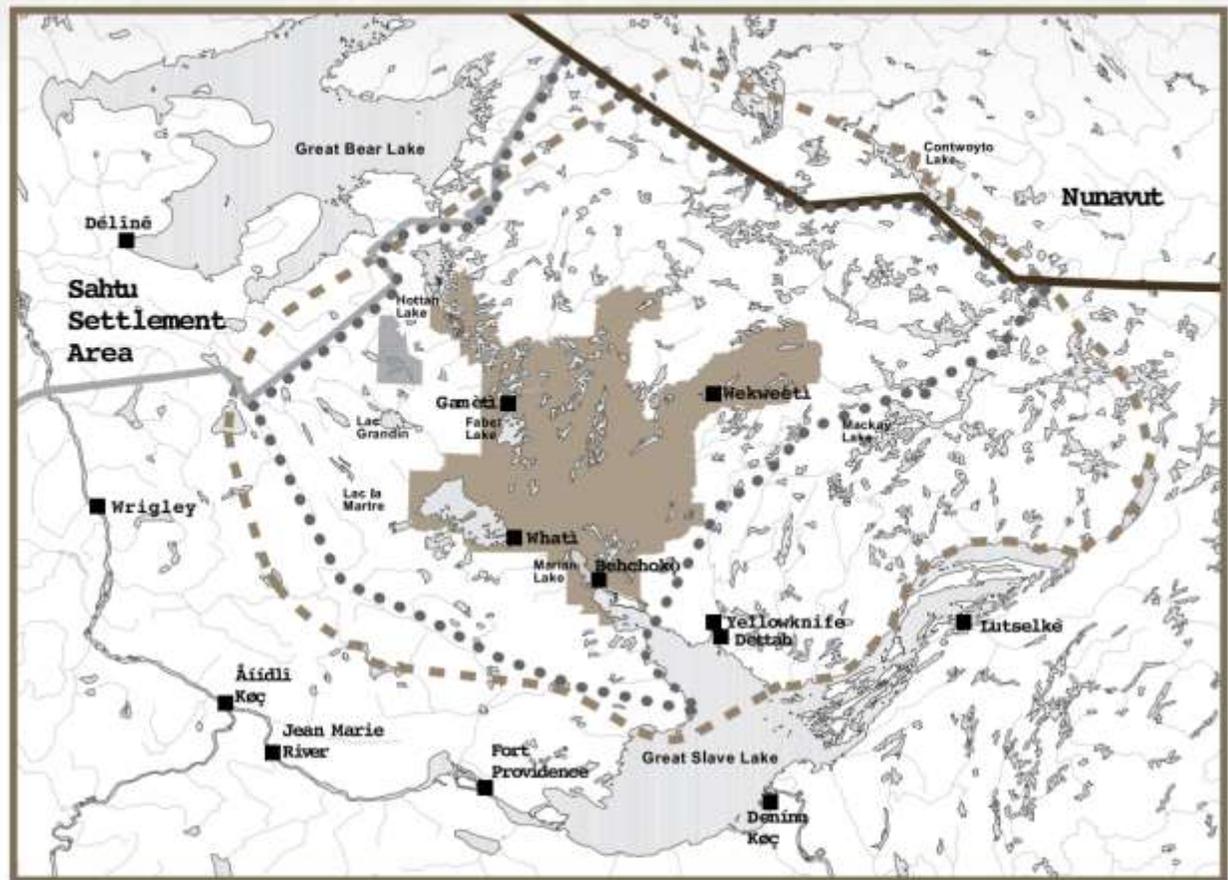
Within Indigenous studies, there is an emerging body of literature that helps to think through and better understand concepts such as de which reiterate the importance and centrality of land to Indigenous ontologies. This work includes Simpson's (2014) *Land as Pedagogy* in which she argues that "the largest attack on Indigenous Knowledge systems ... is land dispossession" (p.21) and calls on the need to revitalize not only tribal knowledge but also tribal ways of teaching and learning that are predicated on place based teachings and learning by doing. Coulthard (2014) echoes this in his work on grounded normativity, which is centered on the ethical frameworks provided by Indigenous place-based practices and associated forms of knowledge.

Over the past 150 years, Tłı̄ch̄o have experienced significant changes resulting from colonial rule and settler-colonial domination. Driven primarily by economic opportunities, the influence of European goods on Indigenous communities located within the Mackenzie District

can be dated back as early as 1700. Direct context, while acknowledging the variation across the territory, took root between around 1821-1880. This period is characterized by the arrival of two key institutions: the Hudson Bay Company and Christian missions (Sabin, 2016; Abele, 2009). Sabin (2016) describes two interrelated processes through which settler colonization was established: “the marginalization or elimination of Indigenous populations, and the formation of stable settler populations” (p.45). These two processes occurred at varying rates across the country and more specifically the NWT, however it was not until the ‘postwar era’ (i.e. after 1945) that “Indigenous peoples became continually more subjected to pressures that issue from big government, large-scale commerce and industry, aggregation into white-dominant settlements, and the accelerated communication of aspects of white lifestyle” (Sabin, 2016, p.52). It was during this period that “the establishment of permanent settler societies in the lands of Indigenous peoples [occurred] and the expansion of control over Indigenous lives [unfolded]” (Sabin, 2016, p.53).

While knowledge of and experiences on *de* are ingrained in Tłı̨ch̨o culture, an emphasis is also placed on the Indigenous concept of knowing two ways, which speaks to the open and inclusive nature of the Tłı̨ch̨o knowledge system. Knowing two ways refers to “understanding the concepts and pronunciations of two dialects or understanding two knowledge systems” – with particular emphasis placed on learning and understanding western knowledge (Legat, 2012, p.4). Being knowledgeable and knowing two ways is considered a sign of respect, creates a person that is considered to be “strong like two people” and provides the ability to understand different perspectives and ways of doing things (p.29). Within Tłı̨ch̨o knowledge systems, becoming knowledgeable is based on actions, relationships, interactions and events, and humans

are believed to be constantly gaining knowledge meaning one can never be all-knowing due to the ever-changing nature of the world (Legat, 2012).



Map 1. Regional boundaries outlined in the *Ṭḥcḥo Agreement* (Source: Implementation Committee, 2010)

3.2. Tłıchọ Nation Today

Colonization has had a lasting impact on Tłıchọ culture and way of life. Oppressive policies limited their access to their land and resources and stripped them of their power and autonomy (Tłıchọ Government, 2013). In particular, the traditionally “nomadic style of [Tłıchọ] living began to decline as the influence of the modern ‘western society’” became entrenched to the extent that today, “members of the Tłıchọ Nation live mostly in the communities; have entered into a wage economy and classroom-based schooling” (Zoe, n.d., p.3). These changes have threatened Tłıchọ culture as the traditional “teaching processes of the Tłıchọ have been absent as people no longer travel together on the land” (Zoe, n.d., p.3).

The historical land areas to the Tłıchọ are presented in Map 1. There are four permanent Tłıchọ communities: Behchokò, Gamètì, Wekweètì, and Whatì. As the largest of the four communities, Behchokò (Map 2) is home to approximately 2230 people and is composed of three ‘neighbourhoods’ called Rae, Edzo and Frank Channel (Bureau of Statistics, 2018; Tłıchọ Government, 2017a). Behchokò is also the most accessible of the four communities, as it is the only community accessible by an all-season road.



Map 2. Tłı̨chǫ community boundary of *Behchokò* (Source: Tłı̨chǫ Government, 2013).

The other three communities of Whatì (Map 3), Gamètì (Map 4), and Wekweètì (Map 5), were originally formed as a means to get out of Behchokò, where there was a strong colonial influence (Legat, 2012). Through this exodus, the Tłı̨chǫ sought more remote locations where they could be free from the “ever- increasing rules, regulations, and controls being administered from Yellowknife” (Legat, 2012, p.116).

The community of Whatì is located along Tsoti (Lac La Martre), approximately 164 kilometres northwest of Yellowknife. It has a population of 522 people (2016) and the

community is accessible by a winter ice road from Behchokò or year-round by chartered flights (Bureau of Statistics, 2018; Tłı̨chọ Government, 2017a).



Map 3. Tłı̨chọ community boundary of *Whatı̨* (Source: Tłı̨chọ Government, 2013).

Gamèti, is located 177 kilometres northwest of Yellowknife in a traditional hunting area located mid-way between Great Bear and Great Slave lakes. Before people settled permanently in the community, Gamèti, was used as a temporary hunting camp, but now is home to 291(2016) people (Bureau of Statistics, 2018; Tłı̨chọ Government, 2017a).



Map 4. Tłıchǫ community boundary of *Gamètı* (Source: Tłıchǫ Government, 2013).

Wekweèti is the smallest of the four communities with a population of 136 people. The community is located along the Snare River and is the most northern of the four communities. Wekweèti is located in an important area for the Bathurst caribou and is therefore an important hunting region for the Tłıchǫ people (Bureau of Statistics, 2018; Tłıchǫ Government, 2017a).



Map 5. Tłıchǫ community boundary of *Wekweètì* (Source: Tłıchǫ Government, 2013).

Today, Tłıchǫ communities participate in what is known as a mixed economy, partaking in both traditional and wage labour activities. Due to their remoteness, Gamètì, Whatì and Wekweètì, continue to be considered as more traditional cultural hubs, and “families who currently live in Behchokò continue to send their children and other family members to these smaller fly-in communities to live with relatives” and experience a more traditional lifestyle (Legat 2012, p.117). Such traditional activities, and specifically those related to food, continue to play an important role in all four communities. As Table 1 presents, more than half of the population in each community consumes a diet that consists of at least 50% country foods, and a significant percentage of people continue to participate in traditional activities, notably hunting, fishing and trapping (Bureau of Statistics, 2018).

Table 1. Percentage of population per Tłı̄chọ Community that Practices Traditional Activities

	Hunted & Fishes (%)	Trapped (%)	Diet consisting of 50% or more country foods
Whati	55.4	16.3	59.8
Behchokò	40.5	10.7	58.9
Gameti	52.9	13.5	82
Wekweèti	73.8	16.8	88.6
NWT	44.7	6.1	26.3

3.3. The Tłı̄chọ Agreement

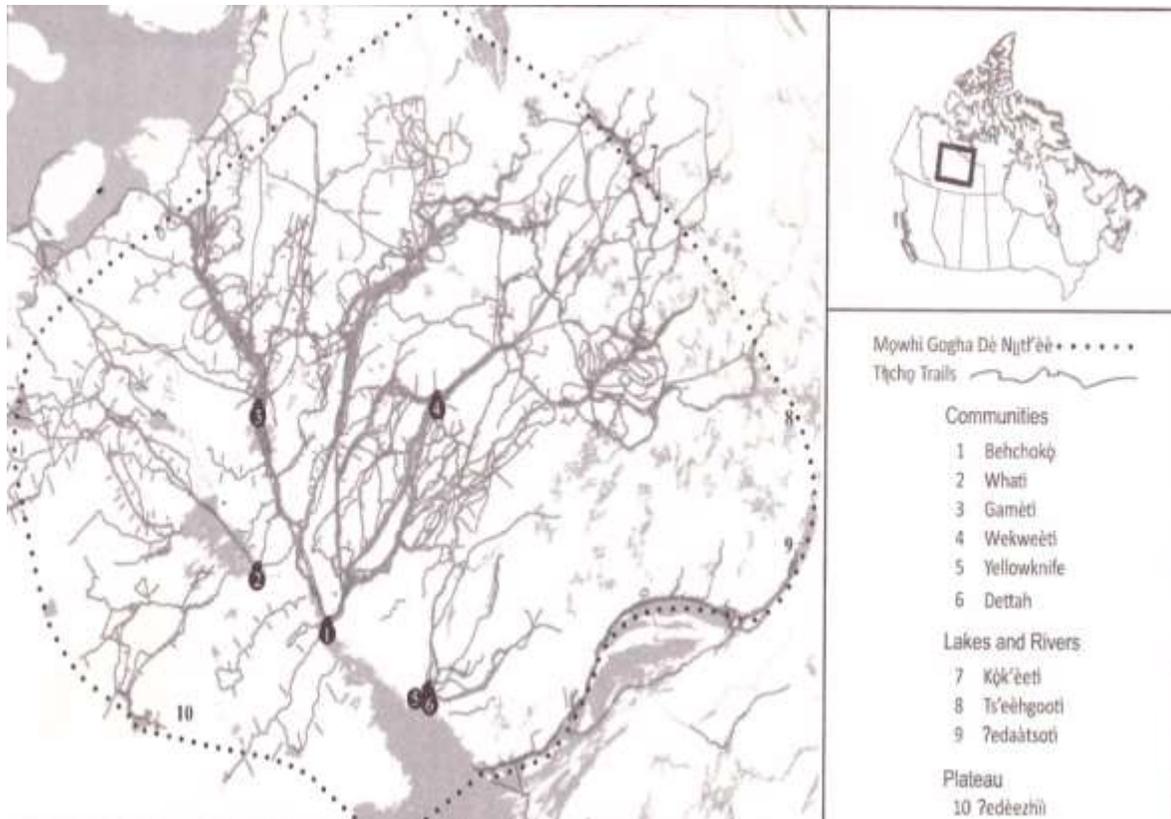
Despite the challenges presented as a result of colonial rule and the struggle to maintain their cultural practices and traditions, Tłı̄chọ have actively fought for their autonomy, the right to live and practice a traditional life and for self-governance. The first step towards this was in 1921 at which point the Tłı̄chọ signed Treaty 11 with the Government of Canada. The Treaty promised annual payments and services in exchange for land titles allowing for mineral and gas exploration throughout the Mackenzie Valley. Leading the negotiations on behalf of the Tłı̄chọ was Chief Monfwi, the first ever Tłı̄chọ Grand Chief who fought for hunting and trapping rights within the traditional territory of the Tłı̄chọ. At the signing of Treaty 11, Monfwi was quoted as saying that “as long as the sun rises, the river flows, and the land does not move, we [Tłı̄chọ] will not be restricted from our way of life” (Tłı̄chọ Government, 2013, p.14). His words, speaking to the inseparable nature of Tłı̄chọ way of life to the land, have become engrained in Tłı̄chọ values and everyday life. Chief Monfwi has since become a significant figure in Tłı̄chọ history.

Despite the promises made in Treaty 11, many were not respected, and Tłı̄chọ continued to be restricted from their way of life. As a result, in 1994, the Tłı̄chọ followed the lead of the

Sahtu Dene, Metis and Gwich'n peoples in negotiating their own land claims agreement with the Canadian federal government. On August 25, 2003, 82 years after the signing of Treaty 11, the Tłı̨chǫ Comprehensive Land Claim and Self Government Agreement was signed.

The Tłı̨chǫ Agreement came into effect two years later, August 4, 2005. According to the implementation committee (2009), the Agreements provided the “tools and resources needed to strengthen [the Tłı̨chǫ] economy through greater participation in the regional and territorial economy” and “[enhanced their] ability to protect and promote Tłı̨chǫ culture, language, heritage, lands, and resources” (p.2). Consisting of 27 chapters, the Tłı̨chǫ Agreement covers a range of topics including land rights, self-governance, taxation, co- management institutions, finance and natural resource use and management. Key provisions under the Agreement include cash payments of approximately \$152 million over 14 years, a share of annual resource royalties arising from subsequent development in the Mackenzie Valley, the introduction of new governance arrangements, and the establishment of two co- management boards. Specific to land resources, the Tłı̨chǫ Agreement outlines wildlife harvesting rights and management, land and water use regulations, and surface and subsurface resource rights. However, exactly how these different resources are managed is left to the designated institutions of the Tłı̨chǫ Government (Implementation Committee, 2010).

Three distinct geographical boundaries – the Monfwi Gogha Dè Nı̨ıtlèè, Wek'èezhıi, and Tłı̨chǫ Lands – were established at the signing of the Tłı̨chǫ Agreement (see Map 1). While these regions overlap in terms of their boundaries, they vary based on their governance structure and associated rights for Tłı̨chǫ citizens. Monfwi Gogha Dè Nı̨ıtlèè is the largest of the three boundaries and represents much of the ancestral territory of the Tłı̨chǫ as described by Chief Monfwi.



Map 6. Ancestral Trails: Ancestor trails as documented by Tłı̨chǫ researchers during the Dene-Metis Mapping Project in the 1970's. (Source: Legat, 2012, p.12)

The boundaries of Monfwi Gogha Dè Nijitlèè are based on traditional knowledge and land use. Specifically, Monfwi Gogha Dè Nijitlèè encircles numerous trails traditionally used by Tłı̨chǫ and a project conducted in the 1970s that documents these routes (Map 6), shows the vast area of land Tłı̨chǫ would travel thereby confirming Monfwi's original description of their lands. These trails were used for a range of purposes but were primarily travelled on for hunting, harvesting, and travel both seasonally when the Tłı̨chǫ were nomadic, and later between the four permanent communities upon their establishment. Under the Tłı̨chǫ Agreement, Tłı̨chǫ citizens are able to exercise their right to hunt and fish within Monfwi Gogha Dè Nijitlèè.

The second region formed under the Agreement is Wek'èezhii. Wek'èezhii is nestled within Monfwi Gogha Dè Nijitlèè and is a resource management area. Translated from Tłı̨chǫ to mean "within here", Wek'èezhii is overseen by two co-management boards, known as the

Wek'èezhii Land and Water Board (WLWB) and the Wek'èezhii Renewable Resources Board (WRRB). These are comprised of both Tłıchǫ and non-Tłıchǫ members. Within Wek'èezhii, Tłıchǫ rights to practice traditional activities such as hunting, and fishing are protected, and the focus of the management boards is on managing and reviewing large-scale land-use applications and projects such as those involving explosives, fuel storage, heavy machinery, buildings and drilling (Mackenzie Valley Land Water Board, 2013).

The smallest of the three boundaries represents the 39 000 square kilometers of land transferred to the Tłıchǫ Government. Nestled within Wek'èezhii and Monfwi Gogha Dè Nı̄ıtlèè, these lands, known as Tłıchǫ lands contain the four Tłıchǫ communities of Behchokǫ, Whatı, Gamèti, and Wekweèti. The Tłıchǫ Government owns and governs these lands in fee simple and thus hold the decision-making powers regarding both its surface and subsurface resources.

Part 2. Literature and Methodology

4. Institutions, Governance and Land Management

4.1. Introducing Institutions

4.1.1. Defining Institutions

All societies have some form of political, economic and social organization. Institutions provide the structure by which members of groups interact and social organization is grounded (Wells, 1970) or as Hodgson (2002, p.2) writes, institutions provide the “structure for social life” (see also Pierce, 1878; Merton, [1949] 1968). However, institutions, as a concept, are complex.

Vico first used the term ‘institution’ in his 1725 study of the nature of society, *Scienza Nuova Prima*. He defines institutions simply as the habits and customs shared by members of a community. Institutionalists including T.B. Veblen, J.R. Commons, E. Durkheim, J.M Clark, R. Merton and W.C. Mitchell and more recently, C.E. Ayres, G. Myrdal, K. Wittfogel and J.K. Galbraith all drew upon this basic definition. In this definition, institutions are rules broadly understood as being socially transmitted and customarily normative. The durability of these institutions reflects the willingness of a group to recognize and abide by them (Searle, 1995, 2005).

An expanded inquiry into institutions offers a more nuanced understanding of the term. First, there is a distinction between formal and informal institutions. As defined in chapter two, informal institutions consist of practices and habits, routines and relations generally followed in a society or as routines set by social norms whereas formal institutions consist of acknowledged rules that are written and codified that a society abides by. Both are important (Hodgson, 2006; North, 1990). So categorized, institutions can be based upon tradition and cultural beliefs or upon experience and precedent or a combination.

Second, there are also institutional organizations such as political parties, firms, trade unions, governments and universities. Hindess (1989, p.93) describes these institutional entities as ‘actors’ within a society because “they have means of reaching decisions and of acting on some of them.” In larger, more complex societies, formal and informal institutions are both organized around these institutional actors and at the same time lead to their creation. Research on the nature of institutional actors also acknowledges that these entities contain both formal and informal institutions within them.

Institutions in pre-modern societies are of primary interest to cultural anthropologists and ethnographers. These scholars are interested in “the study of culture and peoples’ beliefs, practices, and the cognitive and social organization of human groups” (Handwerker, 2002, p. 107). As such, “cultural anthropologists study how people who share a common cultural system organize and shape the physical and social world around them, and are in turn shaped by those ideas, behaviours, and physical environments” (Handwerker, 2002, p.107). As Nee (1998, p.7) wrote of the noted American sociologist, Parsons, “He conceived of the institutional framework as an organized system of cultural beliefs – norms – common to most individuals composing a society. He argued that it is rules and values that constitute an institution, not the concrete pattern of behavior or social relationships.” The idea of a shared cultural system is fundamental in the creation and perpetuation of institutions in such societies.

The study of institutions in modern societies has emerged in the past century as a shared interest amongst a broad range of disciplines including economics, sociology, geography and political science. Sociology, as a discipline, for example, is defined as the study of human social relationships and institutions. Political science, as a discipline, is concerned with institutions, practices, and relations that make up public life and modes of inquiry that promote citizenship.

Institutional economics is an important sub-branch of economics thinking which considers the importance of institutional actors in economics.

The study of institutions is often incorporated into broader inquiries into the social and cultural nature of different societies. As a general observation, the nature and complexity of institutions depends upon the size, in terms of people and geography, and other associated complexities of different societies (i.e. history). A diversity of scholars, led by anthropologists and ethnographers, have examined the range of social structures from hunter and gatherer societies and horticultural and pastoral societies to modern and post-modern societies, and most recently even post-natural societies (Hodgson, 2006). Rather than discrete categories, this spectrum is better seen as a continuum (but not evolutionary in nature) along which there are a diversity of human societies with a diversity of social institutions and institutional complexes for maintaining social order. Furthermore, this continuum includes hybrids created through changes within the society itself and through contact with other societies, whether this interaction is by trade or domination. However, it serves as a point of departure, providing a basic understanding of the nature of institutional complexity and societies.

Service (1975) organized societies into four scales of socio-cultural integration: band, tribe, chiefdom and state. A band represents the smallest unit of political organization, consisting of a few families with no formal leadership position. A tribe consists of larger populations but is still organized around the family unit with a fluid or shifting system of temporary leadership. Chiefdoms are larger political units both in terms of population and geography with a chief, usually determined by heredity, holding a formal position of power. Finally, states represent the most complex form of political organization with formal organizations and institutional actors,

hierarchical social organization and systems of formal laws that govern large and diverse populations.

McDowell (2018) categorized Service's typology as egalitarian, ranked or stratified. He argued that both band and tribal societies are generally egalitarian with no significant difference in status or power between members. He described chiefdoms as ranked societies characterized by substantial differences in wealth, power and social status within society. Finally, state societies are stratified and are characterized by large differences in wealth, status and power of individuals based upon unequal access to resources and positions of power. Table 2 summarizes the differences between these categories.

Diamond (1974) provides further insights into band and tribal societies. These, he states, share several common features in contrast to modern society. First, economic surplus is shared on a communal basis in which there is little private property, work is cooperative, and gift giving is extensive. The use of resources is governed by the practice of usufruct, the distribution of resources according to need (see also Bookchin, 1982). Second, power dispersed is either shared equally within the community or shifts between individual members based on individual skills and talents. Third, social control over the members of society is exercised through shared customs and sentiment rather than through the development of formal laws or institutions of law enforcement. Fourth, society is organized on the basis of kinship and kinship ties so there are few, if any, social functions or activities separate from family life. Fifth, there is little separation between the spheres of intimate private life and public life. Everything is a matter of collective concern. Sixth, the life of the community is all "personal" and emotionally charged. Because there is little division of labour, there is also social isolation. Seventh, art, storytelling, ethics,

religious rituals and spirituality are all fused together in daily life and experience. They provide a common means of expressing imagination, inspiration, anxiety, need and purpose.

Table 2. Summary of McDowell’s Categorization of Service’s Typologies

	Size and Complexity	Political Organization
Egalitarian		
Band	Bands are generally nomadic foragers who rely on hunting and gathering and are few in number, rarely exceeding 100 persons. They form small groups consisting of a few families and a shifting population (McDowell, 2018)	There is generally a lack of formal leadership opting for a “first among equals” approach where leadership tends to be transient and subject to changing circumstances.
Tribe	To McDowell (2018), tribal societies involve at least two well-defined groups linked together in some way and range in numbers from 100 to as many as several thousand people. The mechanisms for creating and maintaining connections become more complex. Family ties unit members of a band extend to bonds through marriage, kin relations. Tribal structure is further reinforced through gifts and feasting, and segmentary lineage.	Although social institutions can be fairly complex, there are no centralized political structures or offices in the modernist sense of the terms. There may be a headman but no rules of succession. Leadership roles often held by elders, usually, men, who acquire their personal abilities and qualities. Like bands, tribal societies are egalitarian societies and leaders lead by persuasion.
Ranked		
Chiefdom	As true for tribes, chiefdoms involve at least two well-defined groups linked in some manner with a population ranging upwards of thousands. The geographic extent of a chiefdom is larger than for tribal societies.	Leadership is determined by set rules of lineage. Examples include the chiefdom societies of the Northwest coast and the Five Civilized Tribes (Cherokees, Choctaws, Chickasaws, Creeks, and Seminoles) of the North American Southeast.
Stratified		
State	States can be both diverse in terms of the peoples and the geography.	A state is generally organized based upon it being a geographic entity consisting of citizens who enjoy basic rights. Although the modern state is the primary form of old stratified state, this category can include caste systems. Rules and laws are formalized and codified. More complex society calls for the creation for more complex and formal institutions and institutional actors.

Abrutyn and Turner (2011) raise the influence of what they term “generalized symbolic media” on a society’s institutional domains. First, they observe that social structures and practices exist as embedded within a nested scale “with encounters embedded in groups, with groups nested in organizations, with organizations within communities or systems of communities, and organizations and communities within institutional domains” (Abrutyn and Turner, 2011, p.286). They then highlight 10 different spheres or institutional domains within which “generalized symbolic media” operates (see Table 3).

Table 3. Generalized Symbolic Media of Institutional Domains (Abrutyn and Turner, 2011, p.287)

Domain	Symbolic Media
Kinship	Love/Loyalty – The use of intense positive affective states to forage and mark commitments to others and groups of others.
Economy	Money – The denotation of exchange values for objects, actions and services by the metrics of inheriting money.
Polity	Power – The capacity to control the actions of others.
Law	Influence – The capacity to adjudicate social relations and render judgements about justice, fairness and appropriateness of actions.
Religion	Sacredness/Piety – The commitment to beliefs about forces and entities inhabiting a non-observable supranatural realm and the propensity to explain events and conditions by reference to these sacred forces.
Education	Learning – The commitment to acquiring and passing on knowledge.
Science	Knowledge – The invocation of standards for gaining verified knowledge about all dimensions of the social, biotic, and physico-chemical universe.
Medicine	Health – The concern about the commitment to sustaining the normal functioning of the body.
Sport	Competitiveness – The definition of games that produce winners and losers by virtue of the respective efforts of players.
Art	Aesthetics – the commitment to made and evaluate objects and performances by standards of beauty and pleasure that they give observers.

They argue there exists a crucial iterative link between culture and institutional domains, writing that “culture has to come from somewhere, and while it is certainly true that individuals generate culture as they act, interact and organize, they do so through the use of generalized social media” (Abrutyn and Turner, 2011, p.287). However, they then go on to make an important observation in recognizing these domains are not fully autonomous to others:

Equally significant, depending upon the relative dominance of one or more institutional domains, the environment of organizations will be disproportionately influenced by the ideologies of these dominant domains. For example, if sacredness/piety from religion dominates, the cultural environment of kinship, law, polity, and education will be heavily influenced by the ideology and norms built from this medium; similarly, if money from economy or power from polity dominate, then the ideologies built from money and power become a disproportionate part of the cultural environment. (Abrutyn and Turner, 2011, p.287)

These inter-relationships exist in all societies regardless of a society's complexity:

For example, law is almost always attached to polity since the enactment and enforcement of laws are conducted by agents of the state in most societies of the modern world' still, modern democratic nations depend on a relatively autonomous legal system to secure and sustain legitimate authority. Or in preliterate societies such as those organizing horticultural activities, economy and polity are heavily embedded in kinship and, therefore, not nearly as autonomous as they are in modern capitalist societies. (Abrutyn and Turner, 2011, p.289)

Different types of societies also deal differently with consensus building and dispute resolution associated with decision-making. For band and tribal societies, disputes are typically resolved informally and tend to involve a mediator rather than a formal authority figure. In these societies, McDowell (2018, p.6) writes that "the aim is not so much to determine guilt or innocence or to assign criminal or civil responsibility as it is to resolve conflict, which can be accomplished in various ways." The goal within egalitarian societies is the maintenance of local harmony. This can be achieved by avoidance of each other to negotiations, the performance of ritual apology and presentation of token gifts. Due to size and population differences, dispute resolution and decision-making in ranked and stratified societies tend to revolve around more formal institutions. Here, oral systems aimed at mediation and resolution have been replaced by codified rules and regulations with set penalties and rewards incorporated and institutional actors serve to apply and enforce codified rules and regulations. Formal government institutions, in particular, play an important role in organizing the social environment.

From this discussion on institutions, four points can be made. First, institutions emerge from culture and vary accordingly. Second, institutions consist of both informal and formal components depending on the complexity of the society in question. Third, institutional actors or organizations form in more complex societies to manage specific sets of these formal and informal institutions. Fourth, societies differ in terms of both their institutional composition and the symbolic media of those institutions. Finally, as differing societies collide, unevenness in institutions and institutional actors lead to conflicts regarding recognition of rights and the ways in which decisions are made in shared spaces, both social and spatial. These observations are important when examining emergent Indigenous institutions arising from self-government.

4.1.2. Institutions and Power

Interest in institutions possesses an important political focus. The study of institutions in modern society is a response to classical and neo-classical political economy which privileged the individual as the primary actor (Nureev, 2005) or what Durkheim termed, “methodological individualism” (Nee, 1998) that was championed by such Enlightenment philosophers as Grotius, Hobbes, von Pufendorf, Locke, Rousseau and Kant. Institutional scholars sought to highlight the existence of actors in social organizations other than the individual through consideration of formal and informal institutions, and Hindess’ “institutional actors.” Nee (1998, p.4) drew on Durkheim’s discussion of methodological holism as the preferred approach to understanding social organization and relations, quoting Durkheim,

In contrast to methodological individualism, which assumes that the social order is a product of the aggregation of individual actions, methodological holism assumes that social order cannot be reduced to the behavior of individual actors. Its mode of analysis starts with the specification on the ‘social facts’ or structures that, it is posited, constitute the building blocks of the social order (in Nee, 1998, p.5).

Marx also incorporated institutions into his holistic understanding of society. As North (1982, p.6) wrote, “the Marxian framework is the most powerful of the existing statements of secular change precisely because it includes all of the elements left out of the neoclassical framework: institutions, property rights, the state, and ideology.” Structural Marxism sought to reveal the underlying social structures upon which the range of individual actions are based. Peet described Structural Marxism as a “radical science” that “strips away diversions, exposes existing explanations to criticism, provides alternative explanations which trace the ‘relationships’ between ‘social problems’ at the surface and deep societal causes” (in Duncan and Ley 1982, p.30). The nature and role of institutions became primary questions in this structural approach.

To state that institutions possess power seems self-evident. As Thomas Lawrence (2008, p.170) writes,

Institutions exist to the extent that they are powerful – the extent to which they affect the behaviors, beliefs and opportunities of individuals, groups, organizations and society. Institutions are enduring patterns of social practice, but they are more than that: institutions are those patterns of practice for which ‘departures from the pattern are counteracted in a regulated fashion, by repetitively activated, socially constructed, controls – that is by some set of rewards and sanctions’ (Jepperson 1991:145). Thus, power in the form of repetitively activated controls is what differentiates institutions from other social constructions.

Moe (2005, p.215) argues that institutional theorists need to move away from a “view [of] political institutions as structures of voluntary cooperation that resolve collective action problems and benefit all concerned” to one first championed by Knight (1992) in which “institutions are mainly explained by distributional conflicts – and power- rather than collective benefits.” In a special issue of the *Journal of Management Inquiry* (2015), several authors argued for “greater awareness and integration of power into institutional theory” (Hudson, Okhuysen

and Creed, 2015, p.233) including Munir (2015), Hirsch and Lounsbury (2015) and Suddaby (2015).

The scholar of primary importance in the study of power and institutions, however, is the French philosopher, Michel Foucault. Foucault's engagement with power and institutions evolved through his structuralist archaeology period and then post-structuralist genealogy period. Both periods offer important insights in understanding the tangled relationship between power and institutions.

In his early archaeological studies, *Madness and Civilization, a History of Insanity in the Age of Reason* (1989 [1961]), *The Birth of the Clinic: An Archaeology of Medical Perception* (1973 [1963]) and *The Order of Things: An Archaeology of the Human Sciences* (1970 [1966]), Foucault examined the emergence of disciplines and the historical epistemes that governed theory, practice, and institutions in these disciplines. The nature of an episteme was the focus of his analysis. Foucault (1986, p.22) defines an episteme as the set of relations connecting concepts that,

delimits in the totality of experience a field of knowledge, defines the mode of being of the objects that appear in that field, provides man's everyday perception with theoretical powers, and defines the conditions in which he can sustain a discourse about things that are recognized to be true.

Bevir (1999, p.347) defines episteme more succinctly as "a fundamental code governing the way in which people understand, and act in, the world."

An episteme is "all pervasive" in its influence in determining what one understands, how one understands something and how one acts (Bevir 1999). Again, drawing upon Bevir (1999, p.347), epistemes,

construct both the world we study and the concept of rationality we adopt. The way we perceive the world and the way we classify things depend on the codes that govern our

thinking. Each episteme prescribes rules for the ordering and classifying of our concepts, and these rules thus fix our view of the world at any given time.

He adds, “far from individuals constructing epistemes through their rational activity, epistemes define individuals by giving them their concepts, desires, beliefs, and so actions” (Bevir 1999, p.347).

It is important to note the similarity between a worldview and Foucault’s episteme.

Foucault (1972, p.15), himself, acknowledges this in *The Archeology of Knowledge* where he writes,

an episteme may be suspected of being something like a world-view, a slice of history common to all branches of knowledge, which imposes on each one the same norms and postulates, a general stage of reason, a certain structure of thought that the men of a particular period cannot escape – a great body of legislation written once and for all by some anonymous hand.

Although Foucault focussed on modern society and the historical nature of epistemes within Western civilization, his understanding of an episteme as a variation of a worldview introduces the possibility – if not the reality - of an Indigenous episteme with its own ontology, epistemology, methodology and axiology (see Watts, 2013; Brugmach and Ingram, 2012; Hart, 1999; Kirkness, 1999; Smith, 1999 for discussion on Indigenous and Western worldviews).

It is also important to note the role of institutional actors in Foucault’s archaeologies.

Although these institutional actors were not of primary importance to Foucault, they are important to this thesis. As modern disciplines formed beginning in the Enlightenment, formal institutions also formed. For example, although his study of insanity focused on the definition of sanity/insanity and the founding of psychiatry as the foci of expertise concerning mental health, the insane asylum as the site of treatment for those considered ‘mentally ill,’ was also created. In addition, professional associations and colleges were founded that became the sites for managing disciplines and members of the discipline. In the case of psychiatry, colleges and associations of

psychiatry were created beginning with the Association of Medical Officers of Asylums and Hospitals for the Insane that was founded in 1841 in England (becoming the Royal College of Psychiatrists by Royal Charter in 1926). These colleges and associations became the focal sites for power and authority within the discipline in establishing “normal science” (Kuhn, 1970) and what constitutes disciplinary truth (Foucault, 1972; Bevir, 1999; O’Farrell, 2005). As such, these institutional actors became important sites of power and authority.

With his shift to genealogy, Foucault moved away from the more structuralist framing provided by epistemes towards a post-structural focus on discourses as the means through which the world is understood. In his genealogies, the subject is no longer a product of epistemes; the subject is the product of specific power/knowledge relationships and these power/knowledge relationships exist throughout society (Foucault, 1980). Nevertheless, these power/knowledge relationships act upon individuals. As Bevir (1999, p.349) writes, “regimes of power are not a result of the action of individuals but of power itself. Power exists throughout society, appearing in innumerable micro-situations dealing with an array of issues, where cumulative effect of these micro-situations is a given regime of power.” This observation raises an important point about power and institutions: that the power embedded in the institution is the result of a range of micro-situations and through the reproduction of actions that collectively produces a given regime of power.

This evolution from archaeology to genealogy changes the way in which Foucault understands formal institutions:

From a Foucauldian prospective, the key to understanding an institution is not its formal character, its class composition, or the patterns of behaviour associated with it; rather, all of these things, like the institution itself, are understood in terms of the ideas or concepts that give them their character. (Bevir, 1999, p.352)

Bevir (1999, p.352) continues,

In his genealogical studies, the relevant sets of concepts, like the associated institutions and practices, are deconstructed or decentred. Institutions and the concepts on which they are based arise out of the more or less random interaction of numerous micro-practices. Particular local programmes of governance within prisons, hospitals, asylums, the economy and social security 'inform individual behaviour' and 'act as grids for the perception and evaluation of things' so as thereby to 'crystalize into institutions.'

However, to phrase this another way, one can argue that formal institutions *are a reflection of* the ideas or concepts that give them their character.

Foucault has been critiqued notably for the absence of agency. The individual is seen as a product of an episteme or a regime of power. However, as Bevir (1996, 1999b, 2008, 2010; Bevir and Rhodes, 2001) argues, the rejection of autonomy does not necessarily lead to a rejection of agency. He argues that agency exists within the Foucaudian framework implicitly through the performance of the micro-practices. From a purely pragmatic viewpoint, individuals today are also not limited to a single episteme or power/knowledge structures; individuals can select from a multitude of such structures including both modern and non-modern, including Indigenous and therefore act independently. This multiplicity of worldviews or epistemes or power/knowledge structures informs this thesis as well.

The literature pertaining to institutions and power raise two other important topics of note focusing on inequality under specific institutional arrangements. Both these are based upon Knight's argument presented at the beginning of this section, that understanding the relationship between institutions and power should be based on distributional conflicts and not on collective benefits. First is the fact that different groups of people benefit under different institutional arrangements. Muller and Tapsoba (2016) examined the relationship between ethnic favouritism, access to power and political institutions and benefits. They found that ethnic groups with access to power generally benefit economically. Similarly, Burgess et al. (2015) established a link

between access to power and political institutions and inequality in the allocation of public funding. Hodler and Raschky (2014) determined that favouritism is more prevalent in countries with weaker political institutions and poorly educated citizens. In many instances this inequality can result in conflict (Caseli and Coleman, 2013; Cederman et al., 2013; Goldstone et al., 2010). The literature also suggests that conflict can be avoided through economic stability (Collier and Hoeffler, 2000) and adoption of democratic institutions (Acemoglu and Robinson 2005).

Second, and of greater concern, is the persistence of structural or systemic and institutional racism. Structural (or systemic) racism is defined as:

A system in which public policies, institutional practices, cultural representations, and other norms work in various, often reinforcing ways to perpetuate racial group inequity. It identifies dimensions of our history and culture that have allowed privileges associated with “whiteness” and disadvantages associated with “color” to endure and adapt over time. Structural racism is not something that a few people or institutions choose to practice. Instead it has been a feature of the social, economic and political systems in which we all exist. (The Aspen Institute, 2019)

Institutional racism consists of:

the policies and practices within and across institutions that, intentionally or not, produce outcomes that chronically favor, or put a racial group at a disadvantage. Poignant examples of institutional racism can be found in school disciplinary policies in which students of color are punished at much higher rates than their white counterparts, in the criminal justice system, and within many employment sectors in which day-to-day operations, as well as hiring and firing practices can significantly disadvantage workers of color. (The Aspen Institute, 2019; see also Stokely and Hamilton, 1967; Clair and Denis, 2015)

One variation of institutional racism of relevance to this work is that of internal colonialism. In such instances, “one racialized group imposes its ideas, systems and lifestyles on another via policies (such as Canada’s Indian Act) and practices (such as the Indian residential school system) that are justified by the former group’s presumed superiority” (Clair and Denis, 2015, p.861; see also Frideres and Gadacz, 2008; Hall, 1980). Although institutional racism can be overt, it is more often expressed in distributive inequalities. As such, “the rules, processes and

opportunity structures that enable such disparate impacts are what constitute institutional racism” (Clair and Denis, 2015, p.860).

Hudson, Okhuysen and Creed (2015), in their introduction to a special issue in the *Journal of Management Inquiry*, also raise two frameworks of analysis of interest to this thesis. First, there is the need to question legitimacy and resistance. As they (2015, p.235) argue, “just as power cannot exist without resistance, legitimacy, which is itself both a source and result of power, is also contested.” Alternative spaces and institutions exist through which established power is not simply resisted but political opposition is organized. The authors here cite research on gay men and bathhouses.

A second framing of interest involves the incorporation of emotions. The authors (2015, p.235) write,

We believe that by exploring and documenting institutions and institutional configurations as inhabited (Hallett & Ventresca, 2006) - that is, inclusive of the experiences of those who reproduce and live institutions - we can also highlight the power dynamics evident in much of institutional life. In particular, we believe that an explicit evaluation of the emotional dynamics inherent in the social bonds and enactments of institutions will reveal these dynamics in perhaps unanticipated ways.

They continue,

The inclusion of emotions allows us to better understand interpersonal dynamics, the social and symbolic nature of interactions, and the motivations, commitments, and conflicts people experience as they engage and enact the institutional world. We believe that by including emotions in our institutional analysis, unanticipated micro- and meso-level processes that construct institutional life, including power, may be revealed in more detailed ways that might otherwise remain hidden. (Hudson, Okhuysen and Creed, 2015, p.236)

In advocating for integrating emotions into research, they embrace Foucault’s focus on micro-practices at the scale of the local. Both of these additional considerations have the potential of introducing meaning and significance to an examination of institutions and power.

To conclude this discussion on institutions and power, several points can be made. First, institutions, and specifically formal institutions and institutional actors, are powerful organizers in a society. Second, the rules, procedures, instructions and communications coalesce in these formal institutions and institutional actors and acquire a rigidity. Third, these rules, procedures, instructions and communications are generally determined by the dominant groups in a complex society that can lead to inequality and even structural or institutional racism. Fourth, that there exist social and institutional spaces for resistance against the established institutional arrangement allowing for challenges and institutional change. Finally, that the shift in emphasis from the macro- to the micro- or local scales for examining institutions provide space for new forms of institutional arrangements.

4.2 Indigenous Institutions of Governance

Indigenous government is not new. Lyons (in Jorgensen, 2007, p.vii) states, “what we are really talking about is nation rebuilding. We’ve always been here. We’re not newly built.” As such, self-government is an important component of the reassertion of nationhood.

Cornell (2015, p.1) writes that self-government represents the “last phase of a broader movement in these [CANZUS countries of Canada, Australia, New Zealand and the United States or the settler-colonial countries] and other countries for Indigenous self-determination.”

He goes on to distinguish between self-government and self-determination:

Self-determination in the Indigenous case is about the right and authority of Indigenous nations or communities to determine their own future and their own forms of government. Self-government is the exercise of that right, recognized or not. Self-government, in a sense, is *doing* it. (Cornell, 2015, p.1)

This section builds upon the previous, examining the current literature on the nature of Indigenous self-government and Indigenous planning with a focus on Canada.

4.2.1. Indigenous Politics of Self-Government

The language of Indigenous nationhood has existed since the time of the original treaties between Europeans and Indigenous peoples. These treaties date back to the early seventeenth century as first the Dutch, then the French, and finally the British sought to establish trade and strategic relations with the Indigenous peoples of “the New World.” In the early seventeenth century, the Dutch secured trade treaties with the Haudenosaunee nations that drew upon the traditions of the Haudenosaunee. Known as “covenant chain” treaties, these were built on mutual respect and benefit and were understood as accommodations between nations. These agreements also required periodic renewals including gifts and aid to the Haudenosaunee, through a ceremony known as “polishing the silver chain” (Vernables, 2011). British authorities renewed these treaties in ceremonies following the annexation of New Amsterdam (renamed the Colony of New York) in 1664.

The interpretation of these and future treaties diverged as the colonial authorities increasingly viewed treaties as land transfer treaties (Jai, 2014; Statt, 2003) while the Indigenous nations continued to understand treaties to be agreements between two sovereign powers to share land and resources. For the Indigenous peoples, these treaties were also not permanent, and were subject to renegotiation and renewal (Dickson and Newbigging, 2010).

Three hundred years later, the Royal Commission on Aboriginal Peoples (RCAP) (1996) was established to improve Canada-Aboriginal Peoples relations. The RCAP advocated for far-reaching, fundamental restructuring of the relationship between Canada and Indigenous peoples that included recognition of these peoples as nations with inherent rights to self-government and to land and resources. This renewed relationship was to be based upon four principles:

recognition, respect, sharing and responsibility. The RCAP (1996) described these principles as follows:

We propose four principles as the basis of a renewed relationship:

1. *Recognition.* The principle of mutual recognition calls on non-Aboriginal Canadians to recognize that Aboriginal people are the original inhabitants and caretakers of this land and have distinctive rights and responsibilities flowing from that status. It calls on Aboriginal people to accept that non-Aboriginal people are also of this land now, by birth and by adoption, with strong ties of love and loyalty. It requires both sides to acknowledge and relate to one another as partners, respecting each other's laws and institutions and co-operating for mutual benefit.
2. *Respect.* The principle of respect calls on all Canadians to create a climate of positive mutual regard between and among peoples. Respect provides a bulwark against attempts by one partner to dominate or rule over another. Respect for the unique rights and status for First Peoples, and for each Aboriginal person as an individual with a valuable culture and heritage, needs to become part of Canada's national character.
3. *Sharing.* The principle of sharing calls for the giving and receiving of benefits in fair measure. It is the basis on which Canada was founded, for if Aboriginal peoples had been unwilling to share what they had and what they knew about the land, many of the newcomers would not have lived to prosper. The principle of sharing is central to the treaties and central to the possibility of real equality among the peoples of Canada in the future.
4. *Responsibility.* Responsibility is the hallmark of a mature relationship. Partners in such a relationship must be accountable for the promises they have made, accountable for behaving honourably, and accountable for the impact of their actions on the well-being of the other. Because we do and always will share the land, the best interests of Aboriginal and non-Aboriginal people will be served if we act with the highest standards of responsibility, honesty and good faith towards one another" (RCAP, 1996).

Recognition of the treaties and the commitments made therein was seen as a fundamental first step towards building this new relationship under reconciliation:

Treaties have a long and honourable history as a way of solving disputes between peoples, nations and governments. In brief, the historical treaties are:

- *Promises exchanged between the governments of France, Britain, Canada and Aboriginal peoples.* To secure peace or alliance with Aboriginal nations, or gain occupancy and development rights on Aboriginal land, the Crowns of France, Britain, and, later, Canada promised Aboriginal peoples protection, benefits and shares of wealth – in perpetuity. Those promises now rest with the government of Canada.
- *Nation-to-nation agreements.* Treaties are not admissions of defeat or submission. Parties to a treaty do not give up nationhood or their own ways of living, working and governing

themselves. Rather, they acknowledge their shared wish to live in peace and harmony, agree on rules of coexistence, then work to fulfil their commitments to one another.

- *Commitments that are sacred and enduring.* The historical treaties were taken very seriously by both sides. Their purpose was to create a lasting relationship of peace and friendship that would last. The alternative was lost trade and possibly warfare and bloodshed. Treaties were sworn by sacred oaths, announced with great ceremony, and regarded as binding documents of state. The fact that they have been violated time and time again does not change their underlying legitimacy.
- *Part of Canada's constitution.* The treaties set out broad social contracts between independent peoples, like the terms of union by which former British colonies joined Confederation as provinces. They are constitutional documents, recognized and affirmed in section 35 of the *Constitution Act, 1982*. As such, they are part of the law of the land.
- *Fundamental to Canada's honour.* Treaty making is one of the great achievements of human societies. It enables the deepest of conflicts to be set aside in favour of respectful coexistence. It expresses the choice to live in harmony with others, rather than spill blood or exercise power using more subtle forms of violence. The act of entering into a treaty, then as now, represents a profound commitment between peoples. Once made, a treaty is broken or ignored only at the cost of a stain on the good name of the nation or government that breaks it" (RCAP, 1996).

Cornell (2015) summarizes what he understood to be the five features of Indigenous nationhood. First, there is the fundamental connections to place, connections that are spiritual, cognitive, cultural and economic. Second, there is a "compelling sense of peoplehood rooted in kinship, part and/or present cultural practices, and history" (Cornell, 2015, p.3) shared by the members of an Indigenous community. Third, there is a shared narrative of Indigeneity of loss and survival which recounted "European invasion, land expropriation and cultural suppression, and – despite these processes – the collective persistence and agency of distinct peoples with timeless roots" (Cornell, 2015, p.4). Fourth, although not necessarily secessionist, there is the desire for empowerment as expressed politically through which Indigenous peoples regain control of decision-making powers related to matters that most directly affect their survival. Finally, there is the critical distinction between positional and distributional politics whereby Indigenous rights, as expressed through the principle of 'nations within nations,' are recognized as being different, or positional, as opposed to rights of their minority populations, where are seen as

distributional, within the larger state. It is upon these foundational features that self-government is to be built.

Cornell (2015, p.5) also makes an important distinction here between *Indigenous politics of self-government* and *politics of Indigenous self-government* in writing,

I have called this movement an *Indigenous politics of self-government*, by which I mean a political effort carried out primarily by Indigenous peoples themselves and rooted in specific Indigenous communities and goals. The world order is intentional, for there also is a *politics of Indigenous self-government* that has to do with the policies of non-Indigenous governments toward Indigenous peoples. That politics takes place largely in national, state, or provincial forms and in the mainstream courts; it asks what – if any – self-governing powers Indigenous nations or communities should be permitted to exercise and how those peoples might help manage the calamitous socioeconomic legacies of colonialism – poverty, ill health, substandard housing and so forth. It substitutes self-management of self-administration for self-government, and it is a politics dominated by non-Indigenous policy-makers in which the Indigenous voice is often either muted, limited to those willing to support external priorities, or entirely absent.

He (2015, p.6) continues by writing that realization of Indigenous politics or self-government involves “three intentional, core processes: identifying as a nation, organizing as a nation, and acting as a nation” (see also Cornell, 2013, 2014). This discussion will focus on the third process.

Central to acting as a nation is having the appropriate government institutions through which to govern. That is to ask, “How will these self-identifying nations make the decisions they view as theirs to make? How will they enact the political community they claim? How will they govern?” (Cornell 2015, p.10). These questions raise more fundamental and pragmatic questions: “What should the organization and process of government look like? Who should have authority over what? How should decisions be made? How should disputes be resolved? Who deals with other governments and the rest of the outside world?” (Cornell, 2015, p.11)

Complicating the re-establishment of Indigenous governments is their situatedness as “nations within nations.” The need to deal with settler-colonial governments and institutions raises potentially serious challenges. McHough (2011, p.13) writes that “increasingly settler-state legalism demands that [tribal] leaders must govern by western principles of transparency and accountability geared more towards displaying those attributes to the outer world than necessarily being an outgrowth of the tribe’s own political agenda.” This is seen by critics as maintaining the authority of central governments over Indigenous nations, reducing self-government to self-administration or self-management (Cornell, 2015; see also Behrendt, 2003; Cornell, 2007, 2013, 2014). Furthermore, settler-colonial legislation has “dictated” the structure of Indigenous governance in keeping with Euro-American norms. This has been changing with examples of alternative Indigenous forms of governance becoming more common. These include the Nisga’a Lisims government, the Huu-ay-aht First Nation and Ktunaza Nation all found in British Columbia, and the Mohawk Council of Akwesasne in Ontario (Cornell, 2015a, 2015b).

Nevertheless, Indigenous nations continue to face what Hingagoroa (2000) describe as the “politics of distraction,” a situation where efforts at community resurgence are placed in what Alfred and Corntassel (2005) describe as “state-centric terms.” Corntassel (2012) writes that the politics of distraction are manifested in three discourses – rights, reconciliation and resources – and that in order to overcome these politics these discourses have to shift from rights to responsibilities, from reconciliation to resurgence and from resources to relationships. Shifting from rights to responsibilities seeks to address the danger raised by Coulthard (2007, p.437) that a rights-based narrative reproduces “the very configuration of colonial power that Indigenous peoples’ demands for recognition have historically sought to transcend” and seeks to replace this with ethical and real spaces for Indigenous empowerment. Shifting from reconciliation to

resurgence provides space for traditional practices, beliefs and governance. Shifting from resources to relationships provides space for Indigenous histories and intimacy of place.

Stanley (2016) raises the idea of “resilient settler colonialism.” In this framing, she argues that settler colonialism acts in a manner analogous to ecosystem resilience described by Crawford Holling (1973). Resilience describes that ability of an ecosystem to respond and self-correct through an adaptive cycle to a disruption. Stanley sees society in a similar way. A political system’s resilience describes its ability to return to its established form and structures of power when facing instability or demands for change. In her study of the proposed federal policy approach of Responsible Resource Development (RRD), she argued that RRD was an attempt to change the narratives surrounding resource development and therefore the reasoning as well as institutions, associated with resource development in the face of Indigenous land and resource rights claims. The RRD policy represented efforts by the settler colonial federal government to counter the Indigenous disruption and to return Canadian environmental governance back to its established state.

Corntassle (2012, p.88) raises the possibility of a *peoplehood model* as a way to renewal for Indigenous nations. He writes,

In order to live in a responsible way self-determining nation, Indigenous peoples must confront existing colonial institutions, structures and policies that attempt to displace us from our homelands and relationships, which impact the health and well-being of present generations for Indigenous youth and families. Indigenous resurgence means having the courage and imagination to envision life beyond the state.

This model consists of the “interlocking features of language, homeland, ceremonial cycles and sacred living histories.... the complex spiritual, political and social relationships that hold people together [that] are continuously renewed” (Corntassel, 2012, p.89). A critical part of this renewal must be in governance

4.2.2 Indigeneity, Statism and the Constituents of Sovereignty

To Matunga (2013, p.3). “theorizing Indigenous planning is potentially risky business” due to its nature and diversity of methods and approaches. Although he claims that these methods and approaches to planning have been practiced “since time immemorial,” he goes on to state that Indigenous planning in “its latest iteration is clearly a response to the violence of colonialism and a virulent racist discourse intent on exploiting, devaluing, oppressing, if not exterminating Indigenous peoples” (Matunga, 2013, p.3). With this comes a cautionary warning in that, “the trick for Indigenous planning is to frame itself against the backdrop of still virulent racist discourses but not get consumed by it” (Matunga, 2013, p.3).

The formation of Indigenous institutions has been a complex process driven by the desire of Indigenous people to regain greater autonomy and sovereignty, which includes “control of land and resources – being able to maintain particular sets of social relations and more or less distinct cultural orders; and some degree of political autonomy” (Rangan and Lane, 2001, p.140). Indigenous claims to autonomy, according to Lane and Hibbard (2005, p.173) remains the “most important and enduring dimension of conflict between indigenous peoples and post-settler states.” As Hibbard et al. (2006, p.140) explain, “the jurisdiction of post-settler states over indigenous peoples, and their lands, was founded on deliberate and violent subjugation” and as such, “Indigenous peoples fundamentally question the state’s authority in relation to custodial lands and resources.”

While in Canada, modern treaties such as the Tłı̨chǫ Comprehensive Land Claim and Self Government Agreement seek to re-affirm a nation-to-nation relationship and are established to provide Indigenous groups greater control over decision-making, many structural barriers continue to restrict Indigenous institutions. According to Lane and Hibbard (2005, p.173), these

structural forces “against which the transformative agency of Indigenous groups is pitted are, primarily, the institutions, policies and laws of the (sovereign) post-settler state.” Reconciliation and empowerment involve the recognition of alternative institutions of land use planning and management as these exist under current settler-colonial governmental structures.

Recognizing the centrality of land, increasingly Indigenous sovereignty is therefore focused on regaining access to resources and of land and being given the right to “actively participate and influence institutional processes that shape policy development and management of resources in areas where their presence and/or claims are officially recognized” (Rangan and Lane, 2001, p.148). Land, as a central component to Indigenous culture, identity and social organization remains the “essence of native identity” (Hibbard et al., 2006, p.140), and therefore, having control over traditional lands is one of utmost importance. Indigenous claims to sovereignty based on land title have however presented a “practical problem [which] is the relation between the establishment and development of western societies and the pre-existence and continuing resistance of Indigenous societies on the same territory (Lane and Hibbard, 2005, p.174). Overall, the “intricate, subtle and tremendous complexity” of Indigenous relations to land are not well understood or accepted by dominant planning perspectives, and so, the formation of Indigenous institutes should, in theory, “[enable] indigenous peoples to design and implement management policies that honour their traditions and reflect their priorities (Hibbard et al., 2006, p.141). This complex relationship is also resistant to simple mapping despite the use of mapping in the delineation of Indigenous land claims (Bryan, 2006).

4.3. Institutions of Land and Resource Management Planning

Indigenous rights are enshrined in Canada's Constitution Act under Section 35. Crown-Indigenous relations are guided by two legal principles: the "duty to consult and accommodate" and the "honour of the Crown."

The duty to consult and accommodate was initially set out in a series of three federal court cases addressing established rights of these peoples, the *Haida Nation v British Columbia (Minister of Forests)* (2004), *Taku River Tlingit First Nation v British Columbia (Project Assessment Director)* (2004) and *Mikisew Cree First Nation v Canada (Minister of Canadian Heritage)* (2005). This duty was subsequently expanded to include cases where Indigenous claims were still unresolved in *Rio Tinto Alcan v. Carrier Sekani Tribal Council* (2010) and then to include proposed legislation in *Courtoreille (Mikisew Cree First Nation) v Canada (Aboriginal Affairs and Northern Development)* (2010).

This duty to consult is tied to the "honour of the Crown" (Davies, 2016). Under this, it is incumbent upon the Crown to act honourably in its dealings with Indigenous peoples. In its ruling in *Chief Joe Hall v Canada (Attorney General)* (2007), the British Columbia Supreme Court wrote:

The honour of the Crown speaks to the Crown's obligation to act honourably in all its dealings with aboriginal peoples. It may not lawfully act in dishonourable way. That is a limitation on the powers of government not found in any statute that has a constitutional character because it helps to define the relationship between government and the governed. (in Davis, 2016:24)

Furthermore, the Court continued,

The honour of the Crown imposes different enforceable obligations on the Crown in different circumstances, including a duty to consult and where appropriate, accommodate potentially affected Aboriginal groups when the Crown contemplates an action that may affect their claimed but as of yet unproven Aboriginal interests. (in Davis, 2016:24)

To act honourably means that all consultations must be meaningful, timely and sincere; not symbolic or after-the-fact (Ariss, Fraser and Somanis, 2017).

However, the duty to consult is not without its challenges. First, it is essential a legalistic framing of reconciliation. Ariss, Fraser and Somanis (2017, p.6) write that the duty to consult is “a process flowing from rights.” To Davis (2016, p.25) the duty to consult is both a substantive right and a procedural right “designed to protect underlying substantive rights recognized and affirmed by s 35.”

Second is the question of flexibility in the nature of the consultation. In *Haida* (2004), the Supreme Court of Canada distinguished between weak consultation and strong consultation:

At one end of the spectrum lies cases where the claim to title is weak, the Aboriginal rights limited, or the potential for infringement minor. In such cases, the only duty on the Crown may be to give notice, disclose information, and discuss any issues raised in response to the notice ... At the other end of the spectrum lie cases where a strong *prima facie* case for the claim is established, the right and potential infringement is of high significance to the Aboriginal peoples, and the risk of non-compensable damage is high. In such cases deep consultation, aimed at finding a satisfactory interim solution, may be required (in Ariss, Fraser and Somanis, 2017:10).

However, there are no clear and firm guidelines to apply when determining the nature or extent of a consultation; it is seemingly left to the interpretation and discretion of the Crown or its representatives.

Finally, there is the question of application and delegation. Referring again to the *Haida* (2004) decision, the Supreme Court of Canada ruled that the Crown “may delegate procedural aspects of consultation” (in Ritchie, 2013). This can include other governments, agencies and even private sector representatives in a manner similar to environmental assessment practices. However, as Ritchie (2013) argues, this can blur the established nation-to-nation relationship between the Crown and Indigenous peoples.

Inclusion in collaborative processes can lead to a more fundamental issue. Indigenous peoples run the risk of simply being defined as one of the many stakeholders and this could result in them acknowledged as only one category of stakeholder amongst many. However, Indigenous peoples have unique rights pre-dating colonial contact that sets them apart from other stakeholders. Herein lies a challenge. For example, Von der Porten and de Loë (2013) note that much of the current water governance literature continues to view Indigenous peoples as simply stakeholders – “fringe stakeholders” (Murphy and Arenas, 2010), “local actors” (Norman and Bakker, 2009) or simply “stakeholders” (Stringer et al., 2006). As a counterpoint, in Indigenous academic literature, Indigenous peoples are represented as sovereign peoples and nation-to-nation governments with legitimacy in resource and environmental management that is grounded in their self-determination and existing rights under recognized and affirmed treaties (von der Porten and de Loë, 2013 citing Alfred, 2009; Irlbacher-Fox, 2009; Shackeroff and Campbell, 2007; Turner, 2006).

Planning is a complex idea. While all cultures plan, in today’s vernacular, planning is a modernist idea. As Matunga (2013, p.4) states, beyond simply a concern for the future, planning “is also an imperial scholarly discipline and colonial practice located in the ‘West.’ Around which much theoretical posturing and competing claims have accreted.” Planning raises many important questions:

Whose future? Who decides what this future should or could look like? Who is doing the analysis and making the decisions? Who has the authority, the control, the final decision-making power? Whose values, ethics, concepts and knowledge? Whose methods and approaches? What frameworks, institutions and organizations are being used to guide the planning processes and most affect Indigenous peoples? Where are Indigenous peoples positioned in the construction of that future? (Matunga, 2013, p.4)

Despite expanding critiques of the modernist planning process, control over this process remains almost exclusively with settler-colonial, non-Indigenous governments through laws, policies,

planning processes and technologies. As such, it remains “complicity in the colonial project” (Matunga, 2013, p.4).

The establishment of Indigenous governments in Canada through modern treaties such as the Tłı̨chǫ Comprehensive Land Claim and Self-Government Agreement has presented the opportunity to create new institutions that meaningfully include Indigenous values that reflect traditional knowledge and practices into decision-making and planning processes.

While the significance of Indigenous planning to the autonomy and sovereignty of Indigenous institutions has grown, the literatures available on the subject remains limited (see Berke et al., 2002; Hibbard, 2006; Hibbard and Land, 2004; Jojola, 1998, 2000; Lane, 2002, 2003, 2006; Lane and Corbett, 2005; Lane and Cowell, 2001; Lane and Hibbard, 2006; Zaferatos, 1998, 2004). It is found that the dominant western approach to planning, which has been predicated on reductionist principles and the Enlightenment worldview, has “made it difficult...to grasp the moral-historical aspects of Indigenous claims and their insistence on viewing land and natural resources in cultural and religious terms” (Hibbard, Lane and Rasmussen, 2006, p.136). Furthermore, as Hibbard, Lane and Rasmussen (2006) continue, “the legal and political rights claimed by Indigenous peoples are distinctive and therefore frequently unsettled [which complicates] the objectives and methods of state-directed land and resource planning” (Hibbard, Lane and Rasmussen, 2006, p.136). This has resulted in the exclusion of Indigenous knowledge and rights in modernist approaches to land resource planning which has caused many Indigenous peoples to “argue that state-directed land and resource planning has largely failed them and has contributed in many instances to their marginalization” (Hibbard, Lane and Rasmussen, 2006, p.136).

4.3.1. Historic Circumstances

It is important for this research to consider the historical context under which the institutions being discussed have been formed, which in this case has been dominated by settler-colonial relations. Upon contact, the “concepts and systems of land resource ownership by colonial and post-settler states were, and are, markedly different from those of Indigenous societies” (Hibbard, Lane and Rasmussen, 2006, p.137) which has created “ongoing conceptual, legal and political tensions between Indigenous enclaves and nations over questions of land and resource ownership and management” (Hibbard, Lane and Rasmussen, 2006, p.137). As such, the establishment of modern treaties, which “provide shared resource control and access as a means to reconciling First Nations Claims with the interests of non-indigenous actors”, implies that Indigenous societies have a different relationship with the state than other citizens. Framed by these negotiated agreements, the nature of planning is also fundamental to reconciliation insofar as planning can play “an emancipatory role; it has the potential to transform the structural dimensions of oppression” which has been referred to as the “transformative force of planning” (Hibbard, Lane and Rasmussen, 2006, p.138).

4.3.2. Contextual Considerations

The interests of the state and Indigenous peoples intersect in two ways. First is through state-implemented policies, which are influenced by a number of social and economic factors. Regan and Land (2001, p.149), explain that “state institutions exercise control over their public domains by prescribing rights of access and use of resources...tenurial or usufructuary rights to individuals, households, or groups; maintenance and management of resources... and... arbitration of conflicts between resource users.” Emerging as a result of their policies, the second way in which the state and Indigenous peoples intersect is through the allocation of land and

resource rights. Therefore, the centrality of land to Indigenous culture, and state-led policies that control them has become “a crucial point of intersection between state policy and Indigenous rights” (Hibbard, Lane and Rasmussen, 2006, p.138).

The tensions situated at this intersection have always been present in environmental planning initiatives of modernist, western institutional arrangements. Current land and water management practices continue to create a generally poor experience for the Indigenous communities involved as it promotes a system that “[disempowers] and [marginalizes] Indigenous communities and interests, [dismisses] their cultural, interests and plans into Indigenous domains” (Hibbard, Lane and Rasmussen, 2006, p.142). The imposition of values and interests is a theme that has been applied to a wide variety of circumstances, and as explained by McMurray, Foley and O’Sullivan (2019, p.139), “there is a lot of pressure on Indigenous people to conform, to think and act like Europeans. There is an unspoken belief it would be much easier for all concerned to simply use European models and accept western ways of doing things.” Modernist, scientific planning has been criticized for its effects on ‘developing’ or ‘Third World’ countries. In 1992, Escobar provided a stinging critique of such planning in writing,

no other concept has been so insidious, no other idea gone so unchallenged. This blind acceptance of planning is all the more striking given the pervasive effects it has had historically, not only in the third world, but also in the West where it has been linked to the rise of Western modernity since the end of the 18th century. The planning conceptions and routines introduced in the Third world during the post-World War II period are the result of accumulated scholarly, economic and political action; they are not neutral frameworks through which ‘reality’ innocently shows itself. They thus bear the marks of the history and culture that produced them. (Escobar, 1992, p.132)

The situation Escobar describes is equally true for how planning with Indigenous communities has taken place and the effects of this approach has been far reaching. Not only has planning ignored the value and insight available through traditional knowledge but has also threatened

Indigenous cultural security by advancing development projects that do not promote or protect Indigenous culture or way of life.

4.3.3. Community Based Natural Resource Management (CBNRM) Model

Indigenous communities have faced many constraints to achieving agency including language and cultural barriers, geographic isolation, a lack of resources, and familiarity with the planning and decision-making process. As a result of the growing critiques surrounding the dominant resource management practices, a movement emerged within Indigenous domains that sought to empower Indigenous communities by providing “greater control over relevant planning processes and the utilization of Indigenous knowledge in planning and management” (Hibbard et al., 2008, p.143). This approach draws upon Community Based Natural Resource Management (CBNRM) and promotes an approach that would “alter the top-down, “environment vs. economy” approach to environmental management by infusing decentralized decision making, stakeholder collaboration, and citizen participation in the process (Jojola, 2008). While opinions on the success of CBNRM vary, the movement to include Indigenous people in the planning process began to transform how Indigenous community-based planning was perceived and practiced. Furthermore, it helped to demonstrate why “Indigenous community-based planning should be understood as significantly more than resistance and resilience on the part of the subordinate groups and more than episodic mobilization and protest” (Jojola, 2008, p.42). As Hibbard, Lane and Rasmussen (2006, p.146) state, CBNRM “sweeps away the construction of Indigenous peoples as passive victims...because it is assisting Indigenous groups to regain control of their lands and communities.” Regaining control, autonomy, and sovereignty is at the heart of what John Friedmann (1987) called the transformative force of planning, which has

broadened the lens of planning which, as an inherently “modernist, state-directed project”, fundamentally rejects Indigenous knowledge systems.

Modernist, scientific planning is being challenged by other alternative discourses such as radical planning (Friedmann, 1987) or insurgent planning (Sandercook, 1998) both of which seek to describe and analyze the ways in “which marginalized groups confront the institutional bases of oppression (Lane and Hibbard, 2006, p.174). Both radical and insurgent planning are influenced by Friedmann’s (1987) transformative theory which extends beyond considering codified knowledge from experts, to include “the knowledge of communities, social movement, and individuals” (Lane and Hibbard, 2006, p.175). Hibbard, Land and Rasmussen (2018, p.136) make an important observation in writing,

Planning’s rational toolkit and epistemological framework has made it difficult for the field to grasp the moral-historical aspects of Indigenous claims and their insistence on viewing land and natural resources in cultural and religious terms. Further, the legal and political rights claimed by Indigenous people are so distinctive and therefore frequently unsettled and complicate the objectives and methods of state-directed land and resource planning.

As a result, planning that is founded in transformative theory, can be used as “a means of overcoming the structural bases of oppression that [Indigenous communities] face and, in so doing, work out new and more powerful meanings for their sovereignty with colonial institutional frameworks” (Hibbard, Land and Rasmussen, 2018, p.175).

4.4. Closing Discussion: Institutions and Reconciliation

Reconciliation involves more than simple recognition and application of rights or of participation in decision-making defined by a “duty to consult.” Rights-based reconciliation can simply perpetuate conflict. Participation through consultation runs the danger of reducing the status of Indigenous peoples to that of stakeholders, providing input into decision-making but not necessarily participating in actual decision-making.

Although Ariss, Fraser and Somani (2017) advocate for “something” beyond formal law that informs reconciliation, this work argues that a more “bottom-up” approach to reconciliation beginning with the integration of Indigenous practices and perspectives into formal institutions, particularly formal government institutions, is equally important. Inclusion in formal government institutions is important because of the power these institutions exert in a society. As Abrutyn and Turner (2015, p.295) argues, “as differing societies collide, unevenness in institutions and institutional actors can lead to conflicts regarding recognition of rights and the ways in which decisions are made in shared spaces, both social and spatial.” This could result not simply in distributional inequality but structural and institutional racism. Clair and Denis (2015) raise the history of Canada-Indigenous people’s relations as an example of such institutional racism.

However, inclusion should not simply be about representation in an institution. Although representation is important, particularly when it concerns decision-making, how informal institutions - practices, knowledge and customs - are reflected in formal institutions - codified rules and procedures – is also important. Different communities are recognized through such incorporation into the formal although this can be challenging given the differences in institutions due to differences in the underlying foundation of institutions, whether these foundations are described as worldviews, epistemes or power/knowledge structures. As noted in the discussion on institutions and power, these differing foundations contain variations in their ontology, epistemology, methodology and axiology. These are not always compatible.

Lyons’ (2007) declaration that Indigenous government is not new and that the issue is nation rebuilding further underscores the importance of formal government institutions in the process of reconciliation. Certainly, the importance of self-government is an important component of reassertion of nationhood. However, as Cornell (2015) writes, it is one thing to

identify as a nation, and another to organize and act as a nation. This naturally leads to questions concerning the nature of government. It is worth repeating here the questions posed by Cornell (2015, p.11) as presented on pages 41-42: “What should the organization and process of government look like? Who should have authority over what? How should decisions be made? How should disputes be resolved? Who deals with other governments and the rest of the outside world?”

The establishment of Indigenous self-government is what Cornell (2015) describes as the “last phase” of the achievement of self-determination. As he (2015, p.1) writes, “Self-government, in a sense, is doing it.” Such nationhood includes five features: cultural, cognitive, economic and spiritual connections to place; a shared history; the narrative of Indigeneity that includes accounts of persistence and resistance to European invasion, land expropriation and cultural suppression; a desire for political empowerment; and recognition of Indigenous rights as positional rights and not distributive rights. These features also inform Indigenous governance.

Although it would seem that Indigenous governments are free to determine the structure of their formal government institutions, this may not be the case. McHough raises the possibility that the structure and logic of Indigenous governments are being dictated by settler-colonial legislation and agreements and “settler-state legalism” (McHough, 2011, p.13) reducing Indigenous national governments to self-administration or self-management (Cornell, 2015). Alfred and Corntassel (2005) suggests that Indigenous self-determination and self-government are being framed by “state-centric terms.” Finally, Stanley, in her resilient settler-colonial model suggests that settler-colonialism is responding to Indigenous demands for self-determination and self-government through a process of symbolic accommodation that serves to preserve existing

underlying power structures. These arguments question whether Indigenous peoples are, in fact, “free” to create their own formal government institutions at all.

Also of significance to this thesis is the situatedness of Indigenous governments as “nations within nations.” This issue further complicates Cornell’s question, “Who deals with other governments and the rest of the outside world?” As presented in chapter 3, the rights of Indigenous peoples are not limited to the returned territories; these rights extend beyond these boundaries. In the case of the Tłı̨ch̨o Peoples, these rights extend into the Wek’èezhìi in terms of resource use and management. As argued above, recognizing the centrality of land, Indigenous sovereignty is focused on regaining access to resources and of land and being given the right to “actively participate and influence institutional processes that shape policy development and management of resources in areas where their presence and/or claims are officially recognized” (Rangan and Lane, 2001, p.148). However, what exactly is meant by “participate and influence”? These are vague terms.

Participation in land and resource management of Indigenous peoples is firmly entrenched in law under the duty to consult. However, as already argued at the outset of this section, the duty to consult can lead to Indigenous peoples being seen as stakeholders among many stakeholders, threatening their positional rights. Furthermore, the duty to consult does not guarantee action on the part of the institutional actor. As Matunga (2013) argues forcefully, despite expanding critiques of the modernist planning process, control over this process remains almost exclusively with settler-colonial, non-Indigenous governments through laws, policies, planning processes and technologies. As such, it remains complicit “in the colonial project” (Matunga, 2013, p.4). Here again, the nature of Stanley’s (2016) resilient settler-colonialism becomes apparent.

If the goal of reconciliation is to return to the principles of the “covenant chain” treaties, acknowledgement of the principles of mutual respect and shared benefit, and the sharing of the land then inclusion of Indigenous peoples in formal government institutions is essential. Inclusion of an Indigenous perspective in formal government institutions beyond Indigenous governments would be ensure true inclusion of not simply Indigenous legal rights but Indigenous history, culture and knowledge in keeping with the goals of reconciliation.

5. Methodology

5.1. Theoretical Underpinning - Geographic Informed Ethnographic Research

Over the last two decades, ethnography has gained considerable momentum in the discipline of geography (Billo and Mountz, 2016). Like other methodologies, there are several variations of ethnographic research including traditional, critical and institutional ethnography. Traditional ethnography is primarily focused on the description and analysis of culture (Campbell & Lassiter, 2014). Critical ethnography expands the traditional ethnographic approach to include a political lens allowing for the examination of “power-laden social and cultural processes within particular social sites” (Cook, 2012, p.1). As such, critical ethnography is a mode of qualitative investigation, or a tool through which “social, cultural, political, and economic issues can be interpreted and represented to illustrate the processes of oppression and engage people in addressing them” (Cook, 2012, p.1). Institutional ethnography approaches questions from the ‘bottom-up’ starting from the everyday local experience of people.

Participant observation is a key element in all forms of ethnographic research, and as such researchers who practice ethnography seek to depict a system or culture wholly from an insider’s point of view by “[spending] considerable time observing and interacting with a social group” (Herbert, 2000, p. 551). Beyond examining ‘what is,’ ethnography also examines what people do and what people say permitting the examination of any discrepancies between thoughts and actions (Herbert, 2000). According to Hammersley (2005), the notion of examining what people do and say is at the heart of ethnography. Mannay and Morgan (2014, p.172) stress that ethnography is more than a just a research technique; it is “an open ended, iterative, non-prescriptive vision for social science, where the researcher is encouraged to acknowledge the complexity and unpredictability of the research encounter.” Through “deeply intimate and

personal” research involving reflexivity and empathy, ethnographic theory is considered to be built from the ground up and researchers emphasise the importance of allowing social order to reveal itself. As such, ethnographers “typically enter the field more interested in exploring particular social phenomena than testing specific hypotheses” (Herbert, 2000, p.552).

While not traditionally a commonly employed methodology in geographic research, ethnography has gained considerable momentum and is viewed as increasingly relevant due to the role of place, and how “attachments of place are created through various symbolic markers and activities that involve members’ senses.” Herbert (2006, p.553) notes that the “attachment to place is deeply felt, and thus the researcher must appreciate the group’s emotional life.” This connection to place and land is of particular importance when researching Indigenous peoples, making ethnographic research a suitable research method when focusing on Indigenous issues.

Herbert (2000) presents three critiques of traditional ethnographic research, arguing that it is unscientific, too limited to enable generalization and that it fails to consider its inherent representational practices. In response to such critiques, critical ethnography emerged as a research method that critiques hegemony, oppression and power relations. Heavily influenced by Phil Carspecken, critical ethnography is predicated on several shared assumptions including the claims that “mainstream practices often reproduce inequalities, oppression occurs in many forms and is more forceful when it involves hegemonic learning, and critical research should engage in social criticism to support efforts for change” (Cook, 2012, p.3), ideas already discussed in Sections 4.2 and 4.3. Due to its complexities, undertaking critical ethnography requires a reflexive method of research in addition to a continuous recognition of the “interplay between the researcher and the participant, between data and theory, and between research and action” (Cook, 2012, p.6).

Carspecken (2012) identifies the social site as an important component of critical ethnographic research. The social site of research is composed of social interactions between actors, and the social practices that lead to systemic relationships occur within the context of economic, political, and cultural structures. He writes that,

it is by documenting, understanding and interpreting the interactions between actors within the site and their references and representations to broader societal structures that critical ethnographers can begin to examine cultural forms of oppression and engage people to address them (Cook, 2012, p,5).

Due to its focus on societal processes and understanding the coordinated nature of social relations, institutions are the focus for many researchers utilizing critical ethnography. As a result, institutional ethnography has emerged as its own branch of ethnographic research and represents a qualitative mode of inquiry designed to discover or expose the chains of coordination and control in a social system or in social life by analyzing social discourses mediated through texts” (Winkelman and Halifax, 2007, p.132). To the institutional ethnographer Warren Winkelman (2007, p.132), texts are “the vehicles through which routines become interconnected with or embedded within institutionalized practices of power” and are thus a key means through which institutions coordinate and control people’s activities across local settings (Smith, 2012, p.6).

5.2. Research Methods

This research applied two specific research methods: institutional structural analysis and discourse analysis.

5.2.1. Institutional Structural Analysis

Institutional Structural Analysis will be used to examine the formal government institutions and documents specifically concerning land and water management. In order to determine the extent to which an Indigenous approach is included in the governance institutions

that oversee land and water resources throughout Tłıchǫ Lands, a thorough analysis of each institution is required. As discussed in chapter two, government institutions are embedded in historically specific social relations where power and culture play a paramount role (Whaley, 2018). As such, undertaking a structural analysis is telling because as, Whaley (2018, p.139) explains, any process or attempt to “create or impose new institutions...is never undertaken upon a blank slate but instead must contend with...existing social relations and cultural paradigms” which often leads to unintended and unexpected consequences.

Due to the complexity and multi-faceted nature of institutions, numerous different approaches have been developed to investigate, analyze and describe them. Two such approaches are the Institutional Analysis and Development (IAD) Framework and subsequent Critical Institutional Analysis and Development (CIAD) Framework. While the IAD and CIAD frameworks share the common goal to better understand institutions, the CIAD framework allows for a more in-depth and critical review of the historical, political and geographical landscapes in which institutions exist. In his article *The Critical Institutional Analysis and Development (CIAD) Framework*, Luke Whaley (2018, p.141) explains that the CIAD is a tool that can be used to critically and systematically analyze the “complex-embeddedness’ of institutions.” Whaley goes on to write that,

the CIAD framework helps to order a research agenda by bringing attention to the relevant aspects of the situation of interest and the types of questions one may want to ask. In doing so, it facilitates a nuanced analysis of the relationship between structure, agency, and social situation. The result is an approach that foregrounds power and meaning to understand...governance arrangements, and which reveals the workings of institutional change as process bricolage. (Whaley, 2018, p.141)

CIAD thereby serves as “a heuristic device that is suggestive of the questions, methods, dynamics, and relationships that facilitate a systematic and critical analysis of common governance arrangements and the ways in which they change over time” (Whaley, 2018, p. 141).

Although informed by these critical frameworks, this research applies a simpler form of Institutional Structural Analysis that focusses on presenting and analyzing the actual structure of the formal institutions and an overview of the documents used in land and water management. The meaning imbued in these is the focus of discourse analysis outlined in the next section.

5.2.2. Document Analysis and Discourse Analysis

Discourse analysis was utilized in this research in order to deepen the analysis of the literature and to identify whether and how an Indigenous perspective is incorporated into the texts produced by the different institutions (Waite, 2005). According to Coffey (2013, p.4) “documents are pervasive in organizational and social life” and “if we wish to understand how organizations and social settings operate and how people work with/in them, then it makes sense to consider social actors’ various activities as authors and audiences of documents.” Such documents and by extension discourses carry assumptions, judgements, and views have implications for how a topic is viewed and acted upon by different actors and in different settings (Sharp & Richardson, 2001). This is to suggest that discourses are embedded in social, cultural and historical contexts and represent institutional biases and a shared way of viewing the world (Sharp & Richardson, 2001; Feindt & Oels, 2005; Coffey, 2013). For these reasons, the analysis of language-in-use is revealing as “language is action, and central to the coordination of people’s subjectivities” (Smith, 2012, p.3).

What constitutes a document varies from formal policies to text messages, meeting minutes and brochures, but documents are generally described as literary, textual or visual devices that enable information to be shared and ‘stories’ to be presented. Coffey (2013, p.6) explains that these “textual communicative practices are a vital way in which organizations constitute ‘reality’ and the forms of knowledge appropriate to it”. As an analytical tool, discourse

analysis is useful as it allows for the researchers to explore these relationships, and specific to policies, allows for the investigation of the complex and at times messy interactions that can lead to their creation (Hajer and Versteeg, 2005). As a result, when conducting a discourse analysis, power dynamic are often uncovered as discourses are frequently used by groups or individuals to achieve a particular goal (Waitt, 2005).

Despite its value for uncovering unique and valuable findings or patterns in society, how to properly conduct a discourse analysis is not well understood, and the complexity of the process can be deterring. Furthermore, due to its complexity, formal guidelines for how to analyse literature when undertaking a discourse analysis are scarce, requiring a level of “learning by doing” (p.179) making it difficult to describe one’s analysis process and methods used. For the purpose of this thesis, the process taken to conduct the discourse analysis loosely follows seven steps identified by Waitt (2005) which suggest researchers:

1. examine texts with fresh eyes and without pre-existing ideas,
2. become deeply familiar with the chosen texts, code texts with key themes to reveal patterns,
3. critically question texts for the truths that they claim,
4. Investigate for effects of ‘truth’
5. notice inconsistencies or patterns within the texts,
6. be aware of mechanisms that silence, and
7. focus on detail.

Waitt’s seven steps also falls in line with methodologies of institution ethnography that is unique in that it encourages the discovery of the social as opposed to theorizing it. That is, both institutional ethnography and discourse analysis require learning through observation and reflexivity.

Documents under analysis for this research are primarily formal policies and procedures produced by formal institutions. According to Coffey (2013, p.11) the analysis on documents can be approached “in terms of the frequency of words, phrases or other elements or characteristic”

or they can be coded in order to identify themes and generate theoretical categories to identify patterns. Whichever process is adopted, Coffey notes that it is crucial to “recognize documents themselves as a way in which the social actors make sense of social worlds. Hence, we also need to be concerned with intended meanings and received meanings (Coffey, 2013, p.12).

5.3. Documents used in this Thesis

Initial research identified 14 documents drawn from the web sites of the Government of the Northwest Territories, the Mackenzie Valley Land and Water Board/Wek’èzhìi Land and Water Board, and the Tłıchǫ Government relevant to water and land management in the respective territories. These are listed in Table 4. In addition to the structural analysis of the formal institutions of each government institution, these documents provide the primary materials used in this analysis.

Table 4. List of formal documents analyzed related to water and land management on the traditional lands of Tłıchǫ people

<i>Tłıchǫ Government</i>
<ol style="list-style-type: none"> 1. Tłıchǫ Comprehensive Land Claim and Self Governance Agreement 2. Tłıchǫ Land Use Plan 3. Tłıchǫ Land Use Application Form
<i>Mackenzie Valley Land and Water Board – Wek’èzhìi Regional Chapter (Wek’èzhìi Land and Water Board)</i>
<ol style="list-style-type: none"> 1. Mackenzie Valley Land Use Regulations 2. Mackenzie Valley Resource Management Act 3. Land Use Permit Application Form 4. Water Licence Application
<i>Government of the Northwest Territories</i>
<ol style="list-style-type: none"> 1. Lands Act 2. Land Use Regulations 3. Waters Act 4. Commissioner’s Land Act 5. Land Use and Sustainability Framework 6. Water Stewardship Strategy 7. Protected Areas Strategy

Part 3. Results and Discussion

6. Results

6.1. Institutions of Government and Governance of the Tłıchǫ People

Research was conducted during winter and spring of 2019 and consisted of an institutional structural analysis and discourse analysis of the formal and informal institutions of the Tłıchǫ Government, the Government of the Northwest Territories and the Wek'èezhii Land and Water Board related to land and water management. Specifically, this research analyzed 14 formal documents presented in Table 4 above (page 67). It is organized into two principle sections and concludes by presenting the results addressing the inclusion of Indigenous perspectives within each Institution's structure and approach to resource management. A discussion of these findings follows in chapter seven.

6.1.1 Traditional Forms of Governance

Prior to colonial contact, traditional Tłıchǫ governance reflected Indigenous social structures shared amongst the Northeastern Athabaskan people. According to Cornelius Osgood (1936), while there is variation between specific groups, Northeastern Denes or Athabaskan's did not consider themselves as composing "neat political or cultural units" (in MacNeish, 1956, p.132). Families were considered to be the core structural unit and multiple families often grouped together.

Post-contact, and largely influenced by the definitions introduced through the *Indian Act*, the description of these groups was formalized as a band or tribe typically consisting of a group of people living in physical proximity who spoke a common language and shared a common culture. As noted in chapter 4 section 4.1, a band is differentiated from a tribe in that band

members would travel, camp, hunt and share amongst one another whereas members of a tribe did not necessarily interact in such ways. Further, a tribe was composed of several different bands (MacNeish, 1956). There was, however, a certain degree of fluidity in this social structure. The number of families in a band varied as “there were no formal ties or commitments to bind the component families to the band. Any family might part from the group, either to go it alone or to join another band as economic circumstances and/or personal inclinations directed” (MacNeish, 1956, p.136).

In such societal structures, social norms were traditionally maintained by consensus and as such it was not the role of a chief or leader to “assume the power of punishing crimes, but [to regulate] the movement of his band, choose the hunting-ground, [collect] provisions...and [become a] medium of communication” on behalf of the people (MacNeish, 1956, p.176). Leaders were neither elected nor appointed, but were recognized inherently for their knowledge, skill and support. As Richardson quoted in Helm (1924, p.175) explains, “superior powers of mind, combined with skill in hunting, raise a few into chiefs, (leaders) under whose guidance a greater or smaller number of families place themselves, and a chief is great or small according to the length of his tail (i.e., the number of his followers).”

Specific to the Tłı̨chǫ were several positions that held varying levels of responsibility within the traditional society. The first of these positions is k’aowodee, which according to Legat (2012, p.209), was “a leader whose following is larger than a local band and whose knowledge is extensive.” Additionally, k’aowodee, is known as having “the capacity to care for others and oversee tasks that affect regional groups of people” (Legat, 2012, p.209). Tłı̨chǫ would select leaders based on who could best complete a task, as opposed to some cultures that place an emphasis on age. Chief Monfwi, who was a k’aowodee, was known “as a hard-working man

who cared for others [he was also known for] his stubborn character which is why he was chosen by the Tłı̨chǫ people to speak for them to the Federal Treaty Commission in 1921” (Legat, 2012, p.25). Chief Monfwi, was the first k’aowodee ever chosen to act on behalf of Tłı̨chǫ Nation collectively.

Leadership and governance differed in Tłı̨chǫ culture. Leaders and councils were traditionally formed for a limited time and for a specific purpose. MacNeish (1956) touches on this concept when discussing the role of war-time-chiefs whose powers were strictly limited to times of conflict. However, the Tłı̨chǫ also utilized this idea in times of peace and for numerous different purposes. As Legat (2012) explains, when a task needed to be completed, members listened to and followed a recognized K’aowo who was acknowledged as the person with the most knowledge and skills needed to complete the task at hand. K’aowo translates to mean ‘boss’ or ‘leader,’ and there can be a K’aowo for multiple different things including but not limited to activities such as hunting, forestry or highway construction. (Legat, 2012).

Two other categories of Tłı̨chǫ leadership are referenced in the literature. The first is ?ek’aawidee, a position that was created specifically as a result of colonial contact and activities related to the fur trade. ?ek’aawidee was “an important male ‘trading boss’ who represented the trappers of several local bands within his own region” (Legat, 2012 p.207). ?ek’aawidee “was given authority to trade because his knowledge of the trading system and of Kweetii (Europeans) was seen to be extensive” (Legat, 2015, p.207). The second is yahbahti, who was a powerful regional leader who possessed medicinal powers. The last Tłı̨chǫ yahbahti is said to have been Chief Edzo, an important figure in Tłı̨chǫ history for his role in arranging peace with the members of the Yellowknives Dene in the 1820s. Regardless of the position held, Tłı̨chǫ leaders, and more broadly speaking Dene leaders, were “often the paternal patriarchs of the band, and

being generally good hunters, experienced woods-men, and more efficient than the majority of their fellows, their judgement [was] respected” (Helm, 1924, p.147).

European contact significantly changed these social structures and the majority of these leadership positions have been replaced by the “government” chief whose role is to “mediate between his constituents and the local government officials” (Helm, 1924, p.148). As will be discussed further, leaders for local communities and Tłı̨chǫ Nation as a whole are now formally inducted through legislation outlined in the Tłı̨chǫ Agreement and Tłı̨chǫ Constitution.

6.1.2 *Institutions of Formal Tłı̨chǫ Government*

The Tlı̨chǫ Agreement is the guiding legislative document that outlines the scope of the responsibilities being transferred to the Tlı̨chǫ Government. The Agreement is organized into 27 chapters that cover a range of topics including the structure of the Tlı̨chǫ Government of Tlı̨chǫ Community Government, wildlife harvesting rights, compensation and management, water rights and management, protected areas, subsurface resources, taxation and others. With the signing of the Tłı̨chǫ Agreement came new expectations leading to the creation of the Tłı̨chǫ Government and the establishment of the Tłı̨chǫ Constitution. As per section 7.2.1 of the Agreement, the Tłı̨chǫ Government is recognized as a regional law-making authority over Tłı̨chǫ citizens and lands with the ability to enter into contracts or agreements; acquire and hold property, or any interest therein, sell or otherwise dispose of property or any interest therein; raise, invest, expend and borrow money; sue or be sued; form corporations or any other legal entities; and do such other things as may be conducive to the exercise of its rights, powers and privileges (Government of Canada, 2003, p.51).

In particular, section 7.4 outlines the law-making powers of the Tłı̨chǫ Government, which includes the power to enact laws in relation to:

- the structure of the Government and its internal management;
- the management and exercise of rights and benefits provided under the Agreement including those related to harvesting wildlife, plants and trees;
- land use planning on Tłıchọ lands;
- fishing and harvesting limits and quotas for Tłıchọ Lands and Tłıchọ Citizens in Môwhì Gogha Dè Nîîtâèè;
- protection of spiritual and cultural beliefs and practices of Tłıchọ Citizens and protection and promotion of the Tłıchọ language and of the culture of the Tłıchọ First Nations; and,
- heritage resources on Tłıchọ lands or in Tłıchọ communities, among others.

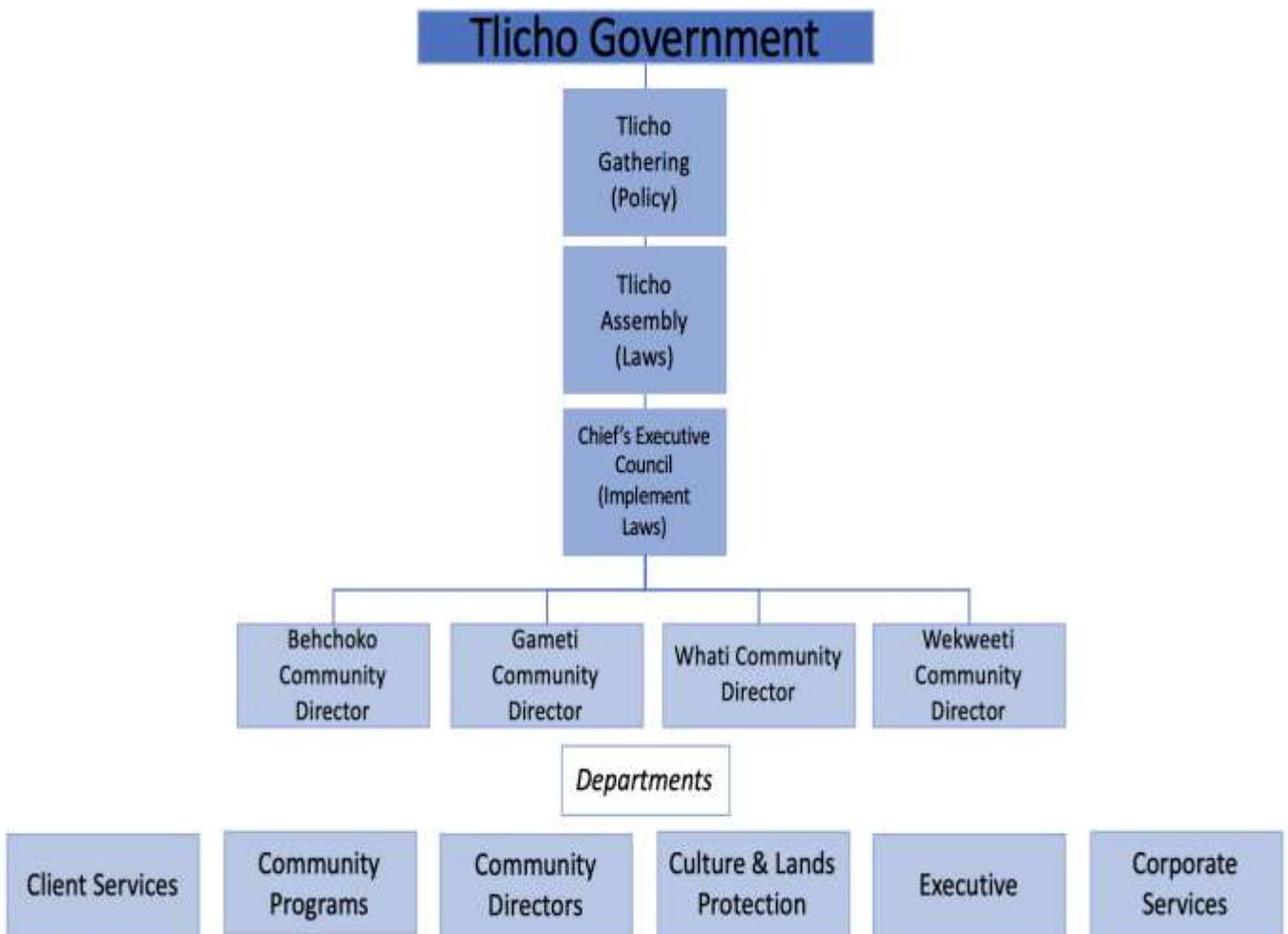


Figure 1. Governance structure of the Tłıchọ Government.

The Tłıchq Government is composed of three key institutions which are outlined in sections six through nine of the Tłıchq Constitution. These institutions are the Annual Gathering, the Tłıchq Assembly and the Chief's Executive Council (Figure 1). The Annual Gathering is held once a year alternating between the four Tłıchq communities. The Gathering is an important part of the Tłıchq Government as it serves as a setting to unite Tłıchq citizens and provides the opportunity for citizens to ask questions, provide recommendations and offer direction to their elected chiefs and Assembly members. Attendees have the opportunity to propose changes to the Tłıchq Constitution and, at the end of the four-year election cycle, nominate and vote for Grand Chief (Tłıchq Government, 2005).

The Tłıchq Assembly is the body responsible for implementing the Tłıchq Agreement and for ensuring good government practices. The Tłıchq Assembly consists of 13 members: the Grand Chief, a local chief from each Tłıchq community and two councillors from each community who are appointed by the local Chiefs (Tłıchq Government, 2005). As per section 8.6 of the Tłıchq Constitution, the Tłıchq Assembly is required to meet at least five times a year and these meetings are open to all Tłıchq citizens.

Finally, there is the Chief's Executive Council (CEC), which consists of the Grand Chief and the four chiefs from each Tłıchq community governments. The CEC's primary responsibility is overseeing the implementation of Tłıchq laws and ensuring good government practices. In addition, the CEC is responsible for the management and administration of the Tłıchq Assembly and is expected to take direction from and report regularly to Assembly members.

In order to fulfill its responsibilities outlined in the Tłıchq Agreement, the Tłıchq Government has split into six departments. These departments and their respective descriptions are listed in Table 5.

Table 5. Tłıchǵ Government Departments, Descriptions and Associated Clause from the Tłıchǵ Agreement

<p>Department of Client Services Supports Tłıchǵ Citizens through career development, economic development, student support programs, skills and partnership funding services.</p> <p>Responsibilities include: the education, except post-secondary, for Tłıchǵ Citizens in Tłıchǵ communities or on Tłıchǵ lands, including the teaching of the Tłıchǵ language and the history and culture of the Tłıchǵ First Nation but not including the certification of teachers.</p>
<p>Department of Community Programs Supports Tłıchǵ Citizens by providing Wellness Workshops (Loss/Grief, Team Building, Healing, Fitness programming, Nutrition Workshops, etc.), On-the-land camps for Youth, Adults and Families, Youth focused programming, Annual Youth Conference, Awareness Programs (Addictions, Substance Abuse, Crime Prevention.</p> <p>Responsibilities include: overseeing the practice of traditional medicine of Tłıchǵ Citizens, including the certification of such practitioners; social assistance, including social housing, for Tłıchǵ Citizens on Tłıchǵ lands or in a Tłıchǵ community, provided that such laws provide for standards, including standards for equitable access, portability and availability of appeal mechanisms; child and family services for Tłıchǵ Citizens on Tłıchǵ lands or in a Tłıchǵ community, provided that such laws provide for standards, including standards for the application of the principle of acting in the best interests of the child; and guardianship and trusteeship of adult Tłıchǵ Citizens on Tłıchǵ lands or in a Tłıchǵ community, except in relation to persons who are subject to the Mental Health Act, provided that such laws provide for standards, including standards for the application of the principles of natural justice and the promotion of the safety and well-being of those persons.</p>
<p>Department of Culture and Land Protection Supports Tłıchǵ Citizens by promoting Tłıchǵ way of life and by managing Tłıchǵ Lands.</p> <p>Responsibilities include: the protection of spiritual and cultural beliefs and practices of Tłıchǵ Citizens and protection and promotion of the Tłıchǵ language and of the culture of the Tłıchǵ First Nation.</p>
<p>Department of Corporate Services Composed of two divisions, Corporate Services is responsible for all the day-to-day transactional accounting for the Tłıchǵ Government.</p> <p>Responsibilities include: processing of payments to employees or any individuals that are hired to conduct work for Tłıchǵ Government and for recruitment and staffing, compensation and benefits, staff training and development, labor and employee relations as well as occupational health and safety.</p>
<p>Department of the Executive Administers financial assistance programs to Tłıchǵ Citizens and other ad hoc large projects. The Department is currently involved with planning with the GNWT to develop an all-season road to Whati.</p>

In addition to the Tłıchǵ Government, the Agreement also established four Tłıchǵ Community Governments for Behchoko, Whati, Gameti and Wekweeti. These governments, given authority and power through the Community Government Act, serve as municipal corporations and hold responsibilities related to community planning, public works and community improvements, supporting local economic development, providing public utilities, emergency response and fire protection services, recreation, and bylaw enforcement (Tłıchǵ Government, 2013). Section 8.4 of the Tłıchǵ agreement outlines the legal authority of the community governments to enact laws relating to the operation and internal management of the Tłıchǵ community government, the borrowing of money by the Tłıchǵ community government, and the administration of and the granting of interests in Tłıchǵ community lands. Additionally, community governments are responsible for the management, use and protection of lands within their community boundaries including land use planning; public order, peace and safety; housing for residents; by-law enforcement; intoxicants; local transportation; business licensing and regulation; gaming and recreational contests; and other matters of local or private nature, including taxation in the specific community.

6.1.3 *Institutions of Land and Water Management*

To govern land and water management decisions on their territory, the Tłıchǵ Government enacted the Department of Culture and Lands Protection (Figure 2). This Department acts as “the window through which the Tłıchǵ Government directs all inquiries concerning Tłıchǵ Lands, and where issues related to proposed activities and development are reviewed” (Tłıchǵ Government, 2017b, p.3).



Figure 2. Overview of the Tłıchǫ Government’s Department of Culture and Lands Protection

The Lands Protection Section of the Department is responsible for the development, implementation and maintenance of the Tłıchǫ Land Use Plan, providing land use recommendations, and monitoring all land-use activities taking place on Tłıchǫ lands. Of importance to note, while the Tłıchǫ Government is the sole actor in charge of land-use planning on the lands, all land-use decisions must also be approved by the Wek’èezhì Land and Water Board. It should also be noted that this research found no additional information or copies of formal community plans. As such, for the purpose of this thesis all land use planning information regarding management approaches related to the Tłıchǫ people has been drawn from documents produced by the largest Tłıchǫ Government and not the community governments.

The Tłıchǫ Land Use Plan, Tłıcho Wenek'e, serves as the primary formal document for governing land use and planning in the region. The plan was developed by the Tłıchǫ Land Use Planning Working Group (LUPWG) of the Tłıchǫ Government. This working group was composed of two Elders from each Tłıchǫ community and in order “to ensure that the Tłıchǫ Land Use Plan and planning process adequately reflects Tłıchǫ Culture, workshops were held with representatives from Tłıchǫ Government and Tłıchǫ Elders to develop goals...and to gather traditional knowledge, largely through detailed cultural mapping exercises” (Tłıchǫ Government, 2013, p.3).



Figure 3. Organizational chart showing the structural approach to Tłıchǫ Land Use Protection (Source: Tłıchǫ Government, 2013)

Thcho Wenek'e, provides an overview of the Tłıchq Government's visions, goals and approach to land use management which collectively seek to protect the land for future generations and the Tłıchq way of life. To do this, the Tłıchq government established a unique zoning regime that is centered on Land Protection Zones (Figure 3).

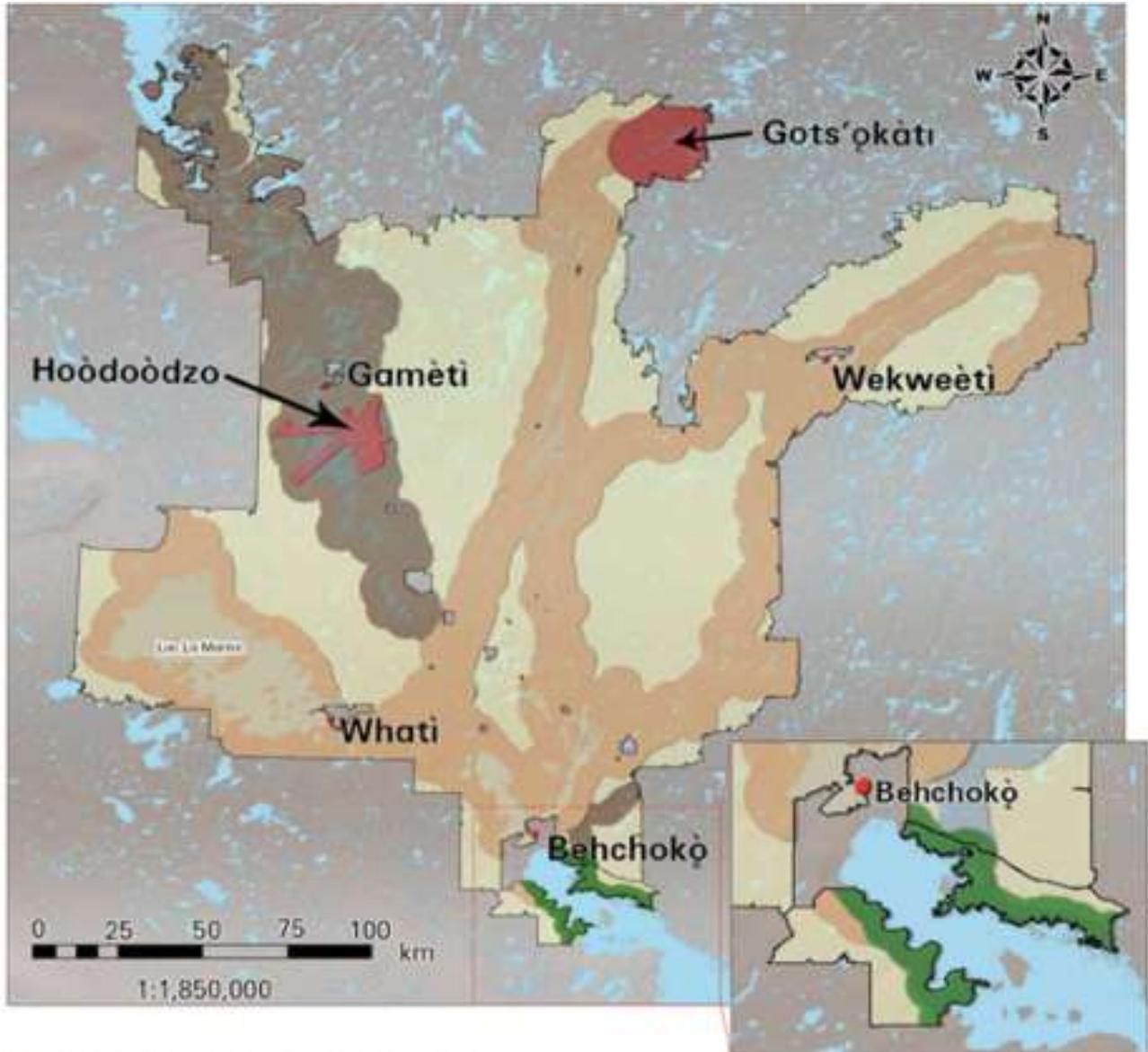
There are five zone types that have been established primarily based upon Tłıchq history and traditional knowledge (Map 7), the:

- Wehexlazodiale (way-he-ho-dai-lay)
- Dek'easii? wdaa (Deh-ke-Ah-see-eh-da-Way-hoo-dee)
- Gowhado Yeke' t'ii k'e (Go-wha-doo Yah-kay-tea ke)
- Tłıchq Nawoo Ke Det'ahot'ii (Tlee-chon Na-woo Ke-dah-ho-tea)
- Asii Haxoqii Gha Enegato (Ah-see-ha-ho-we Ga-eh-ni-ha-to)

Wehexlazodiale is a Land Use Exclusions Zone. Areas so zoned represent areas of critical importance for Tłıchq culture and heritage and are therefore granted full protection from development activities. Permitted activities within this zone include camping, non-exploitative research and transportation. There are two areas of Tłıchq lands so zoned: Gots'òkàti (Mesa Lake) and Hoòdoòdzo (Wolverine Hill or Sliding Hill). Described in the Tłıchq Wendeke,

Gots'òkàti is a very special place because, in the past, it was where people stored their meat (as they went further towards the barren lands). It was known as the 'freezer', as the site was used to keep caribou meat for when people returned from the barren lands. There are graves and it was even a place where some were born. There is a lake with the name Nìht'èhtia on either side of Gots'òkàti (Mesa Lake). Being on a travelled route, Gots'òkàti (Mesa Lake) became an area of great importance to Tłıchq history. In particular, it is known as the place where peace was made between æèdzèè (Edzo) and Akaitcho, which ended years of fighting between their people. (Tłıchq Government, 2013, p.37).

Hoòdoòdzo, or 'Sliding Hill,' is described as one of the most sacred sites linked to Yamozhah, who is known in Tłıchq legends for his encounter with a wolverine. According to *Thcho Wendeke*,



Map 12 Tłı̨chǫ Land Protection Zones

- | | | | |
|---|--|---|--|
|  | Wexhłaxodtaie
(Land Use Exclusion Area) |  | Tłı̨chǫ Nawoo Ké Dér'abot'ı̨
(Cultural Heritage Zone) |
|  | Dék'eanı̨redaá wéhqòdı̨
(Habitat Management Zone) |  | Ası̨ Haxowı̨ Gha Enchatq
(Enhanced Management Zone) |
|  | Gowhadq Yek'e t'ı̨ k'e
(Traditional Use Zone) | | |

Maps may not be to scale.

Map 7. Tłı̨chǫ Land Protection Zones outlined in the Tłı̨chǫ Land Use Plan (Source: Tłı̨chǫ Government, 2013)

Located on a large bedrock ridge, Hoòdoòdzo consists of a 'slide', measuring one metre in width and 30 metres in length. Lichens, which cover the surrounding rock, have been rubbed off the section of the hill used for sliding. The hill is where the Thç hç used to go and slide down the hill – to do so would determine how long the person would live. It was a place where people could become 'medicine men'. While the sliding hill is a significant site, the viewshed from the site is also critical and, as such, also requires protection. Protection of this site from development activities is part of the recognition and remembering of the Yamoza era in Thçhç history. (Thçhç Government, 2013, p.37)

The Dek'easii?wdaa is a habitat management zone. The goal of this zone is to protect areas identified as being permanent or seasonal habitat for birds and wildlife. Within Dek'easii?wdaa designated areas, land use is restricted to camping, non-exploitative scientific research, transportation and eco/cultural tourism activities. It should be noted here that this is the sole land zone that draws upon modern science as well as traditional knowledge.

Gowhado Yeke' t'ii k'e is a third zone, categorized as a traditional land use zone. As explained in the LUP, Gowhado Yeke' t'ii k'e,

is an area traditionally used by Thçhç. It is centred on the Idaa Trail, which is an ancestral trail that follows waterways and watershed areas. The Idaa Trail goes further back in history than Monfwi's trails and is an area of present-day use. It includes areas for hunting, trapping and fishing as well as a number of spiritual sites, burial sites, cabins, caribou trails and canoe routes. (Thçhç Government, 2013, p.39)

The objectives for protecting Gowhado Yeke' t'ii k'e are cultural and educational, but unlike Wehexlazodiale and Dek'easii?wdaa, considered land-uses include hydro-electric power generation and use of the land as a utility corridor.

The fourth zone, the Thçhç Nawoo Ke Det'ahot'ii, is a cultural management zone connected to Chief Monfwi. The goal of this zone is to protect the integrity of trails travelled by Monfwi in order to show respect to his spirit and to ensure that his stories and knowledge are passed down to future generations. Land uses considered on Thçhç Nawoo Ke Det'ahot'ii are the same as those considered on Gowhado Yeke' t'ii k'e.

Finally, the fifth Land Protection Zone is the Asii Haxoqii Gha Enegato. As an enhanced management zone, Asii Haxoqii Gha Enegato is the least protected of the five zones and is open to a wide range of economic activities. These include such industrial activities mines and mineral development, oil and gas extraction and commercial forestry operations. Regionally, Asii Haxoqii Gha Enegato stretches the largest land coverage on Tłıchọ Lands. A complete overview of each zone, their goals, and permitted land uses is provided in Table 6 below.

Table 6. Overview of the Tłıchọ Land Use Zones

Zone	Description	Goal	Allowed Land Uses
Wehexlazodiale (Land Use Exclusions Zone)	Protect sites linked to Tłıchọ history from future development	protect sites linked to Tłıchọ history from future development	Camping Cabin Non-exploitative scientific Research Transportation
Dek'easii?wdaa (Habitat Management Zone)	Areas that are ecologically significant in providing habitat to birds, animals and fish	Protect areas of seasonal and permanent wildlife or bird habitat	Camping Cabin Non-exploitative scientific Research Transportation Eco/Cultural Tourism
Gowhado Yeke' t'ii k'e (Traditional Land Use Zone)	An area traditionally used by Tłıchọ that includes areas for hunting, trapping and fishing in addition to spiritual sites, burial grounds, cabins, canoe routes and caribou trails	Preserve the Idaa Trail by protecting the waterways and watershed for traditional use	Camping Cabin Non-exploitative scientific Research Transportation Eco/Cultural Tourism Hydro power generation Utility corridor
Tłıchọ Nawoo Ke Det'ahot'ii (Cultural Management Zone)	Areas and trails traditionally walked by Chief Monfwi	Preserve Monfwi's trails by protecting land from activities that interfere with the integrity of the land	Camping Cabin Non-exploitative scientific Research Transportation Eco/Cultural Tourism Hydro power generation Utility corridor

Asii Haxoqii Gha ENEGATO (Enhanced Management Zone)	An area where there are opportunities for sustainable economic development	Provide the space for a range of economic development opportunities and find the balance between continued environmental protection and economic development	Camping Cabin Non-exploitative scientific Research Transportation Eco/Cultural Tourism Hydro power generation Utility corridor Quarries Commercial forestry Hunting/fishing lodge Mineral exploration Mines and mineral development Oil and Gas exploration and extraction
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The Tłıchǫ Government also created a series of 35 Land Protection Directives, or principles, that guide decisions related to proposed activities and development on Tłıchǫ lands. A complete list of the 35 directives outlined in the LUP can be found in Appendix A, but Table 7 below provides an overview of the directives most pertinent to how land and water management decisions are made by the Tłıchǫ Government.

Anyone interested in using Tłıchǫ lands is required to initiate preliminary discussions and an information sharing session led by employees from the Department of Culture and Lands Protection at which point important information about Tłıchǫ lands is shared. Following this, a formal application form (Figure 4) is submitted. The Application for Access to Tłıchǫ Lands requires applicants to provide an overview of their proposed project including the type of land use involved, expected timeline of operations, equipment and materials to be used, and disposal plans for any fuels or hazardous wastes. In addition, the application requests an overview of the anticipated environmental impacts, impacts to Tłıchǫ heritage features such as gravesites or

Table 7. Tłıchq Land Directives Relevant to Land and Water Management

Theme	Directive	Directive Title	Description / Impact
Tłıchq Culture and Heritage	6.1 A	Impact on Wildlife and Harvesting	Wildlife and their habitat are identified as integral to Tłıchq culture and heritage and so proponents of development must show that proposed development will not have an impact of wildlife and their habitat and trap lines and winter trails.
	6.1 B	Water Quality	Water is an integral part of Tłıchq culture and lands, and so any development must outline in their proposal the watershed being impacted, existing or proposed future uses and how impact and disturbances will be minimized
Resource Management Practices	6.1 E	Ecological Representation	This approach is used to maintain ecological diversity on Tłıchq Lands and for assessing and recommending applications for development
	6.2 D	Cumulative Effects	The Tłıchq Government has committed to taking a long-term, holistic approach to resource development and will limit the number of projects occurring at once in order to reduce the impacts on wildlife, the environment, Tłıchq citizens, traditional land use and Tłıchq way of life.
	6.2 F	Traditional and Scientific Knowledge	A combination of both Traditional and scientific knowledge is used in order to evaluate proposals in order to best protect the land.
Resource Development	6.1 C	Forest Management	Opportunities for forestry activities are welcomed on Tłıchq lands but proposals must outline how such a development project will be small-scale and community based, protect cultural sites, minimize impact on wildlife, and protect local use and access of timber for non-commercial needs.
	6.1 H, 6.1 I	Resource Development	There is an opportunity for resource development in certain areas of Tłıchq lands, but a balance must be found between the need to protect traditional lands uses and economic opportunities. A full analysis is to be conducted on the environmental, cultural, and socioeconomic impact of each resource development proposal

Figure 4. Tłıchq Government Application for Access to Tłıchq Lands

Instructions: please complete all sections of this application providing as much information about the proposed land use as available, pay the associated non-refundable fee of \$500 by cheque and submit form and associated fee to the address specified at the bottom of page 3. **Please note:** incomplete applications will be returned to the sender and will not be processed.

APPLICATION FOR ACCESS TO TŁICHQ LANDS		
SECTION 1: PROPONENT INFORMATION		
<input type="checkbox"/> <i>New Application</i>	<input type="checkbox"/> <i>Amended Application</i>	DCLP STAFF ONLY - Application # _____
Name of Applicant:		
Address of Applicant:		
City:	Province:	Post Code:
Phone #:	Fax #:	
Email address:		
Name of Representative (contractor, consultant):		
Address of Representative:		
City:	Province:	Post Code:
Phone #:	Fax #:	
Email Address:		
SECTION 2: PROPOSED ACTIVITY - (circle all that applies)		
<i>All-season access construction</i>	<i>Cabin (non- Tłıchq only)</i>	<i>Mineral exploration</i>
<i>Winter access construction</i>	<i>Commercial hunting and fishing lodge</i>	<i>Mines and mineral development</i>
<i>Utility corridors and associated components</i>	<i>Commercial eco-lodge</i>	<i>Oil and gas exploration</i> <input checked="" type="radio"/> <input checked="" type="radio"/>
<i>Borrow pits and quarries</i>	<i>Camps and industrial support facilities</i>	<i>Oil and gas development</i>
<i>Hydro-power and solar generation</i>	<i>Commercial forestry</i>	<i>Other (describe)</i>
Do you need a Land and Water permit from the WLWB for the proposed activity? <input type="checkbox"/> YES <input type="checkbox"/> NO		
Section 2.2 - If "other", please describe the proposed activity		

Figure 4. Tłıchǫ Government Application for Access to Tłıchǫ Lands (cont.)

Standard Land Use Application Form – Page 2	
SECTION 3: PROJECT LOCATION	
LAT _____ LONG _____	
<i>Please note: applications without geographic coordinates will be returned.</i>	
NTS Mapsheet:	
Name of nearest community:	
SECTION 4: PROJECT INFORMATION (ATTACH SEPARATE SHEETS AS REQUIRED)	
Existing third party interests or rights on Tłıchǫ lands: <input type="checkbox"/> YES <input type="checkbox"/> NO	
Proposed land use, including components, total area, existing and new cut:	
Access to the proposed development:	
Timeline of operations:	
Equipment and materials:	
Usage, containment and disposal of fuel, hazardous materials and waste:	
Anticipated impacts to the environment and Tłıchǫ heritage features (i.e. gravesites, archaeological sites):	
Project benefits for Tłıchǫ people, its government and communities.	

Figure 4. Tłıchǫ Government Application for Access to Tłıchǫ Lands (cont.)

Standard Land Use Application Form – Page 3	
Community engagement with Tłıchǫ:	
Proposed reclamation/restoration plans:	
SECTION 5: SITE SKETCH	
SECTION 6: SIGNATURES	
<i>Applicant name in full</i>	<i>Signature</i>
_____	_____
<i>Date</i>	

<i>By signing this form I certify that all information provided is true to the full extent of my present knowledge and an accurate depiction of the proposed use of Tłıchǫ lands. I understand that submission of this application does not provide nor constitute a guarantee of project approval or proof of community engagement with the Tłıchǫ Government, its Department of Culture and Lands Protection and Tłıchǫ communities.</i>	
Please mail one (1) hard copy and one (1) electronic copy of this application inclusive of fee (cheques only) to the following address:	
Department of Culture and Lands Protection Box 412, Behchoko, NT, X0E 0Y0 Phone: 867-392-6381 www.tlicho.ca	
Fax: 867-392-6406 Email: lands@tlicho.com	

archaeological sites, and any expected benefits for the Tłıchǫ people, communities and government.

Once an application is submitted, it undergoes a formal review process at which point the Tłıchǫ Land Use Plan zoning and Land Protection directives are applied and if necessary, further discussions with communities and/or regulatory boards takes place. Once this is completed, and dependent upon the applicant's success, the Tłıchǫ Government grants their decision, and outlines any conditions of their approval.

6.1.4 Inclusion of an Indigenous Perspective in Tłıchǫ Institutions

From a structural perspective, the Tłıchǫ Government incorporates several fundamental elements reflective of traditional governance practices of the Tłıchǫ people. Firstly, there is the foundational role of the General Gathering. The hosting of the Gathering reflects traditions of dialog, coming together, community participation and sharing. In an article written by Brockman (2018) and published by the CBC, Tłıchǫ citizen Russell Drybones is quoted stating that the Tłıchǫ Gathering is

about the unity — all the people from each community getting together. It's about the happiness, the fun...It's also a way to keep our culture strong, keep our language going. It's about all the things the elders talked about... We have to unite so we can learn from each other... It helps keep our strength, so we know who we are, where we come from, so we don't lose our identity.

Second, policy is created during the Gathering. Therefore, policy can be seen as being a product of traditional discussion and compromise amongst the entire people and not simply that drafted by representatives. However, the Assembly, which consists of the chiefs and representatives of each community, then draft the actual laws based upon the passed policies.

Third, there is the role of the Grand Chief and community Chiefs. Although tailored to fit within

the more formal governance structure requirements of the Tłıchǫ Government, the traditional traits of the chiefs as individuals of particular integrity, wisdom and skill remain.

Regarding the government structure, its design seeks to integrate Tłıchǫ culture and history into everyday life and activities. The combining of culture and land management in the Department of Culture and Lands Protection reflects the importance of Tłıchǫ culture and history in decision-making. It was established “to reflect the priorities of the Tłıchǫ Government in managing Tłıchǫ Lands” and to “ensure that Tłıchǫ will never be restricted from their traditional way of life” (p.16). By connecting culture and land under one department, the Tłıchǫ Government has sought to reduce the opportunity for silos to form in the governmental structure thereby fostering a more holistic approach that respects the critical interrelation between Tłıchǫ culture and the land.

In terms of land and water management, reference to Indigenous peoples and perspectives are found throughout the documents produced by the Tłıchǫ government. The Tłıchǫ Agreement is the primary legislative document outlining the roles and responsibilities of the Tłıchǫ Government with regards to land use planning and water management. However, due to the fact that the Tłıchǫ Agreement is a legal document that addresses the structural transition associated with Tłıchǫ self-governance, the overall tone of the Agreement is very high level and discusses different management obligations while providing the backbone structure for how the institutions formed under it are to operate. As such, while the Tłıchǫ Agreement touches on many elements that are fundamental to consider when considering Indigenous culture and way of life (i.e. hunting and fishing rights), the way in which these topics are discussed is very technical and is focused on the responsibility of the Government to determine harvest quotas and allocate permits.

Despite the technical nature of the Tłıchq Agreement, the foundational document on land management prepared by the Tłıchq people is quite different in its tone. In order to establish an approach and identify their goals and priorities related to land and water, the Tłıchq Wenek'e begins with Tłıchq history as its organizing principle. The overall objective and purpose of Tłıchq Wenek'e, as stated in section 1.1 is to "protect the land for its inherent worth and ecological integrity" as well as "protect the land in order to experience and learn Tłıchq history [as] the stories and legends are all connected to the land" (p.1). Section 3.2 further explains that,

in order to develop a plan that best serves Tłıchq, it was important to incorporate Tłıchq values into the land use planning process. These values were the starting point for discussions on land use planning and are not only incorporated into land use directives and mapping, but also the directives guiding development control, access, provisions and monitoring of activities (p.17)

An important way in which Tłıchq perspectives was included in the planning process was the dependence upon traditional knowledge, as gathered from Elders, from existing traditional knowledge database and as shared during cultural mapping exercises, community consultation sessions, workshops and storytelling. In addition, Tłıchq perspectives were included by prioritizing the use of Tłıchq language throughout the planning process and final document. As previously mentioned in chapter 3, Tłıchq language is closely tied to their cultural identity and connectivity to the land having been used as a means to record their presence and use of the land. As such by prioritizing the use of Tłıchq language, information gathered reflects the history, culture and identity of the Tłıchq and created a culturally appropriate space for elders to be able to identify important locations. Finally, the development of *Tłıchq Wenek'e* was guided by the words of Chief Monfwi who during the signing of Treaty 11 in 1921 stated "As long as the sun rises, the river flows, and the land does not move, we will not be restricted from our way of life" (Tłıchq Government, 2013, p.14).

As a result of placing Tłıchq values at the core of the development processes, traditional knowledge and the Tłıchq language are found frequently throughout *Tłıchq Wenek'e*. For example, in section 1.3.3, descriptions of each Tłıchq communities are provided. The first set were developed using traditional knowledge of the area and shares historical information about each community. The second draws on a colonial perspective and focus is on providing statistics and facts in its description (Table 8).

Table 8. Comparison of Tłıchq Community Descriptions used in the Tłıchq Wendeke drawing on Traditional and Scientific Knowledge

	<i>Indigenous perspective -Traditional Knowledge</i>	<i>Colonial perspective – Scientific Knowledge</i>
<i>Whati</i>	“Whati is a place where conflict occurred long ago between the Tłıchq and the Chipweyan. It was Mowhi’s brother-in-law who was the first person to build a house in Whati. The area has been a good trapping area-Whati means ‘marten’. Nearby is the <i>Nitlitt</i> (waterfall), where sometimes one can see a rainbow over the falls, which is taken as a sign and a reminder of the history of the Tłıchq”	“Whati is located on Lac La Martre, 210 km northwest of Yellowknife, with a population of approximately 520. It is accessible by winter road and year-round by daily scheduled flights. The Mezi Community School provides Grades K-12. The community is known for its great fishing, scenic beauty and decorative arts”
<i>Wekweèti</i>	“The area around Wekweèti was a common boat and sled route as the Tłıchq travelled towards the nearby barren lands every fall in search of migrating caribou. Wekweèti came to be seen as a perfect location for those who wanted to live a life more closely associated with the land and caribou. Johnny Simpson was the first Elder to build a house at Wekweèti, around 1960. Soon after, ten more houses were built and today there are approximately 30 households living in this still traditional community. Wekweèti means ‘His rock lake’ (snare lake)”	“The smallest of the Tłıchq communities, Wekweèti has a population of 130. The Alexis Arrowmaker School is located in Wekweèti. Wekweèti is accessible by scheduled flights to and from Yellowknife or by a winter ice road. It is the Bathurst caribou herd that traditionally passes through this area on its way north to calving grounds in the spring and then to the south as the winter approaches”

Behchokò	<p>“Mqwhì’s father, Ewaàghoa, was the first person to build a house at Behchokò. In the past, Thç hò used to live at N ɿshii (Old Fort Rae), an area on the shores of Great Slave Lake. There remain many gravesites and old houses at Old Fort Rae. Because of the challenges of travelling on Great Slave Lake, many Thç hò people decided to move to Behchokò because it is good area for fish. It was kweèka (a rocky place), making it a good landscape to build houses. Ewaàghoa once said that there used to be so many people at Behchokò that the whole Game Dii (the present-day Bay Island) looked like a white island because of the many white tents set up for people to live in.”</p>	<p>“Behchokò is the largest of the Thç hò communities, with approximately 1,950 people, located 105 km northwest of Yellowknife, close to the North Arm of Great Slave Lake. Behchokò means ‘Big Knife’. It is the only Thç hò community that is accessible by an all-season access road.</p> <p>Behchokò consists of two communities – the original community of Rae is the larger of the two and home to the Thç hò Government offices, Community Government offices and Thç hò Community Services Agency (TCSA) offices. The development of Edzo began in the 1960s. Edzo was a great Thç hò leader who arranged peace between the Thç hò and the Yellowknives. Edzo is the home of Chief Jimmy Bruneau High School.”</p>
Gamètì	<p>“The father of the late Johnny Arrowmaker was the first to build a house at Gamètì. In addition to being an important place for caribou, it was also known as a fine place for furbearing animals and for its good fishing. There is also a fine whagweè (a sandy area) at Gamètì. Gamètì is named after Gamè, and ti means ‘lake’. It was known to be a beautiful area, surrounded by many islands and hills, and people began to move there.”</p>	<p>“The community of Gamètì is located along the chain of waterways connecting Great Slave Lake and Great Bear Lake; it is 300 km northwest of Yellowknife, with a population of approximately 300. The Jean Wetrade School has been recently updated and contains a large gymnasium. There are daily scheduled flights from Yellowknife to Gamètì and in winter there is access to Gamètì via a 213 km winter ice road from Highway 3 near Behchokò.”</p>

The importance of the Elders cannot be understated both in terms of the creation of the land zones and in terms of the overall governance of the Tłıchǰ peoples. The specific use of Elders’ knowledge is formalized under Land Protection Directive 6.2.F which states that, “Elders’ knowledge shall be used in the review of all proposed development in order to ensure special sites are researched, identified and protected prior to any approval of development” (p.47).

The Land Protection Zones (LPZ) and Directives (LPD) are the primary tools used when assessing a proposed land use or water activity/development. Significantly, Indigenous perspectives were of central importance in their development. Section 3.4 of the Land Use Plan explains that when developing the LPZ and LPDs, Elders “shared information on the historical and cultural significance of areas, sites, trails and watercourses” and that their information “forms the base for the creation of zones and specific site protection” (p.18). As already stated in the preceding section, the input provided by Elders was foundational in the delineation of the LPZ. For example, Ṯicho Nawoo Ké Dét’ahot’i (Cultural Heritage Zone) protects the network of trails that are closely connected to Chief Monfwi. Elders explained that “Monfwi led his people along the trails where caribou could be found, and the people were fed and survived hardship and strife” (p.40). A second example is Gowhadó, Yek’e t’i k’e (Traditional Use Zone), which represents an area traditionally used by the Ṯichq̱, centered on the Idaa Trail which is the Ṯichq̱ traditional route that connects Great Slave and Great Bear Lake. Both of these zones provide protection from development that could potentially disrupt the land in order to protect Ṯichq̱ history and to ensure that future generations are able to continue using them as their ancestors did. Out of the five LPZs, four are primarily influenced by Ṯichq̱ knowledge, history and culture.

While the LPZs strongly incorporate Indigenous perspectives, it is interesting to note that colonial or modernist approaches have been incorporated by the Ṯichq̱ for addressing certain issues and circumstances. Table 9 below categorizes the LPDs into two categories, those that are foundationally developed on Ṯichq̱ culture and knowledge and those that are more reflective of colonial or modernist approaches. Modernist knowledge and approaches are referenced when

considering water quality, ecological representation, caribou populations, climate change and other such topics.

Table 9. Categorization of Tłıchǵ Land Use Planning Directives

Indigenous Perspective	Modernist Perspective
6.1 A – Impacts of Wildlife and Harvesting 6.1 C – Forest Management 6.1 D – Tourism 6.1 H/I – Resources Development 6.2 D – Cumulative effects 6.2 F/G/H – Traditional and Scientific Knowledge 6.3 A – Cumulative Effects Framework 7.8 A – Additional Information and Study of Tłıchǵ Lands	6.1 B – Water Quality 6.1 E/F – Ecological Representation 6.1 G/J – Tłıchǵ Land Use Guidelines 6.2 A/B/C – Caribou 6.2 E – Climate Change 6.3 B – Contaminated sites 6.3 C – Community Protection from Forest Fires 6.3 E – Non-Tłıchǵ Lands 6.3 D – Third Party Interests 6.3 E – Non-Tłıchǵ Lands 7.3 A – Exercising Full control 7.4 A/B/C/D Economic Development and Tłıchǵ Lands 7.5 A/B – Community Engagement 7.6 A/B – Communication 7.7 A/B – Inspection and Enforcement

As a general observation, the directives that privilege an Indigenous, or Tłıchǵ, perspective focus on ensuring actions and permitted activities respect and promote Tłıchǵ culture, history and way of life or embrace traditional knowledge. Even in directives that tend to privilege modernist approaches, traditional perspectives are referenced. For example, Directive 6.2 states “Elders knowledge shall be used in the review of all proposed development in order to ensure special sites are researched, identified, and protected prior to an approval of development.” (p.47) Additionally, Directive 6.1C which is focused on forestry related activities states that proposals will be measured based on the degree to which they “protect cultural heritage sites and features and does not unduly disrupt traditional land uses.”

On the other hand, some LPDs adopt a more modernist approach. For example, Lands Protection Directive 6.3A makes a commitment to the use of a cumulative effects management approach when making land use decisions. Cumulative effects, they explain, are “changes to the biophysical, social, economic and cultural environments resulting from the combined effects of past, present and future anthropogenic activities and natural events.” In making a commitment to manage such effects, the Tłıchǵo Government is committing to taking a “long-term, holistic view of the impacts of development over time and space” (p.33). While cumulative effects management expands beyond the typical government approach of view natural resource management in silos, it requires the establishment of thresholds in order to measure indicators such as air and water quality. As such, a cumulative effects approach requires communities to decide “how much change [they are] willing to live with in order to move forward with economic development” (p.33).

Finally, Indigenous perspectives are also evident in the application process developed by the Tłıchǵo Government. Although the Tłıchǵo process is application-based, consultation and engagement are initiated from the outset with both the Tłıchǵo government and community governments where appropriate. For example, all applicants are required to participate in a preliminary discussion and information sharing session with the Tłıchǵo government at which point the applicant is given the opportunity to explain their proposed project, and the Tłıchǵo Government shares important information about Tłıchǵo lands and communities. This first step is reflective of the importance of dialog in Indigenous culture. The application itself, required by the Tłıchǵo government, includes a requirement that any proposal include any anticipated impacts on Tłıchǵo heritage features, any projected benefits for the Tłıchǵo people, government and

communities, their proposed community engagement plans as well as their proposed land restoration initiatives.

6.2. Institutions of Government of the Northwest Territories

6.2.1. Institutions of Formal Government of the NWT

The GNWT and Nunavut are unique in Canada in two ways. First, both are based upon a consensus system of government and not upon party politics. Second, the population of both the territories are predominantly Indigenous. According to Brock (2014) and Mercer (2015), the Indigenous nature of the territories is a prominent reason why a consensus government system was chosen as it honours traditions of dialog in Indigenous society. As Mercer (2015, p.1) writes,

consensus government is a reflection of the political values of the Aboriginal people who constitute a majority of the Territories' population: a distaste for confrontation; a preference for decentralized power; a belief that the best decisions result from respectful and extensive dialogue; and a lack of enthusiasm for representative as opposed to direct democracy.

Under consensus government, each Member of the Legislative Assembly (MLAs) is nominated in their district by gathering signatures of support and are elected as independent candidates (Brock, 2014; Legislative Assembly of the Northwest Territories, 2014) as political parties are viewed as “alien, southern-Canadian institutions which would impede political development along the distinctly Northern lines” (Mercer, 2015, p.1). Government policy is established after representatives are elected and assigned to Cabinet, at which time they meet as a caucus and discuss their priorities. The process of selecting the Premier also takes place by vote by the elected MLAs (Brock, 2014).

Since its establishment in 1870, the Northwest Territories has undergone significant change. In terms of its boundaries, the most dramatic change occurred in 1999 with the creation

of Nunavut and the establishment of the NWT's current geographical boundaries. In terms of governance, the most dramatic change, considered widely as a significant step towards greater independence for the GNWT, took place on April 1st, 2014, when the GNWT became the second territorial government to gain control over land and resources within its jurisdiction. This process is known as devolution (Alcantara et al., 2012; Government of the Northwest Territories, n.d.). The decision of the Government of Canada to devolve certain responsibilities followed a growing trend that sought to address criticisms related to state governance being "unresponsive to local needs and impervious to local participation" (Natcher and Davis, 2007, p.271).

The Government of the Northwest Territories (GNWT) is responsible for the day-to-day territorial operations as well as the management of land and water resources across the territory. The GNWT consists of 11 departments (Table 10), each with a separate mandate. Following devolution, the GNWT established the Department of Lands to "support, manage and administer the sustainable use of public lands in the NWT" (Government of the Northwest Territories - Lands, n.d). As part of this mandate, the Department of Lands was made responsible for setting land use sustainability standards, guidelines and policies, assessing projects and administering permits.

However, the GNWT was not however given full authority to design its land and water governance regime. A condition of the Devolution Agreement required the GNWT to mirror pre-existing federal policies including the Territorial Lands Act which was re-enacted as the Northwest Territories Lands Act. Other key pieces of legislation, such as the Commissioner's Land Act, was also mirrored, while others such as the GNWT Land Use and Sustainability Framework are original legislation (Government of the Northwest Territories, 2017).

Table 10. Government of the Northwest Territories – Departments

Department Name	Description
Department of Education, Culture and Employment	Mandated to provide residents of the Northwest Territories with access to quality programs, services and supports to assist residents in making informed and productive choices for themselves and their families in regards to education, training, careers, employment and labour, child development, languages, culture and heritage.
Department of Environment and Natural Resources	Works to promote and support the sustainable use and development of natural resources and to protect, conserve and enhance the Northwest Territories (NWT) environment for the social and economic benefit of all residents.
Department of Executive and Indigenous Affairs	Works to provide overall management and direction to the Executive branch of the Government of the Northwest Territories; Ensure mutually respectful intergovernmental relations between the territorial government and Aboriginal, provincial, territorial, national and international governments are developed and maintained; Negotiate and implement land, resources and self-government agreements that address Aboriginal rights in the Northwest Territories.
Department of Finance	Responsible for obtaining, managing and controlling the financial resources required to implement the GNWT's policies and programs.
Department of Health and Social Services	Promotes, protects and provides for the health and well-being of the people of the Northwest Territories.
Department of Industry, Tourism and Investment	Promote economic self-sufficiency through funding, support, and marketing initiatives designed to foster a positive economic environment in our territory.
Department of Infrastructure	Responsible for environmental assessment and remediation of public infrastructure, public infrastructure construction, and planning, property management, procurement and energy conservation and efficiency programming.
Department of Justice	Responsible for the provision of programs and policies related to community justice and policing, correctional facilities, and court services.,
Department of Lands	Manage, administer, and plan for the sustainable use of public land in the Northwest Territories in a fair and transparent manner that reflects the interests of the people of the Northwest Territories.
Department of Municipal and Community Affairs	Support capable, accountable and self-directed community governments providing a safe, sustainable and healthy environment for community residents.

The process of devolution also brought changes to other existing departments including the Department of Industry, Tourism and Investment (ITI) and Environment and Natural

Resources (ENR). ITI works to promote economic self-sufficiency and is involved in a range of sectors including the traditional economy, parks, mines and minerals, agriculture and fisheries, and oil and gas. ENR works to “promote and support the sustainable use and development of natural resources and to protect, conserve and enhance the Northwest Territories (NWT) environment for the social and economic benefit of all” (Government of the Northwest Territories – Environment and Natural Resources, n.d.). Under their mandate, ENR is responsible for conservation, assessment and monitoring, forest management, water resources and wildlife management.

6.2.2. Institutions of Land and Water Management

Land use planning in the NWT has occurred on a more regional basis than Territory-wide basis to respect Indigenous settlement and land claim agreements (Government of the Northwest Territories, 2016). As such, regional land use plans such as Tłıchǝ Wendeké play a pivotal role in the GNWT’s approach to land use planning. Including the Tłıchǝ Agreement, there are four settled comprehensive land claims that shape the land use planning landscape across the NWT. These agreements are the Inuvialuit Agreement (1984), the Gwich’in Comprehensive Land Claim Agreement (1992), the Sahtu Dene and Metis Comprehensive Land Claim Agreement (1994) and the Tłıchǝ Agreement (2005). Stemming from each of these agreements are regional land use plans (Table 11).

The GNWT’s role in land and water management is limited in areas where settled land claims exist. Specific to this research, the GNWT plays a limited role in land and water management on Tłıchǝ territorial lands aside from their participation on the Wek’èezhì Land and Water Board. In contrast, the GNWT does play an important direct role in the land use planning process for areas that are not a part of a settlement agreement or do not fall under the jurisdiction

of either the corresponding land and water board, Within the Mackenzie Valley, a land use plan is legally binding once approved as per section 46 of the Mackenzie Valley Resource Management Act.

Table 11. Overview of Land Claim Agreements in the NWT and the Corresponding Land Use Planning Documents for each Region

Agreement	Region	Land Use Planning Document
Inuvialuit Final Agreement (1984)	Inuvialuit Settlement Region	Aklavik Community Conservation Plan Inuvik Community Conservation Plan Ulukhaktok Community Conservation Plan Paulatuk Community Conservation Plan Sachs Harbour Community Conservation Plan Tuktoyaktuk Community Conservation Plan
Gwich'in Comprehensive Land Claim Agreement (1992) <i>Mackenzie Valley Resource Management Act (1998)</i>	Gwich'in Settlement Region	Nanh' Geenjit Gwitr'it T'igwaa'in (Working for the Land): the Gwich'in Land Use Plan
Sahtu Dene and Métis Comprehensive Land Claim Agreement (1994) <i>Mackenzie Valley Resource Management Act (1998)</i>	Sahtu Settlement Region	Sahtu Land Use Plan
Tłı̄chọ Final Agreement (2003) <i>Mackenzie Valley Resource Management Act (1998)</i>	Tłı̄chọ Lands	Tłı̄chọ Wenek'e - Tłı̄chọ Land Use Plan
Tłı̄chọ Final Agreement (2003) <i>Mackenzie Valley Resource Management Act (1998)</i>	Wek'èezhii Management Area	Work is underway between the Tłı̄chọ Government and Canada to examine the next steps in creating a Wek'èezhii Area Land Use Plan for public lands

Several formal legislative documents outline the GNWT's rights and responsibilities related to land and water including the NWT Devolution Agreement, the Commissioner's Land Act, the NWT Lands Act and the NWT Waters Act. In addition to these, the GNWT published the GNWT Land Use and Sustainability Framework (LUSF) and GNWT Water Stewardship Strategy (WSS) to guide decision-making and establish a consistent vision for land and water management.

The Devolution Agreement came into effect in 2013 and sets out the purpose and guiding principles of the devolution of resources from the Government of Canada to the GNWT. As per Chapter 3 of the Agreement, the GNWT agreed to take on responsibilities related to the administration and management of public land and rights in respect to water; the power to enact laws with respect to public land and rights in respect to water; the administration of public lands and rights in respect to water; and, the upholding of existing Aboriginal rights. In granting the GNWT authority to administer and control Territorial Lands, the GNWT was required to develop policies and acts to manage said lands. The Commissioner's Land Act (CLA) and the Northwest Territories Lands Act (NWTLA) are the two key legislative documents used concerning public lands across the territory. According to a report released by the GNWT in 2017

The Commissioner's Land Act was originally based on the federal Territorial Lands Act, which dates back to the 1950s. Over the years, the Commissioner's Land Act evolved to enable the GNWT to respond to the NWT's needs, primarily in the areas of communities and recreational land use. (p.57)

Following devolution, and the acquisition of authority over the administration and control of Territorial Lands, the GNWT mirrored the federal Territorial Lands Act as the Northwest Territories Lands Act. While the Northwest Territories Lands Act includes some mention of recreational uses, it primarily addresses land uses "related to larger scale commercial activities

and natural resource development” by “[governing] the disposition of surface rights outside communities, as well as subsurface rights throughout the NWT including subsurface rights that are underlying Commissioner’s Land” (p.57).

The GNWT also mirrored the former federal Northwest Territories Waters Act now titled the Waters Act. As part of an integrated system of land and water managed in the NWT, along with the Northwest Territories Lands Act and the Mackenzie Valley Resource Management Act (MVRMA), the Waters Act came into force April 1st, 2014, and gives the GNWT authority related to establishing water management areas; defining the classifications and concentrations that constitute waste; determining thresholds for Type A and B water licences; establishing standards for water quality, and effluent permitting; and, the use of water and the disposal of waste in water bodies, among others.

Mirroring, or substantially mirroring these legislative documents, is a requirement of the Devolution Agreement. However, when addressing the Speaker of the Legislative Assembly in 2010 the Minister of Environment and Natural Resources stated,

we recognize the mirror Federal legislation required to transfer the jurisdiction from Canada to our government will not immediately reflect the values of NWT residents. We know amendments to legislation will be needed. However, mirroring the Federal legislation is a requirement that will provide for a smoother transition of responsibility and administration between our two governments. It will also provide certainty to existing rights holders, residents and industry that the rules will not be immediately and drastically changed. It will give us the time needed to lay the foundation for policy change (GNWT [7] (2010).

In 2017, the Government began discussions focused on amending the NWTLA and CLA to improve the overall effectiveness of public land administration in the NWT. The results from these discussions were published in a report titled *Engagement Summary Report “What We Heard.”* which summarizes concerns, questions and advice received through public open houses,

meetings and written feedback from individuals, organizations, non-government organizations, among others.

The NWT Lands Act and NWT Waters Act are formal legislative documents that provide a structural breakdown of the rules and regulations surrounding water and land in the Northwest Territories. These documents, similar to the Tłıchq Agreement, are very formal and provide little insight beyond the legal processes to how land and water resources are managed. In contrast, the LUSF and WSS were created to outline the governments visions, priorities and efforts related to water and land management across the territory.

Both the Land Use and Sustainability Framework and Water Stewardship Strategy use a number of different management approaches (Table 12) including sustainable development, adaptive land management, integrated natural resource management, ecosystem-based management, water valuation and stewardship. These approaches are used to ensure the government is meeting its goals which include “responsibly and sustainably [managing] the lands, waters and natural resources of the NWT for the benefit of current and future generations” (Tłıchq Government, 2013, p.11).

Using the Land Use and Sustainability Framework and Water Stewardship Strategy as its guiding documents for land and water decisions, the GNWT plays an important role as a planning partner and land-use approval authority in territorial land use planning and water management. As a planning partner, the GNWT provides information, analysis, policy advice, and planning input needed by planning boards to successfully complete their plan (Government of the Northwest Territories, 2016). As an approval authority, the GNWT contributes in establishing the vision and goals of the region by putting forward its priorities and interests as

Table 12. Management Approaches to Natural Resource Management Found throughout the GNWT’s Water Stewardship Strategy and Land Use and Sustainability Framework

Management Approach	Description	WSS	LUSF
Integrated resource management	A coordinated process in which all components and disciplines of resource management (policy, development, environment and natural resource use planning, environmental assessment and protection, legislative and regulatory mechanisms) are formally linked and complementary. This process is characterized by the sharing of values, information and advice among various interests.	* not specifically referenced but used in Sustainable Development Policy	
Adaptive Land Management	The process of continually incorporating newly gained knowledge or information into decision making	Y	Y
Eco-system Based Approach	A method of decision making that considers the structure, function, process and values of an ecosystem, as well as how humans and other species interact. An ecosystem-based approach places social and economic consideration in the context of ecosystem health and diversity	Y	
Sustainable Development	Development of natural resources in a manner that ensures economic, social, and cultural needs are met while maintaining ecosystem integrity and biological diversity and without compromising the ability of future generations to meet their needs	Y	Y
Stewardship	Recognizing that people are part of the environment and that all water users have a duty to ensure their actions safeguard the environment.	Y	Y
Water Valuation	Water valuation is a tool that can be used to identify and understand the spiritual, cultural, social and economic values within a watershed and aims to measure water resources using monetary units of dollar values.	Y	

outlined in the both the Land Use and Sustainability Framework and Water Stewardship Strategy. The territorial government’s role in regional land use planning is formally led by the Department of Lands’ Land Use Planning Unit and is supported by numerous other departments including the Department of Transportation, Department of Industry, Tourism and Investment, and finally, the Department of Aboriginal Affairs and Intergovernmental Relations which works to ensure that land use planning falls in accordance with land claims, overlapping traditional boundaries and Indigenous rights. Figure 5 below provides a complete list of the different

departments involved and the roles that they play and seen there is no mention of Indigenous consultation and the primary role of the Department of Aboriginal Affairs and Intergovernmental Relations is based on providing a rights-based oriented assessment of proposed projects.

The Government of the Northwest Territories is also responsible for reviewing and approving regional land use plans under the MVRMA. The Department of Lands coordinates the GNWT's participation as a planning partner and planning authority in the land use planning processes. As a planning partner, the GNWT departments are expected to provide the best available information, data and expertise to planning boards and other stakeholders including Indigenous governments, an analysis of planning options, technical and policy advice on draft plans and advice on the GNWTs legislative authority to implement land use plans. As an approval authority, the GNWT puts forward its priorities and interests and contributes to setting the vision and goals for the region (Department of Lands – Land Use Planning Unit, 2016). The GNWT is also required to both “fulfill [their] legal consultation responsibilities were a decision to approve or amend a land use plan could have an adverse impact on an asserted or established Aboriginal or treaty right,” and to “take into account a land use planning board’s consultation process and ensure that the Crown’s legal duty to consult is met” (Department of Lands – Land Use Planning Unit, 2016, p.8).

The GNWT has established a series of criteria and questions used when developing and approving land and water use in the Territory (Table 13) that includes the need to consider economic, cultural, and environmental issues. This procedure was developed through a combination of “the GNWT’s participation in the Sahtu and Gwich’in planning processes, the Gwich’in five-year review process, a jurisdictional analysis, and applying accepted principles of planning practice” (Government of the Northwest Territories, 2016, p.10).

Department(s)	Role(s)
Lands (Land Use Planning Unit)	<ul style="list-style-type: none"> • Coordinate the GNWT's involvement • Provide expertise on planning process and practice • Chair and Secretariat for Interdepartmental Working Group
<p>Headquarters Representatives from core departments*: Lands, Environment and Natural Resources, Industry, Tourism and Investment, Transportation (*occasionally Education, Culture and Employment)</p>	<ul style="list-style-type: none"> • Participate early in defining vision, goals, and plan options • Review and comment on plans • Communicate interests in planning region • Communicate implementation interests • Provide legislative requirements and considerations • Review plans based on mandate and technical considerations of the department
<p>Regional Offices of core departments: (Lands, Environment and Natural Resources, Industry, Tourism and Investment, Transportation)</p>	<ul style="list-style-type: none"> • Regional guidance on a plan's vision and goals • Review and comment on plans • Provide practical, region-specific advice and insight
All departments (generally)	<ul style="list-style-type: none"> • Review and comment on mandate-specific items
Justice	<ul style="list-style-type: none"> • Provide legal advice and legal opinions
Aboriginal Affairs and Intergovernmental Relations	<ul style="list-style-type: none"> • Provide advice on how plans relate to land claim implementation • Provide advice when a plan may impact the rights of adjacent Aboriginal governments or organizations • Provide s.35 consultation advice
Executive	<ul style="list-style-type: none"> • Provide advice and analysis on Cabinet submissions
<p>Issue-specific departments: Education, Culture and Employment, Industry, Tourism and Investment, Municipal and Community Affairs, Public Works and Services, Finance, Transportation</p>	<ul style="list-style-type: none"> • Provide issue-specific guidance towards plan development • Provide guidance on a plan's vision and goals • Analyze financial implications of plan implementation prior to Cabinet or Financial Management Board submissions • Contribute as needed to amendments or five-year reviews
Health and Social Services	<ul style="list-style-type: none"> • Observer role • Occasional input to case-specific issue as requested by the Working Group or a planning partner

Figure 5. GNWT's Departments Roles in Land Use Planning (Source: Department of Lands – Land Use Planning Unit, 2016)

Table 13. Questions and Criteria used in the Land Use Planning Process (Source: Department of Lands – Land Use Planning Unit, 2016)	
Criteria	Key Questions
Mandate	Is the plan scoped within the parameters of the applicable comprehensive land claim agreement, legislation, and/or process terms of reference under which the process was established?
Process	Did plan development follow comprehensive and appropriate methods?
Clarity, Readability, and Accuracy	Is the plan clear? Is it practical? Is it free of errors?
Flexibility	Is the plan flexible enough to adapt to unique circumstances not contemplated during plan development?
Value-added	Does the plan add value to and fulfill an appropriate role in the regulatory system?
Regulatory and Legislative Fit	How well does the plan fit with existing legislation, policy and regulatory processes?
Ease of implementation	Can the plan be implemented as written?
Transboundary Consistency and Coordination	Is the plan consistent with or complementary to other plans in the Mackenzie Valley? NWT? Other jurisdictions? Communities?
GNWT interests	How well does the plan align with the interests and priorities of the GNWT?

In addition to these nine criteria, the GNWT has outlined in 10 steps they follow when reviewing and approving documents (Figure 6). This process “is based on the principles of consensus government and, subsequently ensures that all departments are adequately engaged” (p.12).

An overview of the GNWT's internal process for approval of land use planning documents:



Figure 6. Overview of the GNWT's internal process for approval of land use planning documents. (Source: Department of Lands – Land Use Planning Unit, 2016)

Finally, in addition to their role as a planning partner and regulator, the GNWT has also developed initiatives to help protect natural resources in the Territory. Conservation Network Planning is an initiative led by the Department of Environment and Natural Resources (ENR)

that stems from the Northwest Territories Protected Areas Strategy (PAS), which was established in 1999 as an overall framework to guide the work of identifying and establishing protected areas in the NWT. In 2016, the GNWT released *Healthy Land, Healthy People* (2016), which sets out the government's priorities for advancing conservation network planning to ensure that the NWT remains healthy for future generations. Developing a renewed strategy for conservation network planning in partnership with Indigenous governments is identified as a priority in this document for the GNWT moving forward.

The GNWT has identified conservation network planning as an effective way to preserve land and water resources for all users, recognising that “often, the more biologically diverse areas are also the most culturally rich, providing long-term opportunities for the development of a diversified economy through tourism opportunities, important cultural, recreational and educational activities, and other incomes derived through land-based activities” (Environment and Natural Resources, 2016, p.2). Conservation network planning is described as the establishment and management of a conservation network which “includes protected areas and conservation areas at various scales that collectively contribute more effectively to maintaining the integrity of ecosystems and biodiversity, and contributing to ecological, economic and social stability than individual sites could along” (Environment and Natural Resources, 2016, p.2).

In order to successfully implement conservation network planning, land

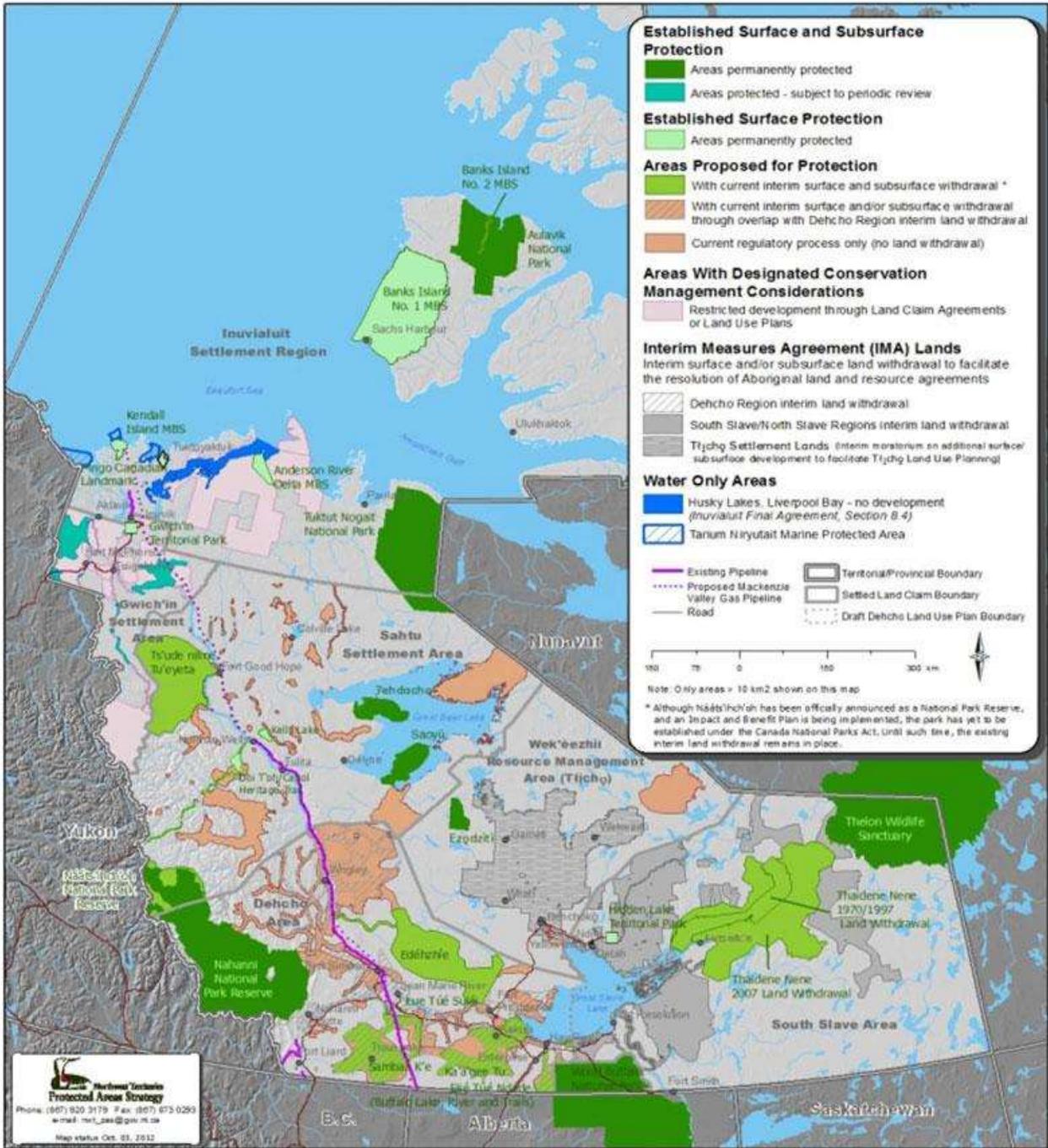
is managed in a manner that supports ecosystem processes and allows for movement of wide-ranging northern species. As a result, the conservation network does not need to be physically connected to achieve connectivity; instead, it fits within a broader land management framework – for examples, multi-region regulatory processes and land use planning (Environment and Natural Resources, 2016, p.2).

As such, conservation network planning occurs across government levels and consists of protecting

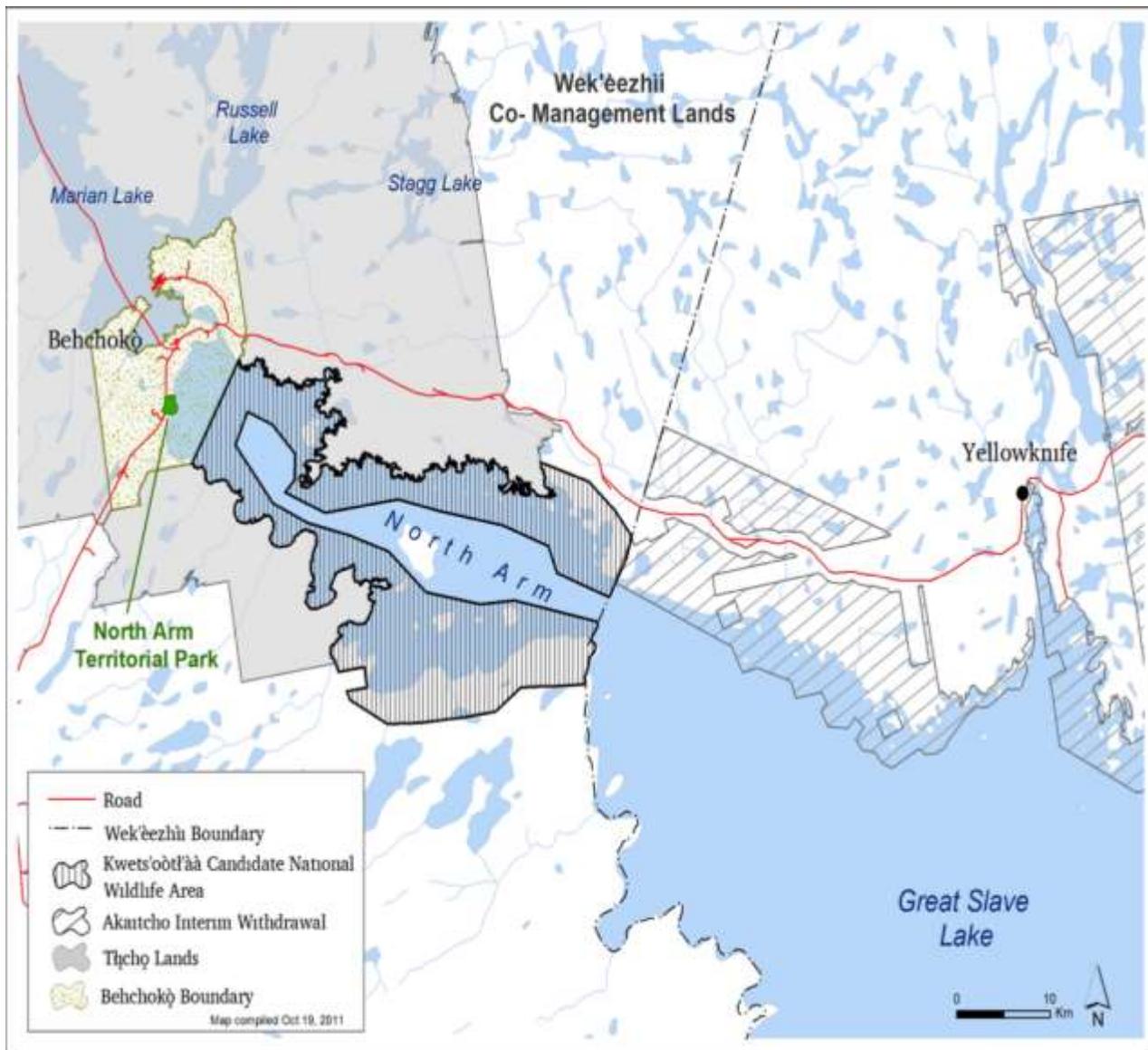
areas and conservation areas at various sizes that collectively contribute to ecological, economic and social stability more effectively than individual sites could alone. A conservation network ensures the landscape is connected and provides corridors and reproductive areas for wildlife.

Protected areas are considered to be the backbone of a conservation network as they are ecologically intact and have the highest level of protection, including prohibiting industrial development (Environment and Natural Resources, 2016). Further, because of the close relationship shared between land and Indigenous cultures, protected areas are considered a means of supporting Indigenous well-being and reconciliation. Map 8 illustrates the established, interim and proposed protection areas across the territory as of 2010. As shown, most of the protected areas are outside of the Wekeezhii Boundary, with a few overlapping with Mowhi Gogha de Niitlee. Currently, 9.2% of the land in the NWT is in an established protected area, with an additional 4.9% under consideration.

The exceptions within the Wek'èezhì Management Zone include Ezôdzitì, Yambahti, and Dinàgà Wek'èhodi. Ezôdzitì is described in section 17.6 of the Tłı̨chǫ Agreement as “a heritage resource of historical and cultural significance to the Tłı̨chǫ First Nation and to all Canadians” (p.141). The Tłı̨chǫ do not own or have extended rights within Ezôdzitì, but the Government of Canada is prohibited from granting any interests within the area as per section 17.6.2 of the Tłı̨chǫ Agreement (Government of Canada, 2003). Dinàgà Wek'èhodi which translates to mean “big island” and “to protect” refers to an area spanning 790km² around the northern portion of the north arm of Great Slave Lake (Map 9) and includes the mainland shoreline, numerous islands and the waters of Great Slave Lake (Wek'eezhii Renewable Resources Board, 2013).



Map 8. Established, Interim and Proposed Protected Areas in the Northwest Territories (Source: Northern Affairs Canada, 2014)



Map 9. Map of Protected Area Dinàgà Wek'èhodi (Source: Wek'èezhii Renewable Resources Board, 2013)

6.2.3. *Inclusion of an Indigenous Perspective in Government of the Northwest Territories' Institutions*

The GNWT's claims to include Indigenous perspectives in three ways. First is through the adoption of a consensus government system which is described, as noted in section 6.2.1, as “a reflection of the political values of the Aboriginal people who constitute the majority of the Territories' population” and who have a general “distaste for confrontation; a preference for

decentralized power; a belief that the best decisions result from respect and extensive dialogue; and a lack of enthusiasm for representative as opposed to direct democracy” (Mercer, 2015, p.1). According to Mercer (2015), elements such as the design and function of the legislative chamber are “steeped in Aboriginal symbolism” (p.6). He goes on to explain that “the room is circular, representing the base of a traditional tipi or igloo” which was selected “to avoid the confrontational appearance of most parliaments and symbolize a unity of purpose” (p.6). In addition, while most debates are conducted in English, “the daily proceedings of the House are simultaneously interpreted in two of the eleven official languages on a rotating basis” (p.7).

The second approach is through efforts to include traditional knowledge as per its Traditional Knowledge Policy. This policy states that,

“The Government of the Northwest Territories recognizes that the aboriginal peoples of the Northwest Territories have acquired a vast store of traditional knowledge through their experience of centuries of living in close harmony with the land. The Government recognizes that aboriginal traditional knowledge is a valid and essential source of information about the natural environment and its resources, the use of natural resources, and the relationship of people to the land and to each other and will incorporate traditional knowledge into government decisions and actions where appropriate” (Government of the Northwest Territories, 2005, p.1).

This policy does not, however, discuss the degree to which or how traditional knowledge will be meaningfully incorporated into the program or policy decision-making process. The language used is more suggestive than active stating that “traditional knowledge *should be considered* in the design and delivery of government programs and services” and that “Government programs *should* be administered in a manner consistent with the beliefs, customs, knowledge, values and language of the people being served” (p.1).

Following the establishment of the policy, the GNWT released an implementation strategy to provide direction to departments and agencies seeking to effectively, respectfully and

appropriately incorporate traditional knowledge into their programs and services. The implementation strategy expands on *how* traditional knowledge is to be incorporated and provides departments with their roles and responsibilities to meaningfully incorporate Traditional knowledge (Table 14).

Table 14. Strategic Initiatives to Improve the Application of Traditional Knowledge in Government of the Northwest Territories Programming. Retrieved from TK Policy Implementation Framework

Coordination	GNWT departments will participate in an Interdepartmental Traditional Knowledge Working Group coordinated by the Department of Environment and Natural Resources (ENR). This Working Group will discuss, plan, and review government-wide initiatives associated with the Traditional Knowledge Policy. This Working Group will report to the Senior Management Committee of Deputy Ministers.
Awareness and Training	The GNWT will identify and initiate staff orientation, awareness, and training activities that will result in greater understanding of the value and appropriate application of traditional knowledge in government program and service delivery.
Collaboration	As an essential component of traditional Knowledge Policy implementation, GNWT departments and agencies will maintain strong working relationships with Aboriginal governments, cultural institutes, and resource management agencies that represent the holders of traditional knowledge. Collaborative research and programming initiatives are encouraged.
Promotion	GNWT departments and agencies will document, acknowledge, and report on traditional knowledge initiatives on a regular basis.
Support and Guidance	GNWT personnel preparing to incorporate traditional knowledge information in their work will have reasonable access to appropriate information sources and materials.
Resources	GNWT departments and agencies will carry out a realistic appraisal of their obligations under the Traditional Knowledge Policy and resource traditional knowledge initiatives as warranted.
Accountability	GNWT departments and agencies will maintain accountability for Traditional Knowledge Policy implementation, depending on the nature and extent of individual departmental and agency obligations, through measures that include: <ul style="list-style-type: none"> • identifying and monitoring traditional knowledge initiatives as a component of the standard business planning process; • developing and implementing consistent departmental traditional knowledge planning documents; • contributing to an annual report on GNWT traditional knowledge initiatives.

The primary message delivered through the implementation strategy is the need for continuity and sound, respectful and collaborative working relationships with traditional knowledge holders. It states that any “existing [traditional knowledge] protocols developed by communities, regions and Aboriginal governments must be used wherever possible” (p.18). In order to achieve such relationships, the GNWT seeks to host “regular public forums, workshops and meetings” which are considered integral for information sharing and collaboration. In addition, “communication tools such as brochures, newsletters, fact sheets and other plain language documents [are] distributed to interested residents to further engage them” (p.19).

Traditional knowledge is also referenced in the strategic planning documents created by the GNWT related to land and water management although alongside other types of knowledge. For example, the GNWT Land Use and Sustainability Framework states that,

[decisions] about land and resources within the NWT are made primarily by residents of the NWT. Communities and residents in all regions have the opportunity for meaningful engagement and input into land use decisions. Traditional, local and scientific knowledge are used in the decision-making process. (p.3)

Further, section 4.1.3 of the Water Stewardship Strategy references the Traditional Knowledge Policy and states that informed decision-making “must consider the values of residents and best available knowledge (traditional, local and western scientific).” Despite referencing the importance of including traditional knowledge, once again neither document explains how traditional knowledge is to be meaningfully incorporated into the decision-making process, and upon examining the GNWT’s land use planning process it would seem that they neglect to include Indigenous perspectives. For example, when examining Figure 5 which provides an overview of the GNWT departments and their roles in the land use planning process, the Department of Aboriginal Affairs and Intergovernmental Relations is sixth on the list and

their role is limited to providing advice related to land claim implementation and Aboriginal rights and consultation as per section 35 of the Constitution Act. Furthermore, Indigenous perspectives are completely excluded in the nine criteria outlined in Figure 6 that are used when reviewing land use plans.

Indigenous knowledge is, however, used in the development of protected areas through the Territories' Protected Areas Strategy. Within the Wek'eezhii Management Zone there are three protected areas: Ezôdzitì, Yambahti, and Dinàgà Wek'èhodì. Ezôdzitì is described in section 17.6 of the Tłıchq Agreement as “a heritage resource of historical and cultural significance to the Tłıchq First Nation and to all Canadians” (p.141). Although the Tłıchq do not own outright or have extended rights within Ezôdzitì, the Government of Canada is prohibited from granting any interests within the area as per section 17.6.2 of the Tłıchq Agreement (Government of Canada, 2003). Dinàgà Wek'èhodì which translates to mean “big island” and “to protect” refers to an area spanning 790km² around the northern portion of the north arm of Great Slave Lake (Map 9) and includes the mainland shoreline, numerous islands and the waters of Great Slave Lake (Wek'eezhii Renewable Resources Board, 2013).

In 2010 the Tłıchq government requested Dinàgà Wek'èhodì be protected under the GNWT's PAS given the areas historical and cultural importance to the Tłıchq, who traditionally used the area for seasonal hunting and fishing. In order to preserve and protect Dinàgà Wek'èhodì, a working group was formed that consists of the Tłıchq Government, the Wek'eezhii Renewable Resources Board, Tłıchq Community Governments, Government of the Northwest Territories, Aboriginal and Northern Development Canada (now Crown-Indigenous Relations and Northern Affairs Canada) and several other local first nations, metis and environmental groups (Wek'eezhii Renewable Resources Board, 2013). Unlike Dinàgà Wek'èhodì, it is unclear

from the available information whether Yambahi has proceeded under the PAS beyond being identified as an area of interest.

The third way in which Indigenous perspectives were included is through the formation of Steering Committees and Intergovernmental working groups. The Water Steward Strategy for example, was developed with an Aboriginal Steering Committee that consisted of representatives from the Inuvialuit Regional Corporation, Gwich'in Tribal Council, Sahtu Secretariat Inc., Tẖcẖo Government, Dehcho First Nations, and Northwest Territories Metis Nation. The committee was formed in order to effectively reflect to voices of the NWT and are considered to have played a key role in developing the process and shaping the final strategy (Department of Environment and Natural Resources, 2010).

It is important to note that, both the GNWT Land Use Plan and Water Stewardship Strategy does incorporate a number of colonial narratives such as sustainability, stewardship, adaptive management and ecosystem-based management that share some overlapping themes common to Indigenous perspectives. For example, in the Water Stewardship Strategy, stewardship is considered a key component of the strategy and is predicated on the idea that “people are a part of the environment” (p.8), which is reflective of Indigenous beliefs such as *de* which considers humans within the ecosystem. A second example is drawn from ecosystem-based management, which is a holistic approach that is founded on the understanding that it is important to sustain a diverse and health ecosystem for the benefit of people, plants and animals within a watershed” (p.12). As such, this approach also places humans within the ecosystem and acknowledges that “ecological, social and economic goals are inter-related in water and land use decisions” (p.12). A third and final example is that both the Land Use and Sustainability Framework and Water Stewardship Strategy utilize adaptive management, which is the “the

process of continually incorporating newly gained knowledge into decision making” (p.14). This approach has been linked by Hibbard et al (2008) to Indigenous land management, as traditionally, “their land ethic was based on long-time experience and the recognition of the interrelationships between inanimate and animate, natural and supernatural, inhabitants of the world (p.141).

Finally, there is the concept of water and watershed values which recognizes different ecosystem services that are not typically considered in land-use decision-making. Watershed values include,

“spiritual water features, significant aquatic furbearers, waterfowl or fish habitat, navigational channels, river crossings, ice road routes, particularly biodiverse areas, community public water supply sources, significant wetlands that may purify or slowly collect and release waters to a specific area, and significant areas.” (p.13)

In many ways, the consideration of water and watershed values is acknowledging the inherent value of water resources which is very much in line with an Indigenous perspective. However, the GNWT measures water and watershed values using a tool called *water valuation* that is used to “identify and understand the spiritual, cultural, social and economic values within a watershed” and “aims to measure water resource using monetary units or dollar value”. This approach is strongly correlated to non-Indigenous colonial perspectives and is premised on the idea that “whenever a decision relating to water and land use is made, trade-offs and compromises occur” (p.12).

6.3. Institutions of Governance of the MVLWB

6.3.1. Institutions of Formal Governance of the MVLWB

The Mackenzie Valley Land and Water Board (MVLWB) was established in 1998 under the Mackenzie Valley Resource Management Act (MVRMA) as a management authority. The

MVLWB is responsible for regulating the use of land and water and the deposit of waste throughout the Mackenzie River watershed in the Northwest Territories. As an institution of public government, it oversees the approval of development proposals and activities to ensure the conservation and protection of the land, water and environment within the Mackenzie River watershed of the territory. Responsibilities of the Board range from issuing, amending, and renewing licenses and permits, establishing permit application guidelines, and hosting public consultation sessions. As a lead authority for the management of land and particularly water within the Mackenzie River watershed, the MVLWB is also engaged in the negotiation of bilateral agreements on the management of those portions of the watershed that lie in the Yukon and Nunavut territories and in the provinces of Saskatchewan, Alberta and British Columbia with the respective territorial or provincial governments.



Map 10. Structural overview of co-management Land and Water Boards in the Mackenzie Valley Region

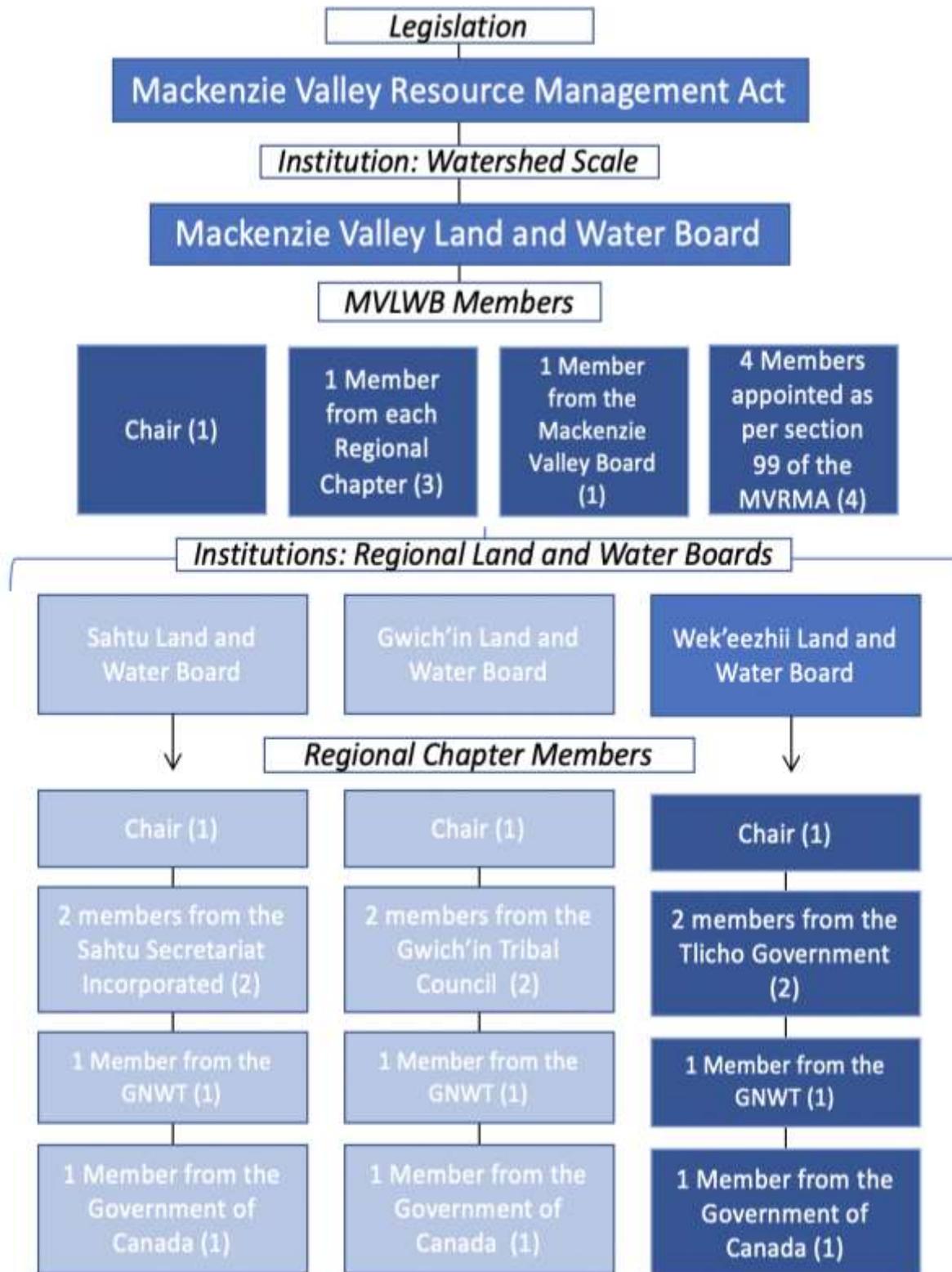


Figure 8. Structural overview of co-management Land and Water Boards in the Mackenzie Valley Region

The MVLWB consists of three regional Boards, each of which is bound to a land settlement agreement with the territories Indigenous peoples (Map 10). These are the Sahtu Land and Water Board, the Gwich'in Land and Water Board and the Wek'èezhìi Land and Water Board (Map 10). In addition, the MVLWB regulates “the use of land and water and the deposition of waste by issuing, amending, renewing and suspending land use permits and water licences in areas of the Mackenzie Valley outside settled land claim areas” (Government of Canada [1], 2019, p.1). The MVLWB reports directly to the federal minister of Indigenous and Northern Affairs Canada. As shown in Figure 8, the MVLWB itself consists of:

- The MVLWB Chairperson, nominated by the majority of the members and appointed by the Minister of Indigenous and Northern Affairs Canada (INAC);
- Five members of the Sahtu Land and Water Board;
- Five members of the Gwich'in Land and Water Board;
- Five members of the Wek'èezhìi Land and Water Board; and,
- Four members appointed pursuant to Section 99 of the MVRMA. (Mackenzie Valley Land and Water Board, 2019).

6.3.2. Institutions of Land and Water Management

The WLWB plays a major role in overseeing the activities undertaken within Wek'èezhìi and by extension within Tłıchǫ Lands. As a co-management board, half of its board members are appointed by the Tłıchǫ Government and the other half jointly by the Governments of Canada and the Northwest Territories. Legally, the WLWB is a regional panel of the Mackenzie Valley Land and Water Board (MVLWB). As a regional chapter of the MVLWB, the WLWB does not create its own policies or programs but rather enforces those put in place by the MVLWB. Areas of Mōwhì Gogha Dè Nîṭàèè that exist outside of Wek'èezhìi are under the full authority of the MVLWB.

The WLWB applies the MVLWB's land use permits and water licences on public and private lands for activities taking place within the Wek'èezhìi management area. Permits are

required for any person who intends to conduct an activity that will trigger the thresholds identified below. Several activities have been identified by the board that do *not* require a land use permit including:

- Activities in national parks and national historic sites administered by Parks Canada;
- The use of previously cleared land, now authorized for grazing or for agricultural purposes, after its initial clearing.
- Harvesting and the construction and occupation of cabins and camps for the purpose of harvesting as that term is defined in the Tłı̨cho Land Claims and SelfGovernment Agreement, the Sahtu Dene and Métis Comprehensive Land Claim Agreement, and the Gwich'in Comprehensive Land Claim Agreement; and
- Hunting, trapping, or fishing; or anything done in the course of prospecting, staking, or locating a mineral claim. (Mackenzie Valley Land and Water Board, 2013, p.12)

The Mackenzie Valley Land Use Regulations outline the specific rules and regulations MVLWB and its regional counterparts are expected to follow. This includes the thresholds determined for each permit level that is issued by the Board. Section 4 and 5 of the Mackenzie Valley Land Use Regulations outlines these thresholds (Table 15).

There are two types of permits: 'Type A' and 'Type B'. Generally, Type A permits require more information compared to Type B, and Type A projects are typically anticipated to have a greater impact whether from the size or proposed location of the operation. For example, "a proponent that wants to build a mine in a sensitive area is expected to provide more information than a proponent who wants to quarry in an area that has already been impacted" (Mackenzie Valley Land and Water Board [2], 2013, p.12). There are two essential steps in the process for acquiring land use permits through the WLWB. First, the applicant must obtain the rights to access the land they are seeking to use from the appropriate landowner. Within Tłı̨cho Lands, the appropriate landowner varies. If the proposed land-use is taking place within the Tłı̨cho Community Boundaries, then the corresponding Tłı̨cho Community Government has the

authority to grant access to land. Activities taking place on any other plot of Tłıchǫ lands requires the permission of the Tłıchǫ Government, or the Crown.

ACTIVITY	TYPE "A" PERMIT	TYPE "B" PERMIT
Explosives	More than 150 kilograms in any 30-day period.	More than 50 kilograms but less than 150 kilograms in any 30-day period.
Use of Vehicles	Any vehicle exceeding 10 tonnes net weight.	Any vehicle of 5 to 10 tonnes net weight or exerting a pressure of more than 35 kilopascals (5 lbs psi)
Drilling	Equipment with an operating weight of more than 2.5 tonnes, not including drill rods, bits, pumps, etc.	Equipment weighing 500 kilograms to 2.5 tonnes, excluding drill rods, etc.
Campsites	In use for 400 person-days.	In use exceeding 200 person-days but less than 400 person-days.
Fuel Caches	Any cache of more than 80,000 litres, or any single container with more than 4,000 litres.	Any cache of 4,000-80,000 litres, or any single container of 2,000 - 4,000 litres.
Earth moving and clearing; hydraulic prospecting	Use of any self-propelled or stationary machinery.	
Construction of a building		A footprint of more than 100 m ³ and a height of more than 5 m.
Preparation of lines, trails, or rights-of-way	Line, trail, or r-o-w more than 1.5 metres wide and 4 hectares in area.	Line, trail, or r-o-w more than 1.5 metres wide, but less than 4 hectares.

Table 15. Description of Type A and Type B Permit Thresholds for Activities within the Wek'eezhii Management Zone

Once land rights are acquired, applicants must then complete a formal application. There are two standard applications: the MVLWB Water Licence Application Form (Figure 8) and the WLWB Land Use Permit Application Form (Figure 9). In addition, supplementary questionnaires are required for projects related to oil and gas exploration, mining operations and hydro-electric development. The complete questionnaires can be found in Appendix B however

Table 16 below provides an overview of the information required for each questionnaire.

Generally speaking, the questionnaires are focused on the specifics of each proposed project, with an emphasis placed on technical and logistical data related to the project's operations.

Table 16. Summary of Questions asked in MVLWB Supplementary Questionnaires

<p><i>Oil and Gas Exploration Drilling -</i></p> <ul style="list-style-type: none"> • Name of the closest community • Indication if site contains former well sites, waste dumps, fuel and chemical storage areas, sump areas or wastewater discharge locations • Descriptions of the site • Map drawn to scale outlining locations of existing and proposed infrastructure and systems • Descriptions of the proposed or current method of freshwater withdrawal, type and operating capacity of the pumps used, and the intake screen size • Estimate maximum drawdown and research capability of the river or lake from which fresh water will be drawn • Indication is permafrost is expected to be encountered • Indication of any potential for encountering artesian aquifers or lost circulation within the surface hole • Description of the surface geological and hydro-geological conditions in the immediate vicinity of the well site • Overview including source, use and average volume (m³/day) of water usage • Overview of drilling waste (substances, total estimated volume, and disposal methods) • Capacity and personnel who will be staying at the project camp • Proposed or existing contingency plan describing the course of action, mitigation measures and equipment available to use in the event of a system failure or spill of hazardous material. • Abandonment and restoration plans • Information on any environmental assessments undertaken with regards to the project Data collected on the main water bodies in the area • Data, if any, on the biophysical components (wildlife, soils, air) of the environment that could be impacted by the project • Description of all proposed and existing environmental monitoring programs
<ul style="list-style-type: none"> • <i>Hydro-electric Development -</i> • Stream flow information (Max annual flow, min annual flow, Mean annual flow...) • Project type and operation strategy including river and reservoir management • Project site capacity • Environmental monitoring data (i.e. baseline data on main waterbodies) • Inventory of hazardous materials and storage locations (with map) • Present or proposed contingency plan including the course of action, mitigative measures and equipment available for use in the event of a system failure of spill of hazardous material • Information on any environmental assessments undertaken with regards to the project • Data on any meteorological data collected • Approval from DFO for dewatering or use any waterbodies for contaminate of waste

<ul style="list-style-type: none"> Information, if available, on the socio-economic impact of the project including any any public concerns, land, water and cultural uses of the area, implications of land claims, compensation, local employment opportunities, etc
<ul style="list-style-type: none"> <i>Mining Industry -</i> Current status of the mine/mill (Design phase, in operation, abandoned) Proposed or current freshwater intake facility and type and operating capacity of the pumps used Dewatering process (location, volume, flow rate, chemical characteristics of discharge...) Analysis and interpretation of geologic and hydrologic environment (with map) Description of the physical nature of the orebody, country rock, ore minerals of the deposit, and any geochemical tests that have or will be performed on tailings solids to determine their relative acidic generation and containment leaching potential. Description of mining activity (mining type, explosives being used, expected life of the mine, Outline of all water use (m³/day) and any methods used or planned to decrease mine water flow Chemical input and any treatment plans for mine water Mill facility (map, capacity, rate of milling, water use, water discharge, etc) Overview of the tailings area (design, map, justification for location, size, capacity) Description of whether land in immediate area has been identified as native or crown land or withdrawn pending Native Claim settlement Overview of water treatment plans and process Data collected, if any, on the water bodies in the area prior to development The present or proposed contingency plan which describes course of action, mitigative measures, and equipment available for use in the event of system failures and spills of hazardous materials. socio-economic impact assessment or evaluation of this project been undertaken? (This would include a review of any public concerns, land, water and cultural uses of the area, implications of land claims, compensation, local employment opportunities, etc.)

The applications required by WLWB are generic and require the applicant to provide basic information such as a project summary outlining all project activities, any potential environmental impacts and the restorations plans that will be put in place. Table 17 provides an overview of the template provided in the *MVLWB Guide to the Land Use Permitting Process* to help applicants describe the effects of the proposed project. It is noted that the template is not all-inclusive; however, it covers a wide range of topics including the physical/chemical effects, and impacts on the biological environment, interacting environment, and cultural and heritage features.

Table 17. Themes and Activities included in the Template for Environmental and Resource Impacts and Mitigation Measures Information

<i>Theme</i>	<i>Activity</i>
Physical – Chemical Effects	<p>Ground Water - Water table alteration, water quality changes, infiltration changes</p> <p>Surface Water- Flow or level changes, water quality changes, drainage pattern changes, temperatures, wetland change/loss</p> <p>Noise – Noise in/near water, Noise increase</p> <p>Land – Geologic structure changes, soil contamination, buffer zone loss, Soil compaction and settling, destabilization/erosion, permafrost regime alteration, explosives/scaring</p> <p>Non-renewable Natural Resources</p> <p>Air/Climate/Atmosphere – Resource depletion</p>
Biological Environment	<p>Vegetation – species composition, Species introduction, Toxin/heavy accumulation</p> <p>Wildlife and Fish – Effects on rare, threatened, or endangered species, fish population changes, waterfowl population changes, breeding disturbances, population reduction, species diversity change, healthy changes, behavioural changes</p> <p>Habitat and Communities – Predator-prey, wildlife habitat/ecosystem composition changes, reduction/removal of keystone or endangered species, removal of wildlife corridor or buffer zone</p> <p>Social and Economic – Planning/zoning changes or conflicts, increase in urban facilities or service use, quality of life changes...</p>
Cultural and Heritage	<p>Habitat and Communities – Effects to historic property, increased economic pressure on historic properties, change to or loss of historic property, change to or loss of historic resources, change to or loss of archaeological resources</p> <p>Social and Economic – Increased pressure on archaeological sites</p> <p>Effects on Aboriginal lifestyle</p>

Once an application is received, the Board conducts a completeness check to ensure that all required information has been submitted. If information is missing or further explanations are required, the Board contacts the applicant, and if complete, accepted applications are posted publicly and distributed to all interested parties that may be affected by the proposed project. Who the application is sent to depends upon the proposed project but can include any relevant federal and territorial departments and agencies, landowners, affected communities and Indigenous governments and organizations, Renewable Resource Boards, and agencies with responsibilities for heritage resources. This process is considered important for transparency and provides the opportunity for stakeholders to review and provide comments to the Board.

Figure 9. Mackenzie Valley Land and Water Board Water Licence Application Form



Mackenzie Valley Land and Water Board

7th Floor - 4922 48th Street, PO Box 2130

Yellowknife, NT. X1A 2P6

☎ 867-669-0506

☎ 867-873-6610

🌐 mvlwb.com

Water Licence Application Form

(Subsection 6(1) of the Northwest Territories Water Regulations)

APPLICATION/LICENCE NO: _____

(Amendment or Renewal only)

1. NAME AND MAILING ADDRESS OF APPLICANT

Applicant's Name _____

Mailing Address _____

Community _____

Prov/Terr _____ Postal Code _____

Telephone _____ Fax _____

Email _____ Other _____

2. ADDRESS OF HEAD OFFICE IN CANADA IF INCORPORATED

Mailing Address _____

Community _____

Prov/Terr _____ Postal Code _____

Telephone _____ Fax _____

3. LOCATION OF UNDERTAKING

(Describe and attach a map, indicating watercourses and location of any proposed waste deposits)

Longitude _____ Latitude _____

4. DESCRIPTION OF UNDERTAKING

(Describe and attach plans)

5. TYPES OF UNDERTAKING

Industrial

6. WATER USE

Other (describe)

7. QUANTITY OF WATER INVOLVED

(Litres per second, litres per day or cubic metres per year, including both quantity to be used and quality to be returned to source)

8. WASTE DEPOSITED

(Quantity, quality, treatment and disposal)

9. OTHER PERSONS OR PROPERTIES AFFECTED BY THIS UNDERTAKING

(Give name, mailing address and location; attach list if necessary)

10. PREDICTED ENVIRONMENTAL IMPACTS OF UNDERTAKING AND PROPOSED MITIGATION

11. CONTRACTOR AND SUB-CONTRACTORS
(Names, addresses and functions)

12. STUDIES UNDERTAKEN TO DATE
(Attach list if necessary)

13. PROPOSED TIME SCHEDULE

Start Date:

Completion Date:

Name (Print)

Title (Print)

Signature

Date

FOR OFFICE USE ONLY

Application Fee Amount: _____ Receipt No.: _____

Water Use Deposit Amount: _____ Receipt No.: _____

Please make all cheques payable to the Receiver General for Canada.

Figure 10. Wek'èezhì Land and Water Board Land Use Permit Application Form



Box 32, Wekweètì, NT X0E 1W0
 Tel: 867-713-2500 Fax: 867-713-2502

#1-4905 48th Street, Yellowknife, NT X1A 3S3
 Tel: 867-765-4592 Fax: 867-765-4593
 www.wlwb.ca

Land Use Permit Application Form
 (Subsection 19(2) and Schedule 2 of the Mackenzie Valley Land Use Regulations)

1 Applicant Name:	
Applicant's Mailing Address:	Fax no.:
	Telephone no.:
2 Head office address:	Fax no.:
	Telephone no.:
Field supervisor:	Email address:
3 Other personnel (subcontractor, contractors, company staff etc.):	
Total number of persons on site:	
4 Eligibility (Refer to section 18 of the Mackenzie Valley Land Use Regulations):	
<input type="checkbox"/> (a)(i) <input type="checkbox"/> (a)(ii) <input type="checkbox"/> (a)(iii) <input type="checkbox"/> (b)	
5 Other rights, licences or permits related to this permit application (mineral rights, timber permits, water licences, etc.):	
To complete this section of the Application Form, please see page 16 of the Board's Guide to the Land Use Permitting Process for more information.	
6 a) Summary of operation (describe purpose, nature and location of all activities). Refer to paragraph 19(3)(b) of the Mackenzie Valley Land Use Regulations:	
To complete this section of the Application Form, please see page 15 of the Board's Guide to the Land Use Permitting Process for more information.	
b) Indicate if a camp is to be set up. If yes, indicate size of camp or describe camp. (Provide details on a separate page, if necessary):	

7 Summary of potential environmental and resource impacts and mitigation measures (describe the effects of the proposed land-use operation on land, water, flora and fauna and related socio-economic impacts). (Use separate page if necessary):

To complete this section of the Application Form, proponents are encouraged to use Appendix B of the Board's [Guide to the Land Use Permitting Process](#).

8 Proposed restoration plans (Use a separate page if necessary):

To complete this section of the Application Form, please see page 16 of the Board's [Guide to the Land Use Permitting Process](#) for more information.

Roads: Is this to be a pioneered (new) road?
 (Provide details on a separate page.) Has the route been laid out or ground truthed?

9 Proposed disposal methods:

To complete this section of the Application Form, a waste management plan for the proposed activities is to be developed in accordance with the Board's [Guidelines for Developing a Waste Management Plan](#) and submitted as an attachment to the Application Form. A template for this Plan is provided in the Guidelines.

a) Garbage: _____

b) Sewage (Sanitary and grey water): _____

c) Brush & trees: _____

d) Overburden (Organic soils, waste material, etc.): _____

10 Equipment (includes drills, pumps, etc.) (Use separate page if necessary):

Number	Type and Size	Proposed use

18 Application fees for Type A or Type B permit (for federal and non-federal lands)¹:	
a) Application fees for Type A or Type B permit (include the first two hectares) - \$150.00:	\$ []
AND	
b) Land-use fees for federal public lands only :	
If more than two hectares of federal public lands are being used, enter the number of hectares in excess of the two hectares included in the Application fee.	
[] hectares at \$50.00/hectare	\$ []
<i>1. To help identify whether your activity is on federal lands, please see this map.</i>	
Total fees²:	\$ []
<i>2. Please make all cheques payable to the Receiver General for Canada.</i>	

If approved, permit holders are required to undergo inspections throughout the duration of their permit to ensure compliance with relevant legislations, regulations and conditions. Further, upon the conclusion of their project, applicants are required to prepare a final plan using GIS data and identify any new infrastructure developments and an updated overview of the project boundaries to ensure the appropriate land-use fees were assigned.

6.3.3. Inclusion of an Indigenous Perspective in MVLWB Institutions

The Mackenzie Valley Land and Water Board (MVLWB) was formed out of the Mackenzie Valley Resource Management Act (MVRMA). As a co-management board the MVLWB is politically structured to provide for the inclusion of Indigenous perspectives. As outlined in section 54.2, the Board consists of 11 members with 50% Indigenous participation including one member appointed by the Gwich'in First Nation; one member appointed by the

Sahtu First Nation; and one member appointed by the Tłı̨chǫ Government (Mackenzie Valley Land and Water Board, 1998).

Similarly, the Wek'eezhii Land and Water Board (WLWB), established by section 57.1 of the MVRMA and the signing of the Tłı̨chǫ Agreement, is a regional chapter of the MVLWB that oversees land and water management decisions within the Wek'eezhii Management Zone. This board also uses a co-management governance structure and is therefore also politically structured to provide for the inclusion of Indigenous perspectives. Section 57.2 provides an overview of the Board's members, stating that it must consist of

five members including, apart from the chairperson, who members who, subject to any agreement between the Tłı̨chǫ Government and an aboriginal people of Canada to whom section 35 of the *Constitution Act, 1982* applies, other than the Tłı̨chǫ First Nation, are appointed by the Tłı̨chǫ Government and one member is appointed on the nomination of the territorial minister

As a regional chapter of the MVLWB, the WLWB is legally tied to the legal policies, acts and decisions made by the MVLWB. As such, the MVRMA is the primary document outlining the roles and responsibilities of the WLWB. However, Indigenous perspectives are addressed in the MVRMA in two ways. First is by acknowledging the importance of land and water to the people. Section 60 (a) states that,

in exercising its powers, a board [MVLWB] shall consider the importance of conservation to the well-being and way of life of the aboriginal peoples of Canada to whom section 35 of the *Constitution Act, 1982* applies and who use an area of the Mackenzie Valley. (p.30)

Second is by including traditional knowledge in the decision-making process. Section 11.5 touches on this, explaining that “In exercising its powers, the Review Board shall consider any traditional knowledge and scientific information that is made available to it.” (p.91)

In addition to the two methods addressed above, traditional activities practiced by Tłı̨chǫ citizens do not require an application to the board. As per section 73.2,

Tłıchǫ citizens have the right to use water in the part of Monfwi Gogha De Niitlee that is in the Northwest Territories without a licence, for purposes of wildlife harvesting under 10.1.1 of chapter 10 of the Tłıchǫ Agreement, for purposes of transportation related to use wildlife harvesting and for heritage, cultural or spiritual purposes of the Tłıchǫ First Nation

While Tłıchǫ are granted access for traditional activities, little information is required from an applicant with regards to how a proposed project might affect these activities. Referring back to the land and water applications (Figure 8 and 9), only one line from the *MVLWB Guide to the Land Use Permitting Process* is required to address the potential impact on Aboriginal lifestyles and any mitigation efforts that will take place to lessen the effects. Aside from that, the applications are primarily technical questions related to the project and focused on the potential ecological impacts of the proposed project. All that said, it is important to note that as discussed in section 6.3.3, prior to applying to the WLWB, applicants must first receive permission by the land owner giving the Tłıchǫ Government or Tłıchǫ Community Governments some input into who can apply to the WLWB and undertake land use planning on their lands.

Integration of the Indigenous through Indigenous representation in formal institutions and acknowledgement of the importance of Indigenous culture, history and knowledge have had important outcomes pertaining to traditional rights. However, it is important to note that Indigenous ways are not integrated into any formal procedures as these have been by the Tłıchǫ Government.

7. Discussion

Fifteen years have passed since the signing of the Tłıchǫ Agreement. Have formal government institutions evolved during this period? Specifically, this thesis poses two primary questions: First, *has Tłıchǫ self-government resulted in the creation of unique Indigenous institutions that incorporate Indigenous approaches, customs and habits (Indigenous perspectives)?* Second, *have these Indigenous institutions been meaningfully incorporated by land and water management institutions at the watershed and Territorial level?* Placed in the context of reconciliation, this work is framed around the question, *are new forms of hybrid government institutions, combining Indigenous and modern institutions, potential institutions through which reconciliation can be translated into meaningful practices (and specifically associated with land and water management) or are these simply examples of institutional colonialism?*

This chapter will explore the significance of the results presented in chapter six and will be organized by addressing the two primary research questions followed by a more general discussion of the underlying question associated with reconciliation. First, it discusses the Tłıchǫ government and the extent to which self-government has resulted in the creation of unique Indigenous institutions for land and water management. Following this it considers the extent to which Indigenous perspectives are included into land and water management institutions at the watershed and territorial scale is examined. To conclude, this chapter considers whether the creation of more hybrid formal governmental institutions can, in fact, be institutions of reconciliation or whether such emerging institutions are merely reflections of continuing *institutional colonialism*, under Stanley's resilient settler colonialism.

7.1 The Tłıchǫ Government: A unique Indigenous Institution or Indigenous-Colonial Hybridization?

The Tłıchǫ Peoples have not turned back the clock to pre-contact period in the design of their government. It is a government that is grounded on traditional Tłıchǫ history, culture and practices. However, it is a government that also reflects modern government structure and institutions as well. As such, the Tłıchǫ Government represents a hybrid government institution combining both Indigenous and non-Indigenous traits.

As cited in chapter four, Lyons (2007) writes of Indigenous “nation *rebuilding*.” Cornell (2015) argues that realization of self-government represents the last step in achieving self-determination, or the expression of “doing” self-determination. As Cornell (2015) further argues, there is a need to move away from politics of Indigenous self-government to the Indigenous politics of self-government which reflects an Indigenous political agenda. To achieve such self-determination through self-government requires that Indigenous governments to embrace Indigenous perspectives – Indigenous culture, history, practices and knowledge – in its government institutions and procedures.

This is particularly true for land and water management given the fundamental connection of Indigenous people to the land. Chapter four examined the effects of modernist approaches to land and water management on Indigenous peoples, explaining that natural resource management is based heavily on western science has resulted in a generally poor experience for communities involved by promoting a system that “[disempowers] and [marginalizes] Indigenous communities and interests, [dismisses] their cultural, interests and plans into Indigenous domains” (Hibbard, Lane and Rasmussen, 2006, p.142).

A key element to Indigenous sovereignty and self-government focuses on regaining access to resources and acknowledging the right to “actively participate and influence institutional processes that shape policy development and management of resources.” Therefore, the formation of Indigenous institutions should, “[enable] indigenous peoples to design and implement management policies that honour their traditions and reflect their priorities” (Hibbard et al, 2006, p.141).

As presented in chapter six, the Tłıchq Government has incorporated Indigenous perspectives within both its primary institutions of governance as well as decision-making processes related to land and water management. Tłıchq Government is grounded upon tradition. This is evident in the role of the Annual Gathering as a setting for all community members to partake in social, cultural and political activities. During the Gathering, open forums are held where citizens can ask questions, provide recommendations, and offer broad policy suggestions which reflects traditional Indigenous governance practices that were grounded in open dialog and the inclusion of public opinion.

With regards to land and water management, Indigenous perspectives were included in several ways. The first way this was done is through the decision to include land and culture services and programing under the same department. This decision not only demonstrates the inseparable nature of Tłıchq culture and their land but also shows the “ values held by the Tłıchq Government – in fostering and encouraging traditional activities, being stewards of the land, and protecting the land and its resources for present and future generations” (Tłıchq Government, 2013, p.16).

The second approach involved engaging with Elder’s to perpetuate traditional knowledge through activities such as storytelling and mapping exercises in the drafting of *Tłıchq Wendeke*.

These stories played a major role in establishment of land use zones that are centred around Tłchq history. For example, section 7.1.1.2 discusses the Tłchq Land Use Zones, and the descriptions of both *Gowhado Yeke' t'ii k'e* and *Tłchq Nawoo Ke Det'ahot'ii* make it explicitly clear that the purpose of protecting each zone is cultural. Elders identified these regions for their significance to both ancient Tłchq history (Idaa trail) and more recent *Tłchq* history (Monfwi Trails). The Tłchq Government reinforces the centrality of *Tłchq* culture and history by emphasising the use of Tłchq language in recognition of the role that place names play in the preservation of Tłchq history and knowledge.

At the same time, the Tłchq Government does bear resemblance in its structural organization to western governments consisting of formal departments with clear responsibilities and formal processes. Modern science is also embraced as deemed necessary and not just in environmental impact assessment. Modern science is also used in the designation of the *Dek'easii? wdaa*. Such structures have been adapted to a Tłchq vision. Significantly, the Department of Culture and Lands Protection represents a unique formal government department that seek to meaningfully incorporate Indigenous perspectives through its practices and in its directives into all decisions relate to land and water use.

What might be the reasons for this hybridization? One possible explanation is that the nature of traditional Tłchq government does not necessarily possess the capacities to provide the range of services and to execute the responsibilities of government. As such, the Tłchq government can be seen as a hybrid form of government, integrating traditional practices and modern management systems. However, it is also possible that the structure of the Tłchq government is due in part to the scope of responsibilities and obligations themselves as agreed to under the *Tłchq Agreement* (as summarized in Table 5). From this perspective it is possible that

the form of government adopted was as much imposed upon the Tł̓ch̓q to meet these specific duties of governance. This point of view would tend to support the claims by Indigenous critics of reconciliation who argue that western institutions are being imposed upon Indigenous peoples. As Paul McHough (2011, p.13) argues, “increasingly settler-state legalism demands that [tribal] leaders must govern by western principles of transparency and accountability geared more towards displaying those attributes to the outer world than necessarily being an outgrowth of the tribe’s own political agenda.” This, according to McHough is seen as a means of maintaining the authority of central governments over Indigenous nations, reducing self-government to self-administration or self-management (see also Cornell, 2015; Behrendt, 2003; Cornell 2007). Is the Tł̓ch̓q case simply another example of an Indigenous peoples being forced to think like settler-colonialists?

On the other hand, this hybridization could be considered representative of the Tł̓ch̓q concept of *knowing two ways*, which as previously stated refers to “understanding the concepts and pronunciations of two dialects or understanding two knowledge systems.” At its core, the concept of *knowing two ways* is about embracing multiple ways of knowing and understanding, and similar concepts exist across Indigenous cultures, such as the Mi’kmaw Nation’s principle of *Two-Eyed Seeing* which implies that “people familiar with both [traditional and scientific] knowledge systems can uniquely combine the two in various ways to meet a challenge or task at hand” (Bartlett and Marshall, 2001, p.331). The concept of *Two-Eyed Seeing* has gained momentum in recent years as a way to approach integrative, transcultural, transdisciplinary or collaborative work and “as a framework to reconcile the use of Western method and theory with Indigenous knowledge” (Peltier, 2018, p.2). In Canada, two-eyed seeing has been applied to range

of projects across varying scales, such as the Government of the Province of Nova Scotia's 10-year strategic plan for natural resource management (Bartlett and Marshall, 2001).

In the case of the Tłıchǫ Government, the hybridization of Indigenous and colonial perspectives could be viewed as a reflection of knowing two ways. However, it is important to also note that in other levels of government it is rare to require the inclusion of Indigenous perspectives and ways of doing things making it seem more like a one-sided requirement of Indigenous groups to conform. This debate cannot be answered in this thesis and deserves additional research.

7.2 Integration of Indigenous Perspectives at the Watershed and Territorial Scale

The second primary question asked: *Have these Indigenous approaches, customs and habits been meaningfully incorporated into land and water management institutions at the watershed and Territorial level?* Based on the research conducted for this thesis and subsequent results presented in chapter six, Indigenous perspectives were found to only be somewhat incorporated into land and water institutions at the territorial and regional scale. In particular, this research found that governance related to land and water management outside of Tłıchǫ lands, despite co-management and consensus institutional structures, resulted in less meaningful inclusion of Indigenous perspectives.

This is not to suggest that the Indigenous perspective is not considered or incorporated into decision-making. Progress has been made and this progress is reflected in the formal government institutions of the GNWT and the MVLWB. Both the GNWT and MVLWB have unique institutional structures that seek to promote the inclusion of Indigenous perspectives. At the territorial level, the government's formation through consensus itself reflects residents' view

of “political parties as alien, southern-Canadian political institutions which would impede political development along the distinctively Northern lines.” As such, the formation of a consensus government, absent of political parties, is considered to be a “reflection of the political values of the Aboriginal people who constitute a majority of the Territories’ population.” These values are built on a general “a distaste for confrontation; a preference for decentralized power; a belief that the best decisions result from respectful and extensive dialog; and a lack of enthusiasm for representative as opposed to direct democracy” (p.1).

From a regional co-management perspective, the Mackenzie Valley Resource Management Act (MVRMA), was implemented to establish co-management regulatory boards to manage resources in the Mackenzie Valley region and as a means to legitimize Indigenous knowledge (Christensen and Grant, 2007). In their article, Christensen and Grant (2007) found that the implementation of the MVRMA and subsequent creation of co-management boards contributed to an increase in local decision-making for resource management. However, this research found little inclusion of Indigenous perspectives at the co-management scale in formal institutions and associated documentation. Throughout the documents produced by the MVLWB and implemented by the WLWB, the two keyways, aside from the co-management structure, that Indigenous perspectives are considered is through Indigenous rights-based discourses and mention of traditional knowledge.

In chapter four it was argued that while representation is important in ensuring consideration of Indigenous perspectives, it is not sufficient in achieving meaningful reconciliation. The very fact that the Indigenous peoples constitute a majority in all three government institutions is important. Indigenous involvement is recognized in policy statements. The Territorial *Healthy Land, Healthy People*, for example, prioritizes Indigenous peoples’

participation. As already noted, the extension of Indigenous culture and history beyond the territories transferred back to the Indigenous peoples under the land settlement and self-government agreements leading to the protecting of large areas of the territories because of Indigenous culture and history is also significant.

Nevertheless, the mandatory consideration of Indigenous perspectives was noticeably absent. Referring back to the MVLWB's Water Use Application Form, consideration of Indigenous issues or history is not included in any section of the application. In the Land Use Permit Application Form of the Wek'eezhii Land and Water Board, consideration of Indigenous issues or history are included under the broader topic of socio-economic impacts under Section 7 of the form.

There also remains the tendency to return to the legalistic rationale of reconciliation. Both the MVLWB and GNWT reference s. 35 of the *Constitution Act, 1982* in their land and water management documents, stating that nothing "shall be construed so as to abrogate or derogate from the protection provided for existing aboriginal or treaty rights of the aboriginal peoples of Canada by the recognition and affirmation of those rights in section 35 of the *Constitution Act, 1982*." Furthermore, s.5.1 of the MVLWA specifically acknowledge the rights of the Tłıchǫ as per the Tłıchǫ Agreement stating,

The rights of the Tłıchǫ First Nation, Tłıchǫ citizens and the Tłıchǫ Government under this Act are subject to the provisions of any agreement entered into between the Tłıchǫ Government and an aboriginal people, other than the Tłıchǫ First Nation, under 2.7.3 of chapter 2 of the Tłıchǫ Agreement.

The second way in which Indigenous perspectives are said to be included is through the use of traditional knowledge. Traditional knowledge at the territorial level has been formally recognized through the *Traditional Knowledge Policy* which

recognizes that the aboriginal peoples of the Northwest Territories have acquired a vast store of traditional knowledge through their experience of centuries of living in close harmony with the land” and that “aboriginal traditional knowledge is a valid and essential source of information about the natural environment and its resources, the use of natural resources, and the relationship of people to the land and to each other (p.1).

This recognition lies at the policy level. Despite recognizing the importance and validity of traditional knowledge, the Traditional Knowledge Policy does not use action-oriented language and instead provides suggestive principles with no associated legal requirements. For example, section two states that “Government programs and services should be administered in a manner consistent with the beliefs, customs, knowledge, values and languages of the people being served” and that “traditional knowledge should be considered in the design and delivery of government programs and services” (p.1). A similar approach was found in the documents produced at the co-management level. In the MVRMA, it states that “In exercising its power; the Board shall consider any traditional knowledge and scientific information that is made available to it” (p.144). As was true for the absence of Indigenous culture, history and traditions in formal documents as discussed above, there is a significant difference between conditional language and mandatory language when considering traditional knowledge. Words do matter.

The rights discourse can only take Indigenous groups so far, and such an approach does not guarantee the meaningful inclusion of Indigenous perspectives. This is because as Corntassel (2008, p.107) explains,

rights-based discourses [have] resulted in the compartmentalization of indigenous powers of self-determination by separating questions of homelands and natural resources from those of political/legal recognition of a limited indigenous autonomy within the existing framework of the host state(s).

Further, Corntassel speaks to the danger of an *illusion of inclusion* associated with a rights-based discourse and calls on the need for Indigenous responsibility-based movements to replace rights based to responsibility-based movements (Corntassel, 2008).

7.3. Hybrid Institutions of Reconciliation or of Institutional Colonialism?

This thesis raises the question of institution building within the framework of reconciliation. It takes as its point of departure the need for a “mutually respectful relationship” as a foundation for genuine reconciliation and Ariss, Fraser and Somani’s (2017, p.12) argument that such reconciliation “reflects something beyond formal law, something that can guide both legal and social relationship building” (see also Walters, 2008). What, however, is this “something” and how can it be expressed through the institutions, and specifically formal institutions, within Canadian society?

The role of formal institutions is problematic. As argued in chapter four, formal institutions form around power and exert power. It is around such institutions that political decision-making is formalized. Formal institutions associated with land and water management define issues of concern associated with land and water, accepted practices to be used in such management, and knowledge to be applied in their management. Formal institutions create the processes through which Foucault’s micro-practices operate that, in turn, reinforce the institutions. This is not to argue that formal institutions are rigid and unchanging; institutions are fluid. However, it becomes difficult to initiate change within a formal institution once its episteme or power/knowledge complex has coalesced and the mechanisms for action set.

The number of different epistememes that can exist within complex societies further complicates this issue. As raised in chapter two, Abrutyn and Turner (2011, p.295) summarize the importance of this challenge. They write “as differing societies collide, unevenness in institutions and institutional actors can lead to conflicts regarding recognition of rights and the ways in which decisions are made in shared spaces, both social and spatial.” As a result, “depending upon the relative dominance of one or more institutional domains, the environment

of organizations will be disproportionately influenced by the ideologies of these dominant domains.” Can truly empowering institutions be created that lead to true reconciliation under such conditions or, as asked in chapter two, do we run the danger of creating a new “two solitudes” consisting of Indigenous peoples located within their returned self-governed territories and the rest of Canada (or the settler state)?

The Tłı̨chǫ peoples have created a hybrid self-government combining Indigenous institutions that incorporates Indigenous perspectives in both its governance structure and programs and services, and Western institutions, knowledge and practices. Whether this is the result of two way knowing or due to the nature of the Tłı̨chǫ Agreement is uncertain. Within their own territory, the Tłı̨chǫ peoples have been able to direct decision-making associated with land and water management based first and foremost upon their culture and history. However, the story changes once one leaves their territory. Indigenous perspectives and ways are not incorporated to the same degree in either in formal processes of the Territorial government or the Mackenzie Valley Land and Water Management Board. It is true that Indigenous peoples are a majority in both the Territorial government and on the MVLWB and this is certainly important in terms of ensuring Indigenous interests are considered and incorporated into decision-making. However, the formal documents used in land and water management do not require mandatory consideration of these interests. Instead, these documents reflect a more colonial framework. This more colonial framework reflects a form of *institutional colonialism*, defined in this thesis as a condition whereby Indigenous people must organize governments in the name of self-governance in a manner forced upon them by settler-colonial government bodies. As such, this work agrees with McHough (2011) insofar as the design of the formal institutions and associated practices of the Tłı̨chǫ government can be seen as having been imposed upon them by the

expectations of settler-colonial governments. This also provides further support to Anna Stanley's idea of "resilient settler colonialism."

It is important to remember that the Tłıchǫ Government was a direct result of the signing of the Tłıchǫ Land Claim and Self-Government Agreement. This agreement is a legally binding formal document produced by the Government of Canada and the Government of the Northwest Territories that, in their eyes, validates the Tłıchǫ people's right to manage their lands, resources and people. The agreement does not however provide absolute autonomy for the Tłıchǫ as it is comprised of numerous rules and regulations that the Tłıchǫ Government must abide by that are reflective of colonial institutions. Requiring the Tłıchǫ people to sign the Tłıchǫ Agreement to achieve self-government dismisses Tłıchǫ's traditional ways of managing their land and people by forcing them into a structure that is reflective of colonial institutions that rely on formal institutional mechanisms to define it.

Therefore, the Tłıchǫ were legally required to form a government and receive Crown validation through the Tłıchǫ Agreement in order to interact with settler-colonial governments and institutions. While the Tłıchǫ Agreement permitted the Tłıchǫ to form a government structure of its choosing, the pressure to interact with other colonial governments and the requirements outlined in the Agreement. This provides an explanation for the ongoing pressures for Indigenous people to conform, think and act like Europeans. McMurray, Foley and O'Sullivan (2019) speak to this stating that there is an unspoken belief that the dominant western models of doing things are the most accepted and easiest for all, which history has revealed is not the case.

Self-government is considered by many (but not all) to be a major step toward reconciliation. This thesis argues that true reconciliation needs to reflect mutual respect and

sharing, and that formal government institutions needs to not simply recognize the importance of the Indigenous perspective, but to incorporate it into formal practices. True reconciliation is a two-way street.

As demonstrated in this thesis, beyond the scale of the Indigenous government, the focus of including Indigenous perspectives remains strictly focused on the rights of Indigenous peoples under section 35 of the *Constitution Act*. This emphasis on rights-based recognition is viewed by some as problematic as the rights-based narrative reproduces “the very configuration of colonial power that Indigenous peoples’ demands for recognition have historically sought to transcend.” The recognition of Indigenous rights does not result in the meaningful inclusion of Indigenous perspectives.

7.4 Importance of this Research

Reflecting on chapter four’s discussion on institutions and power reveals the underlying importance of this research. Lawrence’s (2008) account of institutions places them as powerful reflections of social practices and patterns, which in turn direct societal actions and beliefs. As such, the dominant episteme upon which institutions form strongly influences the actions of individuals. This is to suggest that Institutions must meaningfully incorporate alternative episteme in order for practices to change. Therefore, as explored in this research, in order for institutions of reconciliation such as Indigenous governments and co-management boards to have meaningful impact, an epistemological shift is required to avoid institutional colonialism.

8. Conclusion

8.1 Research Summary

The purpose of this study was to examine the extent to which Indigenous perspectives have been incorporated within a new group of institutions in the Northwest Territories. Using the Tłı̨chǫ peoples as a case study, this study examined whether the signing of a comprehensive lands claim and self-government agreement, and subsequent creation of the Tłı̨chǫ Government resulted in land and water management that meaningfully included Tłı̨chǫ perspective. The overarching questions guiding this research are: *Has self-government resulted in the creation of unique Indigenous institutions for land and water management and the incorporation of Indigenous approaches, customs and habits (an Indigenous perspective) into these institutions by the Tłı̨chǫ Government? and, have Indigenous approaches, customs and habits been meaningfully incorporated into land and water management institutions at the watershed and Territorial level?* Placed in the context of reconciliation, this work is framed around the question, *are new forms of hybrid government institutions, combining Indigenous and modern institutions, potential institutions through which reconciliation can be translated into meaningful practices (and specifically associated with land and water management) or are these simply examples of institutional colonialism?*

A combined structural institutional and discourse analysis of formal government institutions and documents of the Tłı̨chǫ Government, the Mackenzie Valley Land and Water Management Board and the Government of the Northwest Territories was conducted focussing on land and water management. The institutional structural analysis focused on the actual formal government institutions and official documents used in land and water management. This process helped to reveal the ways in which institutions were organized and how land and water

management was governed by each institution. This study then undertook a discourse analysis of the various land and water management documents to investigate how and in what ways Indigenous perspectives were included.

8.2. Key Findings

As discussed in chapter seven, this study found that the Tłıchǫ Government has created unique hybrid government institutions, grounded on Tłıchǫ history, culture and practices, and augmented by modern knowledge and practices. However, integration of Indigenous practices and perspectives remains limited in formal government institutions and documents, and therefore formal practices, at the watershed and Territorial levels.

More specifically, Tłıchǫ history, culture and practices provide a foundation, through its Gathering and Assembly, for its government and for the creation of government policies and practices. This importance is reflected in land zoning, and land and water management practices. Consideration of Tłıchǫ history, culture and practices is further reflected in the formal documents regarding land and water use. Integration of Indigenous perspectives and practices at the Territorial and watershed levels, on the other hand, is primarily achieved through representation and not in formal documents or procedures. It is also sought through policy efforts such as the integration of traditional knowledge under the Territories' Traditional Knowledge Policy.

This is not to conclude that progress has not been made; it has. For example, the consideration of Indigenous perspectives has been used in a meaningful way in the designation of protected territories of cultural and historic importance to the Indigenous Peoples outside of those territories under returned comprehensive land settlement agreements. However, this research found that the inclusion of Indigenous perspectives at the territorial and watershed scale

are based primarily on the recognition of rights as per section 35 of the Constitution and the duty to consult. As such, it is argued that there is considerably more work to be done specifically at the territorial and watershed scale to meaningfully incorporate Indigenous perspectives into their governance structure, programs and policies.

This study understands reconciliation as a two-way street. Concerning formal government institutions, it should not be left to the Indigenous governments to integrate modern government institutions and practices. This perpetuates what McHough (2011) states is settler-state legalism that forces Indigenous peoples to be governed by western principles and reaffirms Abrutyn and Turner's (2011, p.295) insight that "as differing societies collide, the unevenness in institutions and institutional actors can lead to conflicts" even institutional racism (as discussed on page 39). It is up to settler-colonial governments to seek to integrate Indigenous perspectives and practices as well beyond mere representation. Although representation is important, particularly when it comes to decision-making, how informal institutions – practices, knowledge and customs – are reflected in formal institutions – codified rules and procedures – is also important. This is because institutions, and particularly formal government institutions, are powerful organizers in a society.

Institutions, and specifically formal government institutions, are powerful organizers in any society. Formal government institutions and their practices and procedures dictate how activities are framed, understood, addressed, and managed pragmatically. This is why this research is important.

8.3 Gaps and Opportunities

In the course of conducting the study's analysis, several gaps emerged that represent opportunities for future research. First, this thesis raises the idea of institutional colonialism. Currently underdeveloped, institutional colonialism raises the question of whether new institutional arrangements are merely reflections of Stanley's resilient settler colonialism, opening the way to further research on the ways in which settler-colonial government bodies force Indigenous peoples to organize in specific ways in the name of self-governance. This topic is of particular relevance as increasing efforts are taken towards reconciliation and as more land claim agreements are negotiated.

Second, and building on the above, further research on the development of the formal institutions of the Tłı̨chǫ Government is needed. Exploring this topic further would help to understand whether their hybridized structure and approach to land and water management is in fact the result of the Tłı̨chǫ concept of knowing two ways or as discussed in chapter 7 if it was forced upon them by the nature of the Tłı̨chǫ Agreement. Conducting an analysis of application decisions made by the Tłı̨chǫ Government would provide more insight into the actual means and degree to which a Tłı̨chǫ perspective and associated practices have been considered.

Having concluded that considerably more work is needed at both the territorial and regional scale, two additional research questions can be asked. Are institutional structures such as co-management boards and consensus governments designed to include Indigenous perspectives truly effective at including Indigenous perspectives? Are there barriers blocking the meaningful inclusion of these perspectives? A more focused research question is: How, are Indigenous perspectives be transferred in a meaningful sense to larger governance bodies, such as the case with the Wek'eezhii Land and Water Board to the larger Mackenzie Valley Land and

Water Board? While the WLWB is a regional chapter of the MVLWB, the Tłıchǫ Government appoints its Tłıchǫ members, while the Government of Canada primarily appoints membership on the MVLWB.

Finally, this study relied solely on secondary resources made publicly available online, a limitation of this research that is the result of a series of events that resulted in the inability to travel. As such, further research on this topic would benefit from more in-depth and participatory primary research, for as was discussed in chapter 5 of this thesis, actions often differ from words, and so, conducting interviews or discussion groups with members of each institution would help to develop a more comprehensive understanding of how decisions are made and the inclusion of Indigenous perspectives.

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Appendices

Appendix A

Complete list of Tłıchǫ Land Protection Directives as outlined in the Tłıchǫ Land Use Plan

Tłıchǫ Land Protection Directives	
Directive	Description
Land Protection Directives for Proponents of Development on Tłıchǫ Lands	
<i>Impacts of wildlife and Harvesting</i>	
6.1 A	<p>In order to ensure the protection of Tłıchǫ culture and heritage, through continued care and attention to the environment, proponents of development or land use activity on Tłıchǫ lands may be required to show that any proposed development has minimal impact on:</p> <ul style="list-style-type: none"> a. Wildlife and their habitat, including habitat for migratory birds; and b. Trap lines and winter trails.
<i>Water Quality</i>	
6.1 B	<p>Proposed developments and activities may have a range of impacts on the quality, quantity or rate of flow of water on Tłıchǫ lands. As part of this consideration, the proponent may be required to identify:</p> <ul style="list-style-type: none"> a. The watershed within which the proposed activity or development is located; b. Any existing or proposed future uses in the watershed; and c. Potential impacts of the proposal. <p>Further elements of this consideration may include the need to show how the impact is minimized through the management of footprints and disturbances as a result of development.</p>
<i>Forest Management</i>	
6.1 C	<p>In order to ensure that proposals for forestry activity will be sustainable, proposals will be measured by the degree to which they:</p> <ul style="list-style-type: none"> a. Are small-scale, community-based and contributes to local jobs, economic development and local value-added enterprise; b. Protect cultural heritage sites and features, and does not unduly disrupt traditional land uses; c. Are undertaken in a manner that minimizes impacts to wildlife habitats; and d. Ensure continued access to timber for local non-commercial needs, including firewood and building materials. <p>A forest management plan may be required to confirm that these objectives are met.</p>

<i>Tourism</i>	
6.1 D	Applicants for access to Tłıchq lands for the purpose of carrying out tourism activities will be encouraged to submit proposals that maximize benefits and jobs for Tłıchq, while at the same time respect and promote Tłıchq culture, history and way of life.
<i>Ecological Representation</i>	
6.1 E	Ecological representation analysis is an important method, based on science, that helps protect the ecological diversity of the ecoregions within Tłıchq lands. This method may be used by the Department of Culture and Lands Protection to assist in the management of Tłıchq lands, e.g. for assessing and recommending applications for development.
6.1 F	Applicants may be encouraged to gather information and expertise to further quantify ecologically significant matters related to a specific site proposed for development.
<i>Tłıchq Land Use Guidelines</i>	
6.1 G	In order to ensure the responsible use of Tłıchq lands, applicants approved for a land use will be required to follow Tłıchq Land Use guidelines.
<i>Resource Development</i>	
6.1 H	The Tłıchq Government shall consider opportunities for resource development on Tłıchq lands. However, consideration of any resource development proposal shall focus on striking a balance between the need for protection of Tłıchq traditional land uses, heritage and culture and the need for economic opportunities for Tłıchq.
6.1 I	There shall be a full analysis of the environmental, cultural and socio-economic impacts of resource development proposals. Proposals must be able to show that the development would provide substantial benefits for Tłıchq.

6.1 J	<p>Where a proponent proposes an activity or development that is not listed as a considered land use in the cultural heritage or traditional use zone, the proponent will be requested to show how the activity or development proposed can be carried out in a way that has minimal impacts on the ecological and cultural values for which the zone was established.</p> <p>If a proposed activity or development that is not listed as a considered land use in any zone is considered by the Tłı̨chǫ Government, the proponent may be requested to ensure that appropriate measures are in place to minimize impacts on zone values.</p> <p>In considering the proposal, the Tłı̨chǫ Government will also be guided by:</p> <ul style="list-style-type: none"> • The purpose of the Land Use Plan; • The goals and objectives of each zone; • Matters related to the protection of the environment and wildlife; and • The extent and adequacy of any buffers around protected values within the zone. <p>Depending on the scope of the proposed activity or development, the proponent may also be required to undertake public engagement to inform residents of the proposal.</p>
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Land Protection Directives for Further Activities and Study by the Tłı̨chǫ Government

Caribou

6.2 A	<p>The Tłı̨chǫ Government will develop a strategy of permitting and managing land uses within seasonal caribou ranges that link disturbances to the land, best management practices and recommended mitigation with the type of activity that is undertaken. The strategy will seek to minimize impacts to caribou and caribou habitat, and consider, in part, the herd’s status and levels of disturbance at larger spatial scales (for example the entire herd range).</p>
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6.2 B	<p>In partnership, the Tłı̨chǫ Government will develop and implement an integrated approach to planning, monitoring and managing land use activities that support long-term conservation and resilience of migratory caribou on Tłı̨chǫ lands</p>
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6.3 C	<p>In partnership, the Tłı̨chǫ Government will work to implement the National Recovery Strategy for Boreal Woodland Caribou.</p>
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Cumulative Effects

6.2 D	<p>The Tłıchq̓ Government shall limit the number of resource projects occurring at one time in order to reduce the negative impacts on:</p> <ul style="list-style-type: none"> a. Wildlife and wildlife habitat; b. Biophysical environment; c. Tłıchq̓ citizens; d. Tłıchq̓ traditional land uses; and e. Tłıchq̓ culture and way of life. <p>Decisions about the said limit will consider the cumulative effects monitoring, assessment and management framework for valued ecosystem components referred to in Land Protection Directive 6.3. A</p>
<i>Climate Change</i>	
6.2 E	<p>When new information is found in relation to climate change an amendment to the Land Use Plan may be considered, including strategies relating to adaptation and mitigation.</p>
<i>Traditional and Scientific Knowledge</i>	
6.2 F	<p>Elders' knowledge shall be used in the review of all proposed development in order to ensure special sites are researched, identified and protected prior to any approval of development</p>
6.2 G	<p>As not all sites of cultural importance are clearly recorded or presently known, the Tłıchq̓ Government may require those proposing development or land use activity on Tłıchq̓ lands to involve Tłıchq̓ Elders and/or DCLP staff in the review of existing information and possible collection and documentation of Tłıchq̓ cultural heritage resources.</p>
6.2 H	<p>In an effort to provide the best possible information for the protection of Tłıchq̓ heritage and culture, the Tłıchq̓ Government may, in its sole discretion, consider opportunities to partner with other agencies and/or those proposing development to undertake field research, with the goal of updating information about Tłıchq̓ lands.</p>
Land Protection Directives for Partners in the Management of Tłıchq̓ Lands	
<i>Cumulative Effects Framework</i>	

6.3 A	<p>The Tłı̨chǫ Government will seek opportunities to work in partnership to develop a cumulative effects monitoring, assessment and management framework for valued ecosystem components. Regulatory bodies are encouraged to consider cumulative effects, including cause and effect relationships, with a focus on the following:</p> <ul style="list-style-type: none"> a. Anthropogenic and natural impacts on wildlife, water quality and quantity, and aquatic plants and animals; b. Relationships between caribou and land use activities, with focus on range utilization in response to surface disturbance; c. The cumulative impacts of exploration and development activities on caribou herd population status, trends and viability; d. The cumulative surface disturbance impacts and potential effects on habitat quantity and quality, and quality for valued species; e. Cumulative impacts on Tłı̨chǫ/Aboriginal culture and way of life; and f. Impacts on human health and community well-being.
<i>Contaminated Sites</i>	
6.3 B	<p>The remediation and clean-up of contaminated land is a priority for the Tłı̨chǫ Government, both on previously identified sites as set out in the Tłı̨chǫ Agreement and on other sites that may be discovered. The Governments of Canada and Northwest Territories will be encouraged to:</p> <ul style="list-style-type: none"> a. Make the remediation of contaminated sites a priority; b. Provide the resources necessary to ensure timely clean-up; and c. Provide economic benefits to the Tłı̨chǫ as a result of efforts to clean-up these sites.
<i>Community Protection from Forest Fires</i>	
6.3 C	<p>The Tłı̨chǫ Government will work in partnership with Tłı̨chǫ community governments to establish common approaches for forest fire management and protection measures.</p>
<i>Third Party Interests</i>	
6.3 D	<p>While the Tłı̨chǫ Land Use Plan may not apply to all instances of existing third party interests on Tłı̨chǫ lands, it is the intent of the Tłı̨chǫ Government that, where applicable, the provisions and zoning and Land Protection Directives of the Tłı̨chǫ Land Use Plan shall be recognized and shall provide direction to rights holders and regulators in the consideration of proposals for development on these lands.</p>
<i>Non-Tłı̨chǫ Lands</i>	
6.3 E	<p>While existing land ownership is acknowledged, it is the understanding and intent of the Tłı̨chǫ Government that the zoning and Land Protection Directives of the Tłı̨chǫ Land Use</p>

	Plan provide guidance to land owners and regulators in the consideration of proposals for development on these lands.
<i>Exercising Full Control</i>	
7.3 A	The Department of Culture and Lands Protection will receive and process applications for access for the use of Tłıchǫ lands. For more complex land use proposals, the DCLP may work with regulatory bodies to develop Terms of Reference for technical studies which may be required. In these situations, applicants may be required to share in the cost of these studies.
<i>Economic Development and Tłıchǫ Lands</i>	
7.4 A	Prior to a decision by the Tłıchǫ Government regarding an application for a land use permission, those proposing to use Tłıchǫ lands, depending on the scale of the application, may be required to work with the Tłıchǫ Government, Tłıchǫ community governments and/or Tłıchǫ businesses to maximize the economic benefits to communities, businesses and residents.
7.4 B	The Tłıchǫ Government will engage with community governments, relevant community organizations and government departments in order to seek opportunities for a common economic development strategy.
7.4 C	The Tłıchǫ Government will encourage the Governments of Canada and the Northwest Territories to develop partnerships and work with Tłıchǫ businesses to build capacity through training and financial assistance.
7.4 D	The Governments of Canada and the Northwest Territories, working through the NWT Geoscience Office, are encouraged to cooperate with communities to carry out non-renewable resource assessments of Tłıchǫ lands.
<i>Community Engagement</i>	
7.5 A	As part of its review of proposals for the use of Tłıchǫ lands, the Tłıchǫ Government will consider the required amount of community engagement and information sharing.
7.5 B	Peer reviews of any technical studies may be required, and the costs of such review may be recovered from the proponent.
<i>Communication</i>	
7.6 A	The Department of Culture and Lands Protection will monitor and provide regular updates on permitting activity on Tłıchǫ lands.

7.6 B	Copies of the Tłı̄ch̄o Land Use Plan will be made available through the Department of Culture and Lands Protection and on the Tłı̄ch̄o Government website for all interested parties. A ‘plain language’ version of the Land Use Plan will be provided, as resources permit
<i>Inspection and Enforcement</i>	
7.7 A	The Tłı̄ch̄o Government supports the monitoring of activities on Tłı̄ch̄o lands. Where required, the Tłı̄ch̄o Government shall ensure that corrective actions are taken.
7.7 B	A respectful working relationship between inspection authorities and the Tłı̄ch̄o Government will be developed in order that inspection priorities may be established. The Tłı̄ch̄o Government may also pursue opportunities in establishing partnerships in inspection functions with government departments and agencies.
<i>Additional Information and Study of Tłı̄ch̄o Lands</i>	
7.8 A	<p>The Tłı̄ch̄o Government will support the further investigation of subject areas that would provide more knowledge for better management, including:</p> <ul style="list-style-type: none"> • Wildlife habitat; • Cumulative impact monitoring framework development within M̄qwhì Gogha Dè Nı̄ t̄ lèè; and • Additional information with respect to the geology of Tłı̄ch̄o lands. <p>Studies undertaken in these and other areas shall incorporate both traditional knowledge and modern science. The Tłı̄ch̄o Government will encourage partnerships with the Governments of Canada and the Northwest Territories, agencies and prospective developers in advancing this work. The results of further study may require updates and/or amendments to the Land Use Plan.</p>

Appendix B

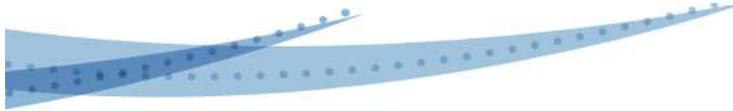
Mackenzie Valley Land and Water Board (MVLWB) Template for Environmental and Resource Impacts and Mitigation Measures Information

Proponents can use the following table to describe the effects of the proposed land use operation on land, water, flora, and fauna, as well as socio-economic impacts. This list is not all-inclusive, so if other impacts have been identified, proponents are encouraged to include them. Other sources of guidance to help identify potential impacts include the:

- Mackenzie Valley Environmental Impact Review Board's *Environmental Impact Assessment Guidelines* and *Socio-Economic Impact Assessment Guidelines*; and
- Yukon Environmental and Socio-economic Assessment Board's *Proponent's Guide to Project Proposal Submission to a Designated Office* (see sections 6.0 and 7.0).

Physical – Chemical Effects

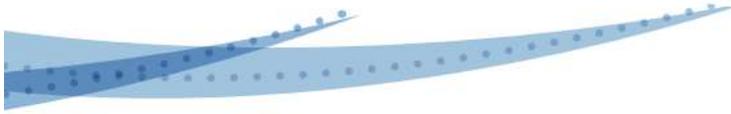
IMPACT	MITIGATION
Ground Water	
<input type="checkbox"/> Water table alteration	
<input type="checkbox"/> Water quality changes	
<input type="checkbox"/> Infiltration changes	
<input type="checkbox"/> Other	
Surface Water	
<input type="checkbox"/> Flow or level changes	
<input type="checkbox"/> Water quality changes	
<input type="checkbox"/> Drainage pattern changes	
<input type="checkbox"/> Temperature	
<input type="checkbox"/> Wetland change/loss	
<input type="checkbox"/> Other	
Noise	
<input type="checkbox"/> Noise in/near water	
<input type="checkbox"/> Noise increase	
<input type="checkbox"/> Other	
Land	
<input type="checkbox"/> Geologic structure changes	
<input type="checkbox"/> Soil contamination	
<input type="checkbox"/> Buffer zone loss	



<input type="checkbox"/> Soil compaction and settling	
<input type="checkbox"/> Destabilization/erosion	
<input type="checkbox"/> Permafrost regime alteration	
<input type="checkbox"/> Explosives/scarring	
<input type="checkbox"/> Other (such as soil microbes)	
Non-renewable natural resources	
<input type="checkbox"/> Resource depletion	
<input type="checkbox"/> Other	
Air/climate/atmosphere	
<input type="checkbox"/> Other	

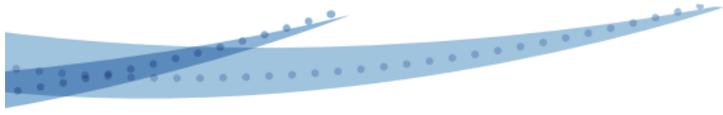
Biological Environment

IMPACT	MITIGATION
Vegetation	
<input type="checkbox"/> Species composition	
<input type="checkbox"/> Species introduction	
<input type="checkbox"/> Toxin/heavy accumulation	
<input type="checkbox"/> Other (such as species distribution, any rare species or species at risk, plant phenology, growth, and reproduction)	
Wildlife and fish	
<input type="checkbox"/> Effects on rare, threatened, or endangered species	
<input type="checkbox"/> Fish population changes	
<input type="checkbox"/> Waterfowl population changes	
<input type="checkbox"/> Breeding disturbance	
<input type="checkbox"/> Population reduction	
<input type="checkbox"/> Species diversity change	
<input type="checkbox"/> Health changes	
<input type="checkbox"/> Behavioural changes	
<input type="checkbox"/> Habitat changes/effects	
<input type="checkbox"/> Game species/effects	
<input type="checkbox"/> Toxins/heavy metals	
<input type="checkbox"/> Forestry changes	
<input type="checkbox"/> Agricultural changes	
<input type="checkbox"/> Other	



Interacting Environment

IMPACT	MITIGATION
Habitat and Communities	
<input type="checkbox"/> Predator-prey	
<input type="checkbox"/> Wildlife habitat/ecosystem composition changes	
<input type="checkbox"/> Reduction/removal of keystone or endangered species	
<input type="checkbox"/> Removal of wildlife corridor or buffer zone	
<input type="checkbox"/> Other	
Social and Economic	
<input type="checkbox"/> Planning/zoning changes or conflicts	
<input type="checkbox"/> Increase in urban facilities or services use	
<input type="checkbox"/> Rental house	
<input type="checkbox"/> Airport operations/capacity changes	
<input type="checkbox"/> Human health hazard	
<input type="checkbox"/> Impair the recreational use of water or aesthetic quality	
<input type="checkbox"/> Affect water use for other purposes	
<input type="checkbox"/> Affect other land use operations	
<input type="checkbox"/> Quality of life changes	
<input type="checkbox"/> Other	



Cultural and Heritage

IMPACT	MITIGATION
Habitat and Communities	
<input type="checkbox"/> Effects to historic property	
<input type="checkbox"/> Increased economic pressure on historic properties	
<input type="checkbox"/> Change to or loss of historic properties	
<input type="checkbox"/> Change to or loss of historic resources	
<input type="checkbox"/> Change to or loss of archaeological resources	
Social and Economic	
<input type="checkbox"/> Increased pressure on archaeological sites	
<input type="checkbox"/> Effects on Aboriginal lifestyle	
<input type="checkbox"/> Other	

