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# Honouring the Kaswenta (Two Row Wampum): A Framework For Consultation With Indigenous Communities In Canada and Australia

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Honouring the Kaswénta (Two Row Wampum):  
A Framework For Consultation With Indigenous Communities  
In Canada and Australia



*Ashley Sisco, B.A. (Honors Specialization in Anthropology), M.A. (Canadian Studies), 2015*

A Thesis Submitted for the Degree of  
Doctor of Philosophy  
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Faculty of Education

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Ashley Sisco

October 2013

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## Acknowledgement

One of the lessons I have learned from this journey is the significance of honouring those things for which we are grateful. As such, I have decided to provide a traditional acknowledgment in the way I have been taught from the Elders with whom I have been fortunate to work. While I have not listed every essence to which I owe some part of this journey, I have tried to highlight some of the most influential, including my teachers—Mother Earth, Ceremony, the Storytellers, and Intuition.

First, I would like to acknowledge the place where I began my journey, the traditional territory of Attawandaron First Nations peoples of Turtle Island and neighbouring territory of the Munsee-Delaware Lenni Lenape, Oneida Nation of the Thames, and Chippewas of the Thames First Nations peoples. The colonial name for this place is London Ontario, Canada. Thank you to the green, lush Grasses, Brush, and soft Earth for holding me up while I learned to walk and run and for providing a soft landing when I fell. Thank you to the many types of Trees—Maple, Birch, Hickory, Ash, Pines, and Elms among others—for providing me with fresh, clean Air to breath, a cool place to rest in the summer, and a beautiful scene to gaze upon and lift my spirits in the autumn. Thank you for teaching me about strength and resiliency, withstanding the harshest of winters only to bloom again fragrant and colourful in the spring. Thank you to the Crawlers, the Four Legged Animals—the Beavers, Racoons, and White Tail Deer, among others—who care for the Earth, Plant Life, and Animals on which we depend. Thank you to the Human Beings of my hometown, who helped shape my character and perspective.

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your magic and beauty. Thank you to the wise Eskers for sharing your stories of the past with me. Thank you to the cold, harsh climate for teaching me about the precariousness of life. From this I gained an appreciation for the resourcefulness of the original peoples of this place, who have survived. Thank you to the creatures of this Land, Water, and Sky, who filled my days with curiosity, wonder, and sometimes terror. Thank you to the Inuit—Ahairmiut, Padleimiut and Kitikmiut—for teaching me about how to be a Human Being and for moving my spirit in a way that I can never forget.

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Fourth, I would like to acknowledge Whitehorse and Carcross, the traditional territories of the Kwanlin Dun and Tagish/Tlingit First Nations, respectively. Thank you for helping us to fall in love. Thank you for your beautiful snow-capped Mountains, enfolding us in your care; the fast-moving Yukon River, the life-source and gathering place of the city; the Mountains, Hills and Trees that guided me to Carcross, for providing me with a sense of calm on my daily journey. Thank you to Emerald Lake, for sharing your reflections of these guides in intense shades of green. This sight took my breath away every morning and afternoon, and invited pause for reflections of my own. Thank you to the Carcross Dessert, gatekeeper to the community, for reminding me that life is full of mystery and surprises to which we must surrender ourselves. Thank you to Bennett Lake, soul of Carcross, for keeping me of good heart, mind, and spirit.

Fifth, thank you to Point Pearce Narungga Bookayana territory of South Australia. Thank you for healing our hearts during a difficult time. Thank you to the warm weather, Sunshine, and cool Breeze for making it difficult to feel sadness. Thank you to the quiet serene Beach and the vast Fields for providing calm and making our worries seem insignificant in your presence. Thank you to the Fires that cleared pastures and set the Sky ablaze in hazy orange and red at sunset. Thank you to the red Earth and the long Grass for keeping the many poisonous Snakes and Spiders discrete during our stay.

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providing us with a home away from home. Last, but not least, thank you to Marmalade my constant companion during study breaks.

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*This thesis is dedicated to the spirit of Delilah Sisco-Savage, who has guided me through this formidable and life-changing process. You will always be remembered.*

## Writing Matters

This thesis' writing style incorporates both storytelling and academic writing. The oral tradition of storytelling underpinned vital communication when working with Narungga and Tagish/Tlingit peoples and communities and remains a culturally important way of communicating with both communities. I have also interwoven storytelling with academic knowledge systems to pay homage to my own feminist writing traditions and to honour *Unsettling Pedagogy*'s premise of decolonizing myself through self-reflexivity in writing my lived experience of this journey. As Denzin, Lincoln, and Smith (2008) assert,

As nonindigenous scholars seeking a dialogue with indigenous scholars, we ... must construct stories that are embedded in the landscapes through which we travel. These will be dialogical counternarratives, stories of resistance, of struggle, of hope, stories that create spaces (p. 6).

Consistent with traditional thesis writing styles, I use an objective style where appropriate. However, I also use auto-ethnographic writing and story work to write myself, and my research experience, into this thesis, as my story. Therefore, I sometimes write in first person singular, using 'I', and other times in first person plural on behalf of the research team, using 'we' to reflect the collaborative nature of this project with the participants. (See *Chapter 4 – The Kaswénta as Research Protocol (Methodology)* for more details).

Importantly, I use the term 'consultation' to refer to the processes by which the Crown and other organizations and/or communities meet with Indigenous communities to discuss actions that could potentially affect them because it reflects the terminology used for these processes in both Canada and Australia. I acknowledge that this term carries problematic meaning because it is less well recognized in the Australian context and because it implies that the "consulters" (usually the Crown and/or industry proponent) have more agency and power than the "consultees" (usually Indigenous communities).

Nevertheless, the research in this thesis reveals that this is often true. However, in the field, I tended to rely on descriptions of these processes and terms proposed by participants (e.g. dialogue, meeting, engagement, etc.,) in order to avoid limiting research discussions to the specific connotations of the term ‘consultation’.

With respect to the participating communities, I have adopted the terms that they use to refer to themselves, as ‘Narungga’ and ‘Tagish/Tlingit peoples’, in recognition of their unique respective histories, cultures, and homelands. I use the term ‘Indigenous’ to refer to First Peoples in Canada (including First Nations, Inuit, and Métis peoples) and Australia generally throughout this dissertation. I opted to use this term in place of ‘Aboriginal’, ‘First People’, or ‘First Nation’ because, as Cree Academic Shawn Wilson contends, ‘Indigenous’ is, “... inclusive of all first peoples—unique in our own cultures—but common in our experiences with colonialism and our understanding of the world” (2008, p. 16).

I also use the terms ‘Aterihwihsón:sera Kaswénta’ and ‘Kaswénta’ (Guswentha) interchangeably to refer to the Two Row Wampum belt. However, it should be noted that the term ‘Kaswénta’ (Guswentha) refers to all Wampum (valuable and spiritually significant beads made out of shells for the purpose of agreement making). In this thesis, ‘Kaswénta’ will sometimes be used as a short form for the Aterihwihsón:sera Kaswénta, which is the Cayuga term for the Two Row Wampum belt specifically. I have opted for the Cayuga term for this belt because it is the term with which I am most familiar. (In Mohawk, it is referred to as Teioháte kaswenta, and others called Tekani teyothata’tye kaswenta.) (Hill, 2013). Last, when discussing consultations with the Point Pearce, I refer to the Narungga community of Point Pearce (NCP) and Point Pearce interchangeably. I also sometimes refer to PPAC as the governing body that tends to represent the community during consultations. While efforts have been made to decolonize this writing, readers should be aware that colonial terms might be used, as I write within the limited framework of the colonial context I struggle against (the English language, colonial educational system, etc.).

Case is also used purposefully in this thesis. I use upper case in this thesis to honour the non-human Entities (E.g., Cosmos, Lands, Skies, Water and Waterways, etc.,) and to incite a sense of honour in the reader toward these Entities as well, as they are too often relegated to commodities through the lens of the colonizer and colonized. As one research participant, Jane, states in Wilson’s (2008) work, “When you talk about the land and the

people and the community and everything is related in that way. The only difference between Human Beings and the four leggeds and plants is the shadow they cast” (p. 87). I also capitalize the terms ‘First Nation’, ‘Narungga’, and ‘Tagish’ to acknowledge nationhood, and the terms ‘Indigenous’ and ‘Aboriginal’ to honour these groups throughout. Specifically, I honour these groups because they are the original peoples of the places where I have lived during this journey and, thus, my hosts. Last, I have capitalized the terms ‘White’, ‘Whiteness’, ‘Settler’, and ‘Settlement’ throughout to make these typically unmarked positions of privilege visible to the reader. I struggled with whether to make the term ‘settler’ lower case to reposition Settlers (traditionally privileged colonizers) as humble guests to Indigenous hosts and to demonstrate ‘honorance’ (the act of/demonstrating honour)<sup>1</sup> toward these hosts. However, I ultimately decided that ‘honorance’ would be implicit in acknowledging these positionalities.

The structure of this thesis also merits discussion. *Chapter 1 - General Introduction*, *Chapter 5 - Findings*, and *Chapter 8 - Conclusion* reflect those of a typical Education thesis, providing a brief overview of the contents of the thesis, research findings, and summary and implications, respectively. However, there are otherwise some noteworthy ways in which this thesis has been structured to reflect both my academic and human journey.

Specifically, this thesis begins with an *Acknowledgements* section, which reflects the protocols I have been taught about honouring the Ancestors, Elders, Cosmos, Lands, Waterways, Plants, Animals, and Peoples who have helped me in my journey. This address to all of our relations is customary in many Indigenous contexts, and through embracing this custom I have gained a greater awareness and appreciation of my relatedness to the world around me.

The *Relative Importance (Prologue)*, which follows, provides personal information about me, intended to help the reader understand who I am and how I am situated in relation to the research. In her seminar work, *Please Knock Before you Enter*, Noonuccal, Quandamooopah Scholar Karen Lillian Martin writes about the importance of this practice in the context of researching with Indigenous communities,

Indigenist researchers need to answer questions of ‘who they are’ and ‘where they come from’ not only in a physical sense, but in a historical, political, societal, gender,

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<sup>1</sup> A term my Master’s Thesis Supervisor, Professor Allan Ryan, referred to as following on from the works of Gerald Vizenor.

professional, cultural, social, emotional, spiritual and intellectual sense (2008, p. 138).

From a relatedness perspective (a worldview common among many Indigenous groups, which makes relationships central to everything), I do not exist apart from these relationships (Martin, 2008; Smith, 2012). Therefore, explaining them is necessary to being known to the reader. Moreover, relatedness holds that the truth is in our relationships with Entities and not the Entities themselves (Wilson, 2008). Therefore, in order to understand this work, the reader must understand my relatedness to it.

*Chapter 2 – Literature and Expert Narrative Review* includes both a review of scholarly literature and expert narrative interviews. These expert narratives were included to balance academic perspectives with those of e-learning and consultation experts (academics and/or practitioners with at least 10 years of experience), including Indigenous peoples, who have historically been marginalized within academia (Martin, 2008; Smith, 2012). This approach is also intended to honour oral traditions (as the Narungga, Tagish, and Tlingit peoples are all historically oral cultures) that have historically been marginalized within academia by balancing them alongside written accounts (Wilson, 2008).

*Chapter 3 – The Aterihsón:sera Kaswénta as Relational Framework (Theoretical Framework)* provides an overview of the adaptation of the Aterihsón:sera Kaswénta (the agreement between Indigenous peoples and Settlers in Canada) as a framework for the relationships among the researchers, community partners, and research, as well as among Indigenous and non-Indigenous peoples engaging in consultations. Like a traditional theoretical framework chapter, it describes the approach I have taken in this research. However, it focuses on a relational approach derived from ‘relatedness’ and ‘relationality’ (Martin, 2008; Smith, 2012; Wilson, 2008) that places more importance on relationships than theory. This is articulated through Critical Indigenous Studies, Unsettling Pedagogy, and Feminist Community Based Partnership (as a form of Participatory Action Research).

*Chapter 4 – The Aterihsón:sera Kaswénta as Relational Protocol (Methodology)* provides an overview of how my interpretation of the Kaswénta served as a protocol for relationships, including in cultural and research contexts. Like a traditional methodology chapter, it discusses the research methods used corresponding to the relational (theoretical) framework. However, these methods are discussed in the context of research protocol for communities and the relational context that underpins these protocols as well.

*Chapter 6: Consulting about Consulting* is a metanarrative designed to describe my auto-ethnographic experience conducting the research (including consulting with participating communities about consulting), which yielded findings that may be considered as significant as those responding to the main research questions posed for this research project. This approach is also consistent with Martin's (2008) Indigenist research, which calls for "a meta awareness of the research interface, its socio-historical, political, economic, and cultural realities whilst at the same time...micro understanding of the relatedness of all things within the research" (p. 140). Put plainly by one of Wilson's (2008) research participants, Stan, "Something that should go in the writing is how you have changed and what the whole process has done to you" (p. 123).

*Coming Home (Epilogue)* is intended to convey how this process has transformed me as a Human Being and a researcher, and how this transformation will inform how I research with Indigenous communities in the future. It also conveys the ongoing circular nature of this process and situates this thesis as a narrative of one moment in a larger cycle (rather than a linear process with a discrete beginning and ending). In this way, the *Epilogue* presents a way forward from this research as the beginning of a new cycle in my research and human journey.

Last, the title of this thesis also warrants explanation. The word "honouring" was selected purposefully in place of "examining" or "proposing" to convey and incite in the reader respect for a living Entity—the Kaswénta—to which Settler society in Canada owes reverence and apology for our historical and ongoing neglect. It is hoped that this work will honour the original spirit and intent of the Kaswénta by offering insights I have gathered (from both Indigenous and non-Indigenous knowledge keepers) about how it might be repurposed to re-establish relationships between Indigenous and Settler peoples in Canada and Australia, based on equality that honours difference, self-determination, and peace and friendship. The term "honouring" also reflects the ceremonious nature of my research and personal journey through this work, as a 'rite of passage' articulated by cycles of heightened self-reflexivity, renegotiation of my understandings and beliefs, and increased critical consciousness. "Honouring", as a verb, also conveys the action-oriented, impelling and living nature of this thesis, a tapestry of my remembering of the stories shared with me, informing the words I write, becoming the words you read, and, then, inspiring how we choose to act as a result.



## Relative Importance (Prologue)

*Where Aboriginal researchers remain ngarrbal [(stranger)], unknown or waybal [(whiteman)], known about, one requirement of an Indigenist researcher is to undergo transformation to jarwon [(friend)], being known. To this end, Indigenist researchers also must know their own stories of relatedness, or as much of these as possible in order to expect the same of the research participants (Martin, 2008, p. 138)*

Before we begin this journey of storytelling, sharing, and learning, it is important that I introduce myself in order to properly situate myself within this discourse. This prologue is intended to achieve this end by explaining who I am in relation to where I come from and where my Ancestors come from; the transformative experiences that best define me as a person and researcher in relation to this work; how I came to be and have remained involved with this project specifically; and my expectations of the reader. While researchers are often encouraged to convey a deliberate, systematic, and somewhat impersonal research process, this seldom provides a complete or accurate account. I make no such concessions. I believe it is critical the reader understand the momentous happenings that have come to characterize this journey as well. I describe these moments as opportunities to fulfil my destiny – to respond with my intuition and, thus, pursue my rightful path and purpose. Curiously, I have not yet been able to identify a single word in the English language that adequately and fulsomely conveys the unique intersection of ‘fate’ and ‘free will’ that portray these happenings. ‘Serendipity’ connotes randomness, ‘fatefulness’ connotes negativity, and ‘auspiciousness’ and ‘destiny’ place too little onus on the subject’s intuition and response. I suspect there are Tagish, Tlingit, and Narungga words that express this concept, as it seems to be embedded in the worldviews of many members of Carcross/Tagish First Nation (C/TFN) and the Narungga Community of Point Pearce (NCP). (NCP).

However, I have learned that the meaning and significance of a concept can be lost in translation across cultures, but metaphors create understanding across social, cultural, linguistic, and ideological divides (Lakoff & Johnson, 2003). In fact, two metaphors have helped me to better understand my lived experience in this regard. First, this concept has been articulated to me by Mark Wedge, a Tagish/Tlingit Elder from the C/TFN, through the metaphor of a river. He explained that when one is on his or her rightful path (destiny), it feels like walking with the current in the river (free will), organic and relatively easy. Conversely when one has strayed from his or her rightful path, it feels like walking against the current in the river, always a struggle. Second, this concept might be understood through the metaphor of ‘dreamtracks’ or ‘songlines’, as the path set out by the Ancestors (destiny) for us to navigate through song (free will). This journey has been intimidating and challenging at times like the deep, fast flowing, and rocky Yukon River or the dry expanse of Bookayana (Narungga territory) under the hot Australian sun. Nevertheless, traversing this challenging terrain has been organic, as one might feel walking with the current of this river or navigating along the songlines of the Bookayana. This experience has been articulated with *déjà vu*—a feeling that I have been here before or that I was somehow always meant to arrive has been a constant. In fact, both C/TFN and NCPP territory are far from home.

I am a non-Indigenous Settler Canadian originally from the Attawandaron First Nation traditional territory of Turtle Island. The colonial name for this place is London, Ontario, Canada. I grew up with First Nations people (and fewer Métis and Inuit) who live in London and surrounding area. I was raised in an urban neighborhood with a particularly large Indigenous community. Additionally, there are several First Nations communities located nearby London (Figure 1).

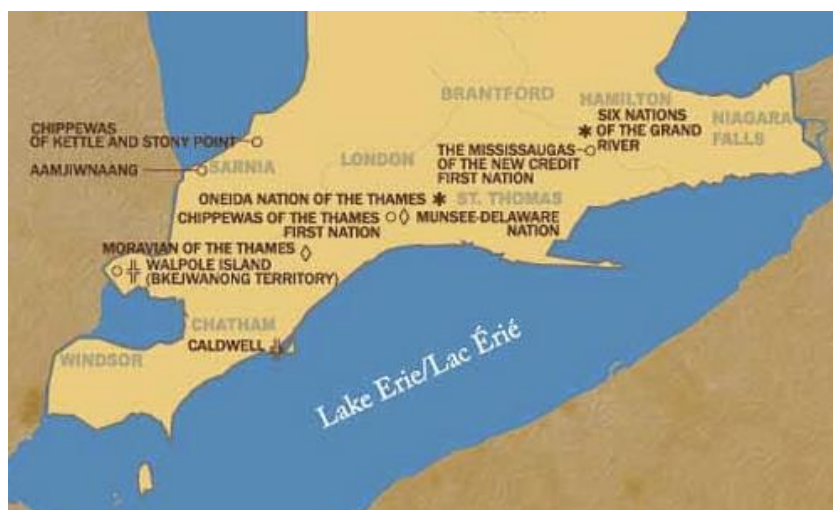


Figure 1. Map of First Nations Communities Surrounding London, Ontario. Adapted from *First Nations – Les Premières Nations*, by Government of Canada, 2011, retrieved from [http://files.ontariogovernment.ca/pictures/firstnations\\_map.jpg](http://files.ontariogovernment.ca/pictures/firstnations_map.jpg)

The school board in our region<sup>2</sup> has had tuition agreements with three communities in our area for more than 50 years following the closure of the local residential school (Mount Elgin Industrial School) (The United Church of Canada, n.d.), including: Oneida Nation of the Thames (Oneida, Haudenosaunee), Chippewas of the Thames First Nations (Ojibwe, Anishinaabe), and Munsee-Delaware First Nation (Lenni Lenape, Anishinaabe). As a result, I grew up with people who were connected to these communities as members or through family ties. Two of my nephews are members of the Oneida Nation of the Thames. While these communities share geographic proximity and common historical residential school experience, they are diverse culturally, linguistically, and in terms of their government systems. I have spent time in all three communities on many occasions.

While I consider myself to be from London, Ontario I was technically born and lived the first two years of my life in Sarnia, Ontario, near Aamjiwnaang First Nation (Ojibwe, Anishinaabe). We moved partly because of the long-suspected link between hormone-blocking pollutants dumped in Lake Erie and Aamjiwnaang's low male birth rate (33% of all babies born in the community are male), as well as a host of other health issues which are now being confirmed through research (Shingler, 2013). As will be discussed further on in this prologue, the community of Chippewas of Kettle and Stony Point (Ojibwe,

<sup>2</sup> This includes the Thames Valley District School Board (TVDSB) and the London School Board (LSB), which preceded it.

Anishinaabe) has also had a particularly profound impact on my understanding of Indigenous relations in Canada.

However, with the exception of having met community members, I have had less experience with the Moravian of the Thames (Lenni Lenape, Anishinaabe), Six Nations of the Grand River (Six Nations/Haudenosaunee – Mohawk, Oneida, Onendaga, Cayuga, Seneca and Tuscarora) (the largest First Nation community in Canada, with 22,294 residents, 11,297 of which live in the community in 2015) (The Six Nations Elected Council, 2013), Mississaugas of the New Credit First Nations (Ojibwe, Anishinaabe), Walpole Island (Ojibwe, Potawatomi, and Odawa, Anishinaabe) and The Caldwell First Nation (Ojibwe and Potawatomi, Anishinaabe). Yet, all of these communities—and the rich and diverse Land, peoples, cultures, and histories they encompass—have influenced who I am in important ways. I do not exist, as myself, outside of them.

My mother and father are both Settler Canadians, born in Canada. My mother was the first in her family (including siblings) to be born outside of Europe. She spent parts of her youth in Germany and England. My maternal grandmother (“Nana”), and family Matriarch, is a proud Scot and member of the MacMillan clan, although she was raised in Manchester, England. In Gaelic, MacMillan means "son of the bald one", and the clan is rumoured to have originated from the Kanteai (a northern Pictish tribe). The MacMillan clan motto is "Miseris Succerrere Disco" in Latin, which means, "I learn to succour or help the unfortunate or distressed". This is a strong family value that my Nana has passed down. My maternal grandfather was born and raised in Manchester, England and I grew up close with him until he passed away when I was twelve years old. Less is known about my paternal ancestry.



*Figure 2.* Photograph of me with my ‘Nana’, and family Matriarch, Betty Pearson.

My paternal grandmother was of American Dutch descent with some question of her paternity. I have always been told my paternal grandfather was Spanish in descent. Indeed, research suggests the Sisco name is originally from Northern Spain and some sources suggest it is a Jewish name. This would coincide with a common narrative of Jewish migration from Spain during the Spanish Inquisition to Ireland and then North America (there are a few Messianic Sisco lines that remain in the United States, members of which have contacted me and my family via Facebook). Other sources suggest the Sisco surname is Basque or Portuguese in origin. There is also a Cherokee Sisco line and a Nipmuk Cisco line, which my relatives have suggested may be connected with our family lineage. The Cisco family (related to Sisco) longhouse is now an important historical site on the Hassanamisco reservation in Grafton, Massachusetts.

However, the results of a genealogy test I took in 2014 showed only British Isle, Scandinavian, Eastern European, and Middle Eastern descent. We suspect our Spanish line is therefore ethnically Roma who travelled to Northern Spain or Moore who travelled to Spain and migrated North. I continue to research my paternal ancestry. Regardless of whether I might have distant Cherokee or Nipmuk ancestry, I have approached my work with communities from a place of respect first and foremost as a Human Being, and second as a Settler Canadian Ally. Potential distant Indigenous ancestry has only been made apparent to me a few years ago, long after I became involved in this work. Sisco family values include, foremost, respect and love for all peoples and animals and a sense of humour when all else fails, which it inevitably will from time to time.

My interest in Indigenous issues stem from a deep-rooted sense of injustice born of five personal experiences I describe as transformative further in this thesis. First, I transformed into Allied Other of the oppressed very early on as a sibling to my older brother, who was frequently teased for behaving differently than his peers due to having Asperger Syndrome. This was when social injustice became personal and I developed a sense of responsibility to fight against it regardless of my dissonance with the group being oppressed. In our family, standing by and saying nothing was almost as bad as joining in on the assault.

Second, I took issue with Whiteness/Settlement as a force of oppression specifically, as I grew to understand myself as a low socio-economic-status (SES) female marginalized

within this space. I grew up in a lower SES area of London known as EOA (East of Adelaide). While a large and diverse area, it became ‘ghettoized’ in the 1990s with the construction of lower income housing pockets. My boyfriend in University, who was from a wealthy neighborhood in Toronto’s North York, had to “survive” overnight in EOA as part of his pledge to a fraternity. As a lower SES female, I was not fully welcome within White spaces. Being ‘not quite White’ attracted me to and provided me with acceptance within non-White spaces from which I developed a more in-depth understanding of Whiteness/Settlement as a force of racialized oppression.

Third, I transformed into Allied Other of Indigenous peoples specifically following the occupation of Ipperwash, Ontario and events leading up to and including the murder of Anthony ‘Dudley’ George. Dudley was a member of the Chippewas of Kettle and Stony Point First Nation. In 1995, the Ontario Provincial Police murdered Dudley during a standoff, which escalated from a protest by occupation of the beach. The beach is a sacred burial site for the communities’ ancestors borrowed by the government for WWII military practice, but never returned to the First Nation, as promised.

Dudley George’s murder gained national attention, as did many other standoffs with First Nations, such as the Oka crisis<sup>3</sup>. However, Dudley’s murder was a uniquely significant and transformative moment in my life, perhaps because it happened in my own backyard. Ipperwash transformed from a place of family enjoyment and childhood memories into a battleground, seemingly over night. Dudley’s murder uncovered the degree of tension between First Nations and non-First Nations, locally and nationally. It demanded we choose sides. For my adolescent self, it was an epiphany triggered by total disillusionment. My trust in the good faith of the institutions of police enforcement, military, government, health care, and Whiteness/Settler society in general was challenged. My whole world was called into question. This narrative did not fit with the colonial metanarrative with which I had been indoctrinated.

While these personal transformations have informed my positionality as Allied Other, it was my work with the Inuit in the Canadian subarctic (the Springs and Summers of 2003-2006 for my Honors’ and Master’s Degree research) that most informed my

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<sup>3</sup> “The Oka Crisis was a 78-day standoff (11 July–26 September 1990) between Mohawk protesters, police, and army. At the heart of the crisis was the proposed expansion of a golf course and development of condominiums on disputed land that included a Mohawk burial ground.” (The Canadian Encyclopedia, 2011)

positionality in a research context. I set out to learn about Inuit culture, but the most significant lessons I would learn related to myself as researcher. Specifically, I got to know myself as ‘Qallunaa’, the Inuktitut word for White person. I learned that before I could attempt to understand the Inuit, I first had to study myself as Qallunaa, as well as the ideologies of White superiority, progress, and social Darwinism that had so greatly impacted Inuit and their relations with non-Inuit. With this realization, I transformed into Qallunologist, shifting my focus from Inuit to Whiteness as the object of study, and my approach to researching *on* and *about* to researching *with* and *for* Indigenous communities.



Figure 3. Me with Inuk Elder David Oolooyuk at Marble Island, Nunavut (the subarctic), Canada in 2009. Reprinted from *Becoming a Qallunologist: One Qallunaa's Journey Remembering Marble Island* (Master's thesis), (p. i), by A. Sisco, 2009, Copyright 2009 by Carleton University.

Last, but certainly not least, I learned who I was in relation to this work when I was given the name ‘Decolonization Warrior’. During my Master's thesis, I became a part of a small group called the ‘Word Warriors’, who, following on from the work of Vizenor (Ruoff, 1986), and then Turner (2006, p. 90), became involved in academic and pseudo-academic activities to promote Indigenous rights and interests. We developed organically as friends and went on to run a conference, attend the United Nations’ *State of the World's Indigenous Peoples* gathering in New York, and raise funds for a now permanently



endowed CDN \$10,000 scholarship at Carleton University, the *Word Warrior Society Scholarship*. Our original group of twelve stay in touch regularly. Although Turner's Word Warriors are Indigenous, my understanding of my role as an Allied Other is that I must use my positionality to help to decolonize. Therefore, 'Decolonization Warrior' has become a significant part of my identity as well.



*Figure 4. The Word Warriors. Back row from left to right (the original Word Warriors): Victoria Tenasco, Kim Morf, Sheila Grantham, Mallory Whiteduck, Briony Taylor, Ashley Sisco, Howard Adler and Rodney Nelson. Bottom row from left to right (Word Warrior with McGill University) Pamela Fillion and Catherine Duclos. Reprinted from KANATA Founded in Winter 2009 and Launches, by KANATA: McGill's Indigenous Studies Community, 1, May 13, 2009, retrieved from <http://qipirmcgill.org/kanata/foundedlaunch/>. Reprinted with permission.*

Prior to this PhD journey, I might have described the events that led to my involvement in this research as serendipitous—a fortunate coincidence. As aforementioned, I now understand there are no coincidences. I first met my Community Advisor for this project, Mark Wedge, at a Conference on First Nations Governance in the Yukon while working with The Conference Board of Canada (a Canadian think tank). Left alone during a workshop exercise, I surveyed the room for a group to join and decided to try my luck with his table. It is only in retrospect, with some prodding from Mark, that I realized the room was divided. Some tables seated mainly non-First Nations representing territorial and federal government and industry and others seated First Nations community members representing community governments and other organizations. My, somewhat subconscious, decision as a non-First Nations person to sit with a First Nations group had



broken the unspoken segregation in the room and caused a pause for reflection. In that moment, I had, perhaps unknowingly, aligned myself with the community. At the time, Mark was Kaa Shaa du Heni (Community Leader) of the Carcross/Tagish First Nation (C/TFN). He invited me to the community to learn about some of the great work they had done with their self-government and some of the challenges they continued to face with its implementation. I was honoured to visit and impressed with the community's virtue-based self-governance system. Although I worked with the community on a few small research projects thereafter, I always knew there would be greater work for us to partner on in the future.

One of the research projects for which I worked with the C/TFN, about e-learning in First Nations communities, attracted the interest of a University of Wollongong Lecturer, Dr. Michelle Eady. While visiting family in Canada, she met with me to discuss the research. At the close of the meeting, she proposed I study in Australia for my PhD. At first, the notion of leaving a comfortable permanent employment position during a recession seemed irresponsible. However, I began to consider the wider knowledge systems that could be developed through working with Indigenous communities abroad and in Canada. Ultimately, I left the decision to destiny – I applied for a full scholarship and decided that if my application was successful, I would pursue the opportunity. When I was awarded the scholarship, and leaving my job became financially feasible, I embarked on what would be a tremendous learning journey as a PhD student in Australia.

I arrived at Indigenous consultations as the research topic for my PhD with great ease. Reflecting on the work I had done in my Honors, Master's, and working with Indigenous communities across Canada as a researcher with The Conference Board of Canada for four years, one issue seemed recurrent in research conversations no matter the topic—consultations. Consistently, it seemed, communities explained lack of meaningful consultation as a root cause of other issues, such as low educational outcomes, or lack of economic development. A relatively extensive literature review corroborated my theory that consultation was an issue of importance to many Indigenous communities in both Canada and Australia. I wondered whether there might be a way to more effectively communicate community protocols online to organizations consulting with communities. This could provide both a degree of certainty for organizations wanting to consult meaningfully and a

degree of accountability for communities wanting to be engaged in meaningful consultations. I set out to investigate this hypothesis.

My background in Anthropology and dedication to participatory research approaches dictated that I would be collaborating closely with participating communities on this project. I knew I wanted to work with only one community in each country to afford each a sufficient amount of time and resources. My supervisor at the beginning of this study, and her supervisor before her, had forged great relationships with the Narungga community of Point Pearce in South Australia. In conference calls with community contacts, I learned that the topic was relevant and they would be interested in working with me. Continuing to foster this relationship between the university and the community is important. While I had no prior experience working with communities in Australia, I had worked with many communities across Canada. However, the C/TFN immediately came to mind because of the strong relationship I had built with Mark Wedge in a short period of time, his invitation to work together in the future, and my understanding that the work would be relevant to the community.

Since the conceptualization of this project, significant events in both Australia and Canada have reinforced the importance of Indigenous consultation as an area of enquiry, underscoring this project's timeliness and encouraging my faithfulness to this path. Foremost, the social-media driven, grassroots *Idle No More* (INM) movement developed in 2012 in Canada and has now expanded across the globe, including Australia. This movement, launched by three Indigenous women and one non-Indigenous woman in Canada, is aimed at promoting Indigenous inherent and treaty rights currently being undermined by the Canadian government. Importantly, it also represents a response to the lack of consultation in the passing of Bill C 45<sup>4</sup> and the potential for this Bill to undermine treaties and the Duty to Consult with First Nations. In 2013, INM protests opposing the proposed *First Nations Education Act* (widely deemed 'assimilist' and paternalistic by First Nations leaders in Canada) took place across Canada, including a peaceful flash mob Round Dance in London, Ontario in which I participated. In 2014, the Harper Government redrafted the legislation now entitled, the *First Nations Control of First Nations Education*

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<sup>4</sup> This Bill undermines Canada's legal *Duty to Consult* (DTC) Indigenous communities (as well as treaties and environmental legislation) in order to fast track development projects (For more information, see: <http://openparliament.ca/bills/41-1/C-45/>).

*Act*, after alleging to have engaged in greater consultation with First Nations communities and (The Prime Minister of Canada – Stephen Harper, 2014).<sup>5</sup> However, First Nations' communities remain sceptical about the Act's potential to undermine Indigenous inherent rights in Canada, including to control over their education (*Bones for War*, 2014). In Australia, the process of constitutional recognition of Indigenous peoples and rights is underway, which can provide a trigger, as in Canada, for the duty to consult (ABC News, 2014; Australian Human Rights Commission, 2011a). While it is difficult to predict the outcomes of these major milestones, they seem to reflect a growing interest in, and stand to impact, Indigenous consultations in significant ways. Collectively, they serve as signs that I am on my rightful path, walking with the current, journeying along my songline in life.

Now that you know me as a relative—to my past, to this work, and to you—I should tell you this person no longer exists, at least not in the same way. This process has become another transformative moment in my life that has redefined me. Drawing on my background in Anthropology, I understand this process as a 'rite of passage'. According to Van Gennep (1908/1960), Lewin (1952/1997), and Turner (1969), 'rights of passages' include three stages: 1) separation/unfreezing/segregation, 2) transition/change/'liminality', and 3) incorporation/freezing/refreezing. For me, the first stage of this process has been particularly pronounced. I was formerly a young, single female living and working in Canada's capital city, Ottawa, as a Research Associate with a think tank. To engage in this work, I had to separate myself from this status and space, resign from my position, rent my home in Ottawa out to tenants, and move literally to the other side of the planet. As you read onward, you will become acquainted and hopefully related with my 'liminal' self. That is, who I am once severed from whom I was and whom you have just gotten to know. By the time you reach the *Conclusion*, you will meet and hopefully become related with a new me—me 5.0. This is discussed further in *Coming Home (Epilogue)*.

In the spirit of reciprocity, I share this information with you (the reader) to help you relate with this work and with me, but I also have expectations of you. Specifically, my hope is that the process of reading this thesis will be transformative for you too. My outlook on stories, like this thesis, is that they are only brought to life through their reinterpretations. In this regard, this prologue is an account of the beginning of a story I hope will continue to

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<sup>5</sup> For more information, see: <http://pm.gc.ca/eng/news/2014/02/07/pm-announces-historic-agreement-assembly-first-nations-reform-first-nations#sthash.mSq4ZrRA.dpuf>

develop with each reader. This thesis, then, is intended to inspire future actions to be taken by readers like you. I conclude this beginning by suggesting that your reading this story, and acting as a result to contribute to its development, is as destined a part of this journey as the series of events that led me to write it.

# Contents

Advisory to Indigenous Australian Readers.....	2
Statement of Originality.....	2
Statement of Shared Copyright .....	2
Acknowledgement.....	3
Writing Matters.....	9
Relative Importance (Prologue).....	14
Figures .....	30
Abstract.....	31
Chapter 1: General Introduction .....	33
1.1 Introduction.....	33
1.2 Background .....	37
1.3 Brief Literature And Expert Narrative Review .....	42
1.4 Aim Of The Research And Research Questions.....	44
1.5 Relational Framework .....	45
1.6 Relational Protocol (Methodology).....	47
1.6.1 Preparing and Working Together.....	48
1.7 Location And Participants.....	50
1.7.1 Location.....	50
1.7.2 Participants.....	53
1.8 Data Analysis.....	53
1.9 Chapter Outlines.....	54
Chapter 2: Literature And Expert Narrative Review.....	56
2.1 Introduction.....	56
2.2 Consultation In Canada And Australia.....	58
2.2.1 Ambiguity.....	58
2.2.2 Lack Of Indigenous Influence in Decision Making .....	60
2.2.3 Embedded Within A Western Framework .....	62
2.2.4 Oppressive of Indigenous Communities.....	67
2.2.5 Ineffective In Resolving Disputes.....	72
2.2.6 Assimilation vs. Decolonization.....	74
2.2.7 Consent, Consensus, Compromise, Reconciliation, Conflict Resolution, Principled Negotiation, and Peacemaking Circles.....	75
2.2.8 Consultation Guidelines and Meaningful Consultation .....	79
2.3 Gaps In Indigenous Consultation and Negotiation Literature .....	87
2.3.1 South Australian Political and Legal Context.....	88
2.3.2 Merits of And Best Practices in Consultation.....	88
2.3.3 Education Consultations.....	90
2.4 E-Learning in Australia and Canada .....	91
2.4.1 E-Learning Definition.....	91
2.4.2 E-Learning Benefits .....	92
2.4.3 E-Learning Challenges .....	93
2.4.4 E-Learning Effectiveness.....	95
2.4.5 E-Learning Optimal Learning Conditions.....	96

2.4.6 Technological Pessimism .....	98
2.5 The Use Of E-Learning In Consultations .....	<b>99</b>
2.5.1 Supporting E-Learning In Pre-Consultations .....	101
2.6 Conclusion.....	<b>102</b>
<b>Chapter 3: The Aterihwihsón:sera Kaswénta As A Relational Framework (Theoretical Framework) .....</b>	<b>103</b>
3.1 Introduction.....	<b>103</b>
3.2 Literature Review of Contributing Theoretical Perspectives (the Aterihwihsón:sera Kaswénta) .....	<b>106</b>
3.2.1 Definition and Description.....	106
3.2.2 Scholarly Studies.....	107
3.2.3 Application and Significance.....	107
3.3 The Birch Bark Canoe as Critical Indigenous Philosophy .....	<b>108</b>
3.3.1 Critical Indigenous Philosophy.....	109
3.3.2 Critical Indigenous and Decolonizing Methodologies .....	111
3.3.3 Indigenous Paradigms .....	114
3.3.4 Critical Indigenous Pedagogy.....	116
3.3.5 Arming, Revitalizing, And Re-Orienting The Birch Bark Canoe.....	117
3.4 The European Ship as Unsettling Pedagogy .....	<b>122</b>
3.4.1 Unsettling Pedagogy.....	122
3.4.2 Models for Allied Others to Work With Indigenous Communities .....	126
3.4.3 Unsettling the European Ship.....	128
3.5 Feminist Community Based Partnerships Research (FCBPR) as The River.....	<b>140</b>
3.5.1 Participatory Action Research (PAR).....	140
3.5.2 Feminist Participatory Action Research (FPAR) .....	147
3.5.3 Community Based Partnership Research (CBPR).....	150
3.6 Replenishing The River.....	<b>151</b>
3.7 Conclusion.....	<b>154</b>
<b>Chapter 4: The Aterihwihsón:sera Kaswénta As Relational Protocol (Methodology) .....</b>	<b>156</b>
4.1 Introduction .....	<b>156</b>
4.2 Writing Protocol .....	<b>157</b>
4.3 Case Study Approach.....	<b>158</b>
4.4 Communities And Participants.....	<b>160</b>
4.3.1 Communities.....	160
4.3.2 Participants .....	175
4.3.3 Research Procedure (Data Collection and Materials) .....	179
4.4 Conclusion.....	<b>201</b>
<b>Chapter 5: Findings .....</b>	<b>203</b>
5.1 Introduction.....	<b>203</b>
5.2 Comparative Analysis of C/TFN and NCPP .....	<b>204</b>
5.3 Consultation Features and Processes, Challenges, and Leading Practices.....	<b>209</b>
5.3.1 Main features .....	209
5.3.2 Consultation Processes .....	216
5.3.3 Consultation Challenges .....	228
5.3.4 Consultation Leading Practices .....	238
5.4 The Role Of Online Tools In Facilitating More Meaningful Consultation.....	<b>248</b>
5.4.1 Experts, Scholarly Literature And Case Study Participant Insights.....	248
5.4.2 The Implementation of PPAC and C/TFN Online Consultation Tools .....	250
5.5 The Process Of Developing PPAC And C/TFN Online Consultation Tools.....	<b>252</b>

5.6 Conclusion.....	253
Chapter 6: Consulting About Consulting (A Metanarrative).....	255
6.1 Introduction.....	255
6.2 Education And Learning Processes – The Four Teachers .....	257
6.2.1 The First Teacher, Mother Earth .....	257
6.2.2 The Second Teacher, Ceremony.....	262
6.2.3 The Third Teacher, the Storyteller.....	265
6.2.4 The Fourth Teacher, Intuition .....	266
6.3 Reflections On My Personal Journey As Consulter .....	270
6.3.1 Consulting with the C/TFN About Consulting .....	271
6.3.2 Consulting with the NCPP About Consulting.....	273
6.3.3 Consulting in Accordance with the Kaswénta Relational Framework.....	274
6.4 Conclusion.....	275
Chapter 7: Conclusion (The Beginning) .....	276
Coming Home (Epilogue).....	284
References.....	290
Appendix A: MOU Between The C/TFN And The University Of Wollongong .....	311
Appendix B: Council Of Point Pearce Community Support And Consent Form .....	316
Appendix C: Point Pearce Participant Recruitment Flyers .....	318
Appendix D: Chart of adherence to ethical guidelines and principles.....	319
Appendix E: Consultation Expert Interview Guide .....	325
Appendix F: E-Learning Expert Interview Guide .....	330
Appendix G: Community Supplement.....	335
Appendix H: Lawyer And Law Specialist Supplement .....	336
Appendix I: Government Representative Supplement .....	338
Appendix J: Organization Representative Supplement.....	340
Appendix K: C/TFN Community Interview Guide.....	342
Appendix L: Photographs Of C/TFN Traditional Territory And Point Pearce Narungga Bookayana.....	345
Appendix M: Photographs From Consultation Protocol Activity .....	346
Appendix N: C/TFN Community Discussion Group /Interview Guide .....	347
Appendix O: C/TFN Government Representative Discussion Group /Interview Guide .....	350
Appendix P: C/TFN Non-Governmental Representative Discussion Group/Interview Guide .....	353
Appendix Q: Point Pearce Community Discussion group/Interview Guide.....	356
Appendix R: Point Pearce Government Representative Discussion Group/Interview Guide .....	359

Appendix S: Point Pearce Non-Governmental Representative Discussion Group/Interview Guide.....	362
Appendix T: Wireframes for Online Tool Development .....	365
Appendix U: C/TFN Consultation Photographs .....	371
Appendix V: C/TFN And Point Pearce Community Ambassador Gift Exchange .....	372



## Figures

Figure 1. Map of First Nations Communities Surrounding London, Ontario.....	16
Figure 2. Photograph of me with my ‘Nana’, and family Matriarch, Betty Pearson.....	17
Figure 3. Me with Inuk Elder David Oolooyuk at Marble Island, in Nunavut (the subarctic), Canada in 2009.....	20
Figure 4. The Word Warriors.....	21
Figure 5. Kaswénta as a Relational Framework For Respectful Research.....	45
Figure 6. Map of my travels for this research project.....	49
Figure 7. Map of the Point Pearce Narungga Community in Australia.....	51
Figure 8. Map of The Carcross/Tagish First Nation in Canada.....	52
Figure 9. Literature Review and Expert Interviews Plan.....	57
Figure 10. My drawings of Inuit and the far North in my Level (Grade) Three Journal.....	134
Figure 11. My Grade Three Journal entry about an Inuit story.....	134
Figure 12. Research Process As Interrelated Stages.....	181
Figure 13. Research Process As Collaborative And Iterative Cycle.....	181
Figure 14. The Medicine Wheel.....	191
Figure 15. C/TFN Education Consultation Portal Page views July 2012-April 2013.....	251

## Abstract

Meaningful and ongoing consultations are critical to Indigenous self-determination in Canada and Australia. Consultations are the processes by which organizations and Indigenous communities meet to discuss actions that could potentially affect Indigenous rights or interests. This education thesis is about a community-based partnership study that applies the Aterihwihsón:sera Kaswénta (Two Row Wampum) as a relational framework to investigate how two Indigenous communities across the world—the Carcross/Tagish First Nation (C/TFN) in Yukon, Canada and the Narungga Community of Point Pearce (NCP) in South Australia—can create and implement online tools to support consultation processes compatible with Indigenous legal traditions, and facilitate more meaningful, equitable, and effective consultations.

In total, 64 participants from the two aforementioned communities/countries took part in this study. Thematic content analysis of this data, along with literature, participant observation, and digital ethnography revealed that there is an overall lack of consultation with the C/TFN, NCP, and other Indigenous communities. Moreover, it found that existing consultations tend to be ambiguous, fraught with process breakdowns, tokenistic, colonizing, oppressive, ineffective, and lacking community engagement.

While the study suggests that technology can be an important tool (in addition to in-person meetings) in consultations, and several leading practices were identified, the key finding is that the most significant determining factor of the meaningfulness of consultations is relationships. Within the Kaswénta framework, a relationship-based approach is characterized by three interconnected principles: 1) equality, 2) distinction and self-determination, and 3) harmonious, and interdependent co-existence. Time was also shown to be an important element.

This education thesis research has helped to build Information Communication Technology (ICT), consultation, and research capacity among the C/TFN and NCPP participants. It has also helped to build a relationship among these communities and the University of Wollongong that stands to foster future projects of importance. Moreover, it contributes to the body of Indigenous, academic, and practical knowledge on Indigenous consultations and e learning in Canada and Australia, including in a comparative context. Perhaps most significantly, it honours the Kaswénta and introduces it as a relational framework for meaningful consultations with Indigenous communities.

# Chapter 1

## General Introduction

*“If you have come to help me you are wasting your time, but if you have come because your liberation is bound up with mine, let’s work together” (Watson, 1992, p. 1)*

### 1.1 Introduction

Consultations with Indigenous communities are perhaps one of the most contentious and significant yet least well understood activities by the general public in Canada and Australia currently. Consultations are the processes by which organizations and Indigenous communities meet to discuss actions that could potentially affect (often adversely) Indigenous rights, frequently concerning Land (Bauman, 2006; Behrendt & Kelly, 2008; Department of Aboriginal Affairs and Northern Development Canada, 2011; Lloyd, et al., 2005; Manley-Casimir, 2011; Newman, 2009a).<sup>6</sup> In short, meaningful and ongoing consultations are critical to Indigenous self-determination.

Canada’s colonial government has a long history of neglecting the inherent, treaty, constitutional, and human rights of Indigenous peoples. However, mounting

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<sup>6</sup> As noted in the *Writing Matters* section of this thesis, importantly, I use the term ‘consultation’ to refer to the processes by which the Crown and other organizations and/or communities meet with Indigenous communities to discuss actions that could potentially affect them because it reflects the terminology used for these processes in both Canada and Australia. I acknowledge that this term carries problematic meaning because it is less well recognized in the Australian context and because it implies that the “consulters” (usually the Crown and/or industry proponent) have more agency and power than the “consultees” (usually Indigenous communities). Nevertheless, the research in this thesis reveals that this is often true.

pressure since the 1990s has culminated under a depressed economy. In 2012, the grassroots *Idle No More* (INM) movement developed in response to this historic and ongoing injustice, but with a particular focus on raising awareness about the Harper government's proposed (now passed) Omnibus Bill C-45, which undermines Canada's legal *Duty to Consult* (DTC) and accommodate Indigenous communities (as well as treaties and environmental legislation) in order to fast track development projects<sup>7</sup>. The United Nations Special Rapporteur on the rights of Indigenous peoples, James Anaya has declared, "Canada faces a crisis when it comes to the situation of indigenous peoples of the country" (Anaya, 2013), stating that, "as a general rule, resource extraction should not occur on Lands subject to aboriginal claims without adequate consultations with and the free, prior and informed consent of the aboriginal peoples concerned" (Anaya, 2013).

During the *Collaborative Struggle Conference* at the University of Wollongong in September 2012, renowned Australian history scholar and keynote speaker Henry Reynolds argued that Australia's treatment of Indigenous peoples is even more abysmal than Canada's.<sup>8</sup> Despite considerable Indigenous opposition to the racist *Stronger Futures* policy regime (which began as the Northern Territory Intervention) that was developed without Indigenous consultation and requiring the exemption of racial discrimination legislation, the Gillard government has extended the program (Australian Government, 2011; Calma, n.d.). Moreover, with no historic treaties, constitutional rights, nor legal doctrines equivalent to the DTC in place, Indigenous Australians are left more vulnerable to inadequate consultation processes and less well protected from the implications thereof, compared with their Canadian counterparts (*Assembly of First Nations*, 2013; Behrendt & Kelly, 2008; Brennan & Crawford, 1990; McRae et al., 2009; National Congress of Australia's First Peoples, 2011; Newman, 2009a; Short, 2007).

The spirit of consultation represents progress toward honouring Indigenous rights and many consultations have been successful. However, they are generally problematic in practice. While both Australia and Canada are signatories of the *United Nations*

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<sup>7</sup> For more information, see: <http://openparliament.ca/bills/41-1/C-45>.

<sup>8</sup> In response to Dr. Colin Salter's presentation at this event on his PhD research regarding non-Indigenous allies of Indigenous movements in Canada and Australia, I argued that Canada also has a history of genocide of Indigenous peoples and ongoing colonization. Professor Reynolds responded that Australia's track record for its treatment of Indigenous peoples is much worse, and suggested that my comments were typical of the Canadian tendency to be overly apologetic.

*Declaration on the Rights of Indigenous Peoples* (UNDRIP), neither country honour Article 19, which requires from Indigenous communities, “Free, prior and informed consent” prior to major decisions affecting their rights (Moreton-Robinson, 2011; Ochman, 2008, p. 350). Both countries continue to under-consult and to conduct consultations that are ambiguous, mired with process breakdowns. Consultations in both countries tend to be tokenistic, lacking in Indigenous community engagement and influence over outcomes (Chartrand, Chartrand, Feldthusen, & Han, 2008; Ivison, 2003; Lloyd, et al., 2005; Natcher, Hickey, & Clifford, 2002; Newman, 2009a; Ochman, 2008; Short, 2007). They are also often oppressive of Indigenous peoples, as they are couched in a Western law system that does not include Indigenous legal traditions (Behrendt & Kelly, 2008; Hemming, Pearce, & Rigney, 2007; Hemming & Rigney, 2010; Ivison, 2003; Langton, 2004; Langton & Palmer, 2004; Lloyd, et al., 2005; Natcher, Hickey, & Clifford, 2002; Pearson, 2011; Pearson, 2009; Rigney, 2008; Short, 2007). Ultimately, many are ineffective in reconciling stakeholder interests, evidenced by ongoing litigation (Berg, 2011; Bignall, Rigney, & Hattam, 2014; Chartrand, Chartrand, Feldthusen, & Han, 2008; Failing et al., 2008; Moreton-Robinson, 2007; Newman, 2009a; Ochman, 2008). Some progress has been made in Land consultations. However, less has been achieved in consultations over education matters. This is despite the movement toward Indigenous self-determination over education in the ‘post’-stolen generation/residential school era<sup>9</sup> (Assembly of First Nations, 2012; Rigney, 2003) and the fact that education is so inextricably linked with Land for many Indigenous peoples (Aikenhead & Michell, 2011; Martin, 2008). At the same time, rural Aboriginal communities are increasingly relying on information technology to share community protocols and other information that will encourage meaningful consultation (Alexander, 2000; Martin et al., 2011).

This education thesis investigates how two rural Indigenous communities across the world from one another—the Carcross/Tagish First Nation (C/TFN) in Yukon, Canada and the Narungga Community of Point Pearce (NCP) in South Australia—can create and implement online tools to help organizations to navigate through the consultation process according to each respective community’s protocol. The aim of

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<sup>9</sup> It should be noted that the term ‘post’ is used here to signify the era following the closure of residential and mission schools in Canada. However, the underlying ideologies and effects of this experience continue.

these tools is to assist in making consultations with these communities more meaningful, compatible with their legal traditions, equitable, and effective in achieving reconciliation and promoting Indigenous self-determination.

The educational focus of this thesis is threefold. First, the use of online tools to facilitate e-learning about consultations among organizations situated outside of rural Indigenous communities is central to this study. E-learning provides an opportunity for organizations wishing to consult with Indigenous communities to engage in community-directed capacity building about meaningful consultation at a distance. Second, the intention of this study was to create online tools for education consultations specifically. However, this was only possible with the C/TFN. Consistent with community-based partnership research, the NCPP's needs influenced the direction of the research, and the community determined that a basic website for the organization representing their community, Point Pearce Aboriginal Corporation (PPAC), should take priority. Third, consistent with feminist participatory action research, this thesis takes a self-reflexive approach, sharing the author's experience learning from the research process, which elucidates a broader view of education embedded in Indigenous and unsettling pedagogies.

This research sheds light on the ways in which education and other consultations involving Indigenous communities can be made more meaningful and respectful. Importantly, it repurposes the Kaswénta as a tool for guiding non-Indigenous researchers in conducting research respectfully with Indigenous communities. As a result of the collaborative research approach, it has also helped to build capacity in Information and Communication Technology (ICT), consultation, and research within participating communities and organizations. Additionally, it has served to address gaps in important areas of scholarship, including Indigenous consultations and e-learning in Australia and Canada (in a comparative context) and dispute management and decision-making in legal anthropology (Martin, Bauman, & Neale, 2011). However, Canadian content is the strength of this thesis as it grew out of my life experience in Canada.

The purpose of this chapter is to provide a general introduction to this thesis by discussing the background of the topic, as well as the thesis' purpose and contents. First, this chapter provides the background and significance of the topic of Indigenous

consultation in Australia and Canada and the role an online tool can play in making these processes less hegemonic. Second, it situates this research within the broader discourse in the field by summarizing previous research and expert narratives and identifying the gap this thesis fills through stating the problem, purpose, and aims of the research, as well as the guiding research questions. Third, it provides a brief overview of the research design, including the: relational framework, relational protocol (methodology), location and participants, and data analysis. Last, it briefly outlines each chapter in the thesis.

## 1.2 Background

The imposed Western common law systems in Australia and Canada share a colonial history of protecting state interests in the continued systematic dispossession and commodification of Indigenous Land, culture, language, and children (Donovan, 2008; Havemann, 1999; Rigney, 2003). In Canada and Australia, European settlers used the Doctrine of Discovery and Terra Nullius to dehumanize Indigenous peoples, proclaim the land empty and unsovereign and, thus, justify the colonization of land and peoples as an act of virtue (Moreton-Robinson, 2011). Therefore, both nation-states were created and are maintained by what Moreton-Robinson (2007) terms “patriarchal white sovereignty”, which is founded on “a regime of power,...[which]...operates ideologically, materially and discursively to reproduce and maintain its investment in the nation as a white possession” (p. 647). Patriarchal white sovereignty “manifests in form of the State and the Judiciary” (Nakata, 2003, p. 149).

However, Indigenous law has evolved differently in each country. In Canada, Indigenous special rights are constitutionally protected (under s.35); historic treaties were signed between 1701 and 1923; and a Land claims regime was developed thereafter to resolve grievances with historic treaties (specific claims) and to create modern agreements where treaties were not signed (comprehensive claims), which has resulted in scores of claims (Aboriginal Affairs and Northern Development Canada, 2008; Department of Aboriginal Affairs and Northern Development Canada, 2011; Havemann 1999; Robinson, 2007; Sossin, 2010).



In Australia, Indigenous rights are only statutorily protected (under the 1966 *International Convention on the Elimination of All Forms of Racial Discrimination*, s8 (1) of the *Racial Discrimination Act 1975 (Cth)*, the 1984 (Cth) the *Aboriginal and Torres Strait Islander Heritage Protection Act* and the 1993 (Cth) *Native Title Act*), although a Government-appointed Expert Panel is currently working toward constitutional recognition (*Assembly of First Nations*, 2013; National Congress of Australia's First Peoples, 2011); colonization did not include treaty-making; and Land claims only recently developed under a statutory scheme, which has largely been streamlined through the *Native Title Act* (Behrendt & Kelly, 2008; Brennan & Crawford, 1990; McRae et al., 2009; Newman, 2009a; Short, 2007).<sup>10</sup>

Australian and Canadian consultation processes have evolved differently out of their distinct respective Indigenous law frameworks. In Canada, the crown's constitutional *Duty to Consult* (DTC) was conceptualized in 1990 (*R. v. Sparrow*) (Edmond, 2007; Natcher, 2001; Sossin, 2010). Over a decade later, the concept took shape as a legal doctrine, based on three significant court decisions now termed the 'Supreme Court trilogy'—the 2004 *Haida Nation v. British Columbia* and *Taku River Tlingit First Nation v. British Columbia* cases and the 2005 *Mikisew Cree First Nation v. Canada* case (Department of Aboriginal Affairs and Northern Development Canada, 2011; Edmond, 2007; Mullan, 2008; Newman, 2009a). The DTC with Indigenous communities is triggered by s.35 of the constitution when the crown contemplates conduct that could potentially adversely affect Aboriginal title (asserted or established) or an Aboriginal or treaty right (Manley-Casimir, 2011; Newman, 2009a). However, consultation may also be legally required under regulations and statutes, land-claims, and self-government agreements (Department of Aboriginal Affairs and Northern Development Canada, 2011). The depth of the consultation required ranges on a spectrum from notice to deeper ongoing consultation (Manley-Casimir, 2011), based on "the

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<sup>10</sup> Importantly, South Australia has developed a particular approach to native title 'settlement' focused on Indigenous Land Use Agreements (ILUA), which involves a process of negotiating outcomes (Australian Human Rights Commission, 2006). Despite this difference in land right regime, like Canada, in South Australia, "in all cases, the key to successful outcomes is involving Aboriginal groups in meaningful and honest consultation very early in any development proposal and maintaining respect and understanding throughout the whole process" (South Australian Native Title Services, n.d.).

strength of the claim, the degree of importance of the right, and the degree of potential for infringement” (Potes, 2006, p. 31). While it is the crown’s obligation to fulfil the DTC and (if appropriate) accommodate, procedural aspects of the consultation are routinely delegated to third parties, namely industry proponents (Department of Aboriginal Affairs and Northern Development Canada, 2011; Fidler & Hitch, 2007; Lem & Reiner, 2011; Natcher, 2001; Newman, 2009a; Robinson, 2007). The Supreme Court consultation trilogy was intentionally vague in its definition of this legal doctrine, with the explicit expectation that subsequent case law would develop the policy (Potes, 2006). Consequently, the form of the duty remains largely undefined and context-specific, has undergone many paradigm shifts, and is ever-evolving in its interpretation (Manley-Casimir, 2011; Newman, 2009a).

Australia’s right to negotiate, like the Canadian DTC, makes consultation among governments, third party beneficiaries, and communities compulsory when certain government actions are proposed, particularly if these actions could potentially extinguish rights of access (Lloyd, et al., 2005; Newman, 2009a). The right to negotiate only applies to certain future acts in Australia, such as compulsory acquisitions and mining (National Native Title Tribunal, 2009), and is based on statutory norms, as opposed to the constitution (Newman, 2009a). Section 29 of the *Native Title Act, 1993 (Cth)* is typically recognized as the trigger for this right (National Native Title Tribunal, 2009). However, negotiations (especially over resource development) are invoked by other legislation, such as the *Aboriginal Land Rights (NT) Act, 1976 (Cth)* (Everard, 2009). Indigenous peoples have gained a more prominent role in decisions affecting Lands and Waters of interest in Australia since the 1992 landmark *Mabo v Queensland* decision, which rejected the doctrine of terra nullius (that Australia was uninhabited at the time of contact) and recognized Aboriginal title rights at the outset of colonization (Behrendt & Kelly, 2008; Havemann, 1999; Lloyd, et al.; McRae et al., 2009; Meyers & Mugambwa, 1993; Newman, 2009a). *Mabo* incorporated Indigenous concepts of Land and property into Native title, and was intended to protect Indigenous Lands from use and development (Meyers & Mugambwa, 1993). Subsequently, the Australian government adopted the *Native Title Act, 1993* and amended the statutory framework in 1998 after debates ensued about the interpretation of *Mabo* (primarily in the *Wik v. Peoples of*

*Queensland* case) (Behrendt & Kelly, 2008; Newman, 2009a). That year, the Native Title Tribunal was developed as a mediation process for Native Title Claims and an onslaught of such claims ensued (Behrendt & Kelly, 2008, p. 16).

Indigenous education consultations are critical in the ‘post’ residential school/stolen generation era, as Indigenous peoples in both countries increasingly exercise self-determination in education (Assembly of First Nations, 2012; Rigney, 2003). Consultations conducted for the 1997 Human Rights and Equal Opportunity Commission’s (‘HREOC’) *Bringing them Home* report and the 199[6] *Royal Commission on Aboriginal Peoples*’ (RCAP) report brought the copious and considerable consequences of the paternalistic stolen generations and residential school policies to the Australian and Canadian public’s attention, respectfully (Cassidy, 2006). These genocidal policies were designed to assimilate Indigenous children into ‘White’ society by removing them from their Land, families, communities, language, and culture (Cassidy, 2006; Popic, 2007).<sup>11</sup> In addition to their genocidal purpose, conditions in many of these schools were inadequate and abuse was commonplace (Cassidy, 2006; Popic, 2007).

Australia and Canada’s federal governments have since formally apologized for their roles in these schools, and setup reconciliation initiatives (a commission in Canada) to educate others about this history (Popic, 2007). Canada’s \$3 billion *Indian and Residential School Settlement* also included \$1.9 billion for Common Experience Payments (CEP) to residential school survivors and additional funding for: particularly serious cases of physical and sexual abuse; commemorative events and memorials; and health and healing programs (Popic, 2007).<sup>12</sup> Australia established a *Stolen Generations Reparation Tribunal* in 2010 (this bill was first rejected in 2008) (The Parliament of the Commonwealth of Australia, 2010). However, the tribunal has not been mobilized to

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<sup>11</sup> In Australia, the first residential school was established in 1814 and in 1971 the Director of Native Affairs’ statutory power to remove Aboriginal children from their reserves was repealed. In Canada, Aboriginal churches created missionary schools in the 1600s. The federal government popularized these schools in the late 1800s when they began to partner with churches to run them, and assumed authority over them in 1969. The last Canadian residential school was closed in 1996 (Aboriginal Affairs and Northern Development Canada, n.d.a). Australia focused on children of mixed ancestry (Aboriginal and non-Aboriginal), while Canada focused on Status Indian children (First Nations with status under the Indian Act), despite ancestry (Cassidy, 2006; Popic, 2007). Although, ‘full blood’ Aboriginal children in Australia and non-status First Nations, Inuit and Metis children in Canada were also affected.

<sup>12</sup> From September 19, 2007 to June 30, 2012 105,032 applications were received and CDN \$1.614 billion was approved for payment, with an average of CDN \$20,603 paid per approved applicant (Aboriginal Affairs and Northern Development Canada, n.d.b).

compensate victims of the Stolen Generations on a large-scale comparable to Canada, despite the recommendations of the 2009 Public Interest Advocacy Centre's (PIAC) *Moving Forward Consultation Project* and the Australian Human Rights Commission in 2010 (Australian Human Rights Commission, 2010).

Consistent with Indigenous self-determination, increased Indigenous community control over their children's care and education (through government transfer of authority) was among the recommendations from the (1996 RCAP and 1997 HREOC) consultations leading up to and resulting from Canada's reconciliation commission, as well as the United Nations' *Declaration of the Rights of Indigenous Peoples* (Aboriginal Affairs and Northern Development Canada, 1996; Human Rights and Equal Opportunity Commission, 2010; Truth and Reconciliation Commission of Canada, 2012; United Nations, 2008). Nevertheless, both the Canadian and Australian governments have been less than proficient in consulting with Indigenous communities on an ongoing basis over decisions that will impact their education. Education consultations tend to be relegated to informal and less legally-charged terms, such as 'dialogues' and 'community engagement', despite the: existence of inherent Indigenous rights over education; historical significance of education as a weapon of genocide (evidenced by the residential school and stolen generations experience); and the inextricable link between Land and education for many Indigenous peoples.

In Canada, First Nations leaders across the country, including community leaders, and the Assembly of First Nations' National Chief Shawn Atleo, have publicly opposed the draft *First Nations Education Act* because of its paternalistic undercurrent and implications. Specifically, the Act proposes increased government control over First Nations' education and potentially decreased funding allocation, which threaten to undermine First Nations' control over the education of their children. Despite Aboriginal Affairs and Northern Development Canada's (AANDC) claims of extensive consultation in the development of this legislation, the draft does not reflect these voices (Aboriginal Affairs and Northern Development Canada, 2014). In 2014, the Harper Government engaged in greater consultation with First Nations communities and redrafted the legislation now entitled, the *First Nations Control of First Nations Education Act* (The Prime Minister of Canada – Stephen Harper, 2014). However, as claims are being settled

in both countries, the need for further consultation over the way in which such agreements are implemented is increasingly relevant and critical.

### 1.3 Brief Literature And Expert Narrative Review

The purpose of the literature and expert narrative review is to scope and, thus, position this thesis within Indigenous consultation discourse. The review focuses on three bodies of work:

- 1) consultations in Canada and Australia;
- 2) e-learning in Canada and Australia; and
- 3) consultations and e-learning.

In consideration of academia's historical marginalization of Indigenous peoples and their oral histories (Martin, 2008; Smith, 2012), I determined that a traditional scholarly literature review would not adequately express Indigenous perspectives. Therefore, I decided to identify and make such gaps visible as well as to incorporate consultation and e-learning expert narratives to better balance this review. (E-learning and consultation experts are individuals with extensive experience (ten years or more) and expertise in their respective fields. Most of these experts are current or former practitioners, and many are Indigenous.)

Together, literature and expert narratives reveal that while equivocal, consultations in both Australia and Canada share common challenges and leading practices. Specifically, consultations are often: lacking in Indigenous influence; couched within a Western framework of ideologies that are incompatible with Indigenous legal traditions; oppressive of communities; and ineffective in resolving disputes outside of the courts system (Anonymous, personal communications, May 14, 2012; May 15, 2012; May 17, 2012; May 19, 2012; May 23, 2012; May 24, 2012; May 25, 2012; May 31, 2012; June 12, 2012, June 13, 2012, June 18, 2012, July 16, 2012; March 22, 2013; Australian Human Rights Commission, 2011b; Behrendt & Kelly, 2008; Chartrand, et al.,

2008; Berg, 2011; Bignall, Rigney, and Hattam, 2014; Failing, Gregory, & Harstone, 2008; Fasoli & Farmer, 2012; Fidler & Hitch, 2007; Havemann 1999; Hemming, Rigney, & Pearce 2007; Ivison, 2003; Janke, 1998; Kingsley, Aldous, Townsend, Phillips, & Henderson-Wilson, 2009; Langton, 2004; Lloyd, et al.; Lem & Reiner, 2011; Lloyd, et al., 2005; Manley-Casimir, 2011; Moreton-Robinson, 2007; Natcher, 2001; Natcher, Hickey, Nelson, & Davis, 2002; Newman, 2009a; Ochman, 2008; Rigney, 2008; Robinson, 2007; Salter, 2009; Short, 2007; Wyatt, Fortier, & Martineau-Delisle, 2010; Wyatt, et al., 2010).

However, expert narratives reveal there are also many examples of meaningful and successful consultations. Scholars have proposed guidelines to meaningful consultation that while useful are too general to clarify these ambiguous processes. Experts provided some more robust, specific, and community-focused leading practices that support meaningful consultation, including:

1. balances focus on interests and rights;
2. initiated early;
3. relationship-based;
4. conducted according to a collaboratively established protocol agreement;
5. inclusive of community sub-groups;
6. culturally-relevant;
7. capacity-building;
8. facilitative of two-way, honest dialogue;
9. considerate of cumulative impacts.
10. flexible in providing ample time for community members to consult through their various networks;
11. conducive to unity of thought and collaborative decision-making; and
12. outcome-oriented, mutually beneficial, and reasonably accommodating.

E-learning literature is growing, although Indigenous e-learning literature remains sparse in comparison. E-learning in consultation represents a gap in scholarship, and the majority of experts have not experienced consultations where e-learning has played a role

in preparing the participants. Experts generally agreed that e-learning could be useful in the pre-consultation stage, especially in relation to capacity-building, but that it could not replace in-person meetings and its effectiveness is conditional.

## 1.4 Aim Of The Research And Research Questions

The overarching aim of this dissertation research is to work with two communities—the Carcross/Tagish First Nation (C/TFN) and the Narungga Community of Point Pearce (NCPPI)—to create and implement online tools that help organizations to navigate through the consultation process according to each respective community's protocol. The aim of these tools is to make consultations: meaningful, compatible with Indigenous legal traditions, equitable, and effective in achieving reconciliation.

Therefore, the primary research question I set out to answer is:

- Can an online education tool support consultation processes compatible with Indigenous legal traditions in case study communities in Australia and in Canada, and can such a tool facilitate more meaningful, equitable, and effective consultations?

Sub-questions include:

- What are the features and processes of meaningful consultation with the two case study communities?
- What are the challenges common to consultations with the two case study communities?
- What are the leading practices of meaningful consultation common to consultations with the two case study communities?

However, in order to answer this main research question, and the sub-questions, I had to consult extensively with the two Indigenous community case study research partners—C/TFN and NCPPI. Therefore, another research question emerged in the research process

the findings of which proved equally as significant to those that respond to the main research question:

- How can I effectively consult with Indigenous communities in Australia and Canada about consulting?

## 1.5 Relational Framework

This thesis embraces a critical theory paradigm that aims to effect change, empower people who are constrained via education, and emancipate those oppressed by colonial structures (such as the Western legal system) (Creswell, 2003). As such, the framework will draw on advocacy/participatory knowledge claims that are “[c]entred on [p]olitical empowerment [and that are] issue-oriented”; “[c]ollaborative”; and “[c]hange-oriented” (Creswell, 2003, p. 11). I use a relational framework based on the premise of *relatedness* and *relationality*—that all things are related and that relationships are foundational to everything (Martin, 2008; Smith, 2012; Wilson, 2008). This approach is represented through my interpretation of the Haudenosaunee Aterihwihsón:sera Kaswénta or “Two Row Wampum Belt” expressed diagrammatically in Figure 5. For the purpose of this thesis, the term ‘Kaswénta’ refers to the Aterihwihsón:sera Kaswénta.<sup>13</sup>



Figure 5. (Aterihwihsón:sera) Kaswénta as a Relational Framework. Adapted from Decolonize North America, by R. Mcguirk, 2012, retrieved from [http://decolonizenorthamerica.org/?page\\_id=103](http://decolonizenorthamerica.org/?page_id=103)

<sup>13</sup> Some knowledge keepers have shared with me informally that the term “Kaswénta (Guswentha)” actually refers to all things made of wampum (or agreements), although it is often mistakenly used to refer to the two row wampum belt. According to these individuals, the two row wampum belt is referred to as the Aterihwihsón:sera Kaswénta in Cayuga. However, the term Kaswénta may be used in this thesis in reference to this specific Aterihwihsón:sera Kaswénta for the purpose of accessibility and brevity.



The Aterihwihsón:sera Kaswénta is a wampum belt, which represents the original treaty between the Indigenous peoples of Turtle Island (North America) and Settler Canadians and records the covenant chain intended to convey the spirit and intent of their relationship through treaties and otherwise henceforth (Doxtater, 2011; Lyons, 1986; Muller, 2007; Stevenson, 2006). The agreement was made in 1613 between the Dutch and the Haudenosaunee (Six Nations) specifically with the understanding that it was to apply to Settlers and Indigenous peoples in Turtle Island forever. The white beads in the belt symbolize the “peace, friendship and respect” as well as “equality...dignity and a sharing of the river we travel on” that is intended to underpin the relationship between Indigenous and non-Indigenous peoples (Borrows and Turpel as cited in Williams, 2005, pp. 43-44). The two purple rows symbolize two vessels travelling down the river (of life), one a birch bark canoe in which First Nations peoples travel, and the other a ship in which the Europeans travel, each with their own values, customs, and laws (Doxtater, 2011; Lyons, 1986; Muller, 2007; Stevenson, 2006; Turner, 2006; Williams, 2005).

According to these knowledge keepers and scholars, the Kaswénta includes three key concepts that define the spirit and intent of all subsequent treaties. Specifically, they proclaim that First Nations and non-First Nations peoples shall: 1) be equals (described as brothers, in contrast to the paternalistic relationship imposed by the crown); 2) remain distinct (in their own vessels) and self-determined, without interference over one another’s lifestyles and affairs; and 3) co-exist harmoniously, and interdependently (Doxtater, 2011; Lyons, 1986; Muller, 2007; Stevenson, 2006; Turner, 2006; Williams, 2005).

This approach is intended to symbolize the reassertion of the Aterihwihsón:sera Kaswénta’s original spirit and intent of the relationship between Indigenous and non-Indigenous co-researchers in this study. Specifically, it calls for the separate but equal roles of Indigenous peoples represented by the First Nations birch bark canoe as Critical Indigenous Philosophy, and non-Indigenous peoples represented by the European ship as Unsettling Pedagogy, respectively. Moreover, it calls for the harmonious and interdependent co-existence of Indigenous with non-Indigenous peoples, represented through the River as Feminist Community Based Partnership Research (FCBPR). While

this framework holds significant meaning for both communities in terms of meaningful consultation and relationships broadly between Indigenous and non-Indigenous peoples, it conveys a specifically Haudenosaunee and generally Canadian First Nations' perspective. However, as a Settler Canadian, it is an agreement to which I am party.

## 1.6 Relational Protocol (Methodology)

Flowing from the Aterihsón:sera Kaswénta Relational Framework, the Aterihsón:sera Kaswénta Research Protocol (Methodology) is founded on the philosophy of relatedness/relationality as well. Consistent with this framework, Community Based Partnership Research was undertaken through a case study approach. This enabled the collection of rich qualitative data in both countries (Creswell, 2003). The case studies include the Carcross/Tagish First Nation (C/TFN) in Yukon Canada and the Narungga Community of Point Pearce (NCP) in South Australia. The basis for the inclusion of one Indigenous community in Canada and another in Australia is Cree academic Shawn Wilson's (2008) assertion in his seminal text *Research is Ceremony* that the research paradigms of Indigenous peoples in Australia and Canada are sufficiently similar for comparison. Equally, it was based on Newman's (2009a) contention that there is a lack of and, thus, need for Australian-Canadian comparative literature on Indigenous consultation, as well as the contention among Australian scholars (Dodson & Smith, 2003; Hemming, Rigney, & Pearce, 2007; Langton & Palmer, 2004) that the international arena generally and Canadian Settler-treaty context specifically can be drawn upon to support local Indigenous interests.

The validity of cross-cultural comparative studies is contested in legal anthropology, due to the diversity among and intricacies within Indigenous legal systems (Donovan, 2008). However, the *Unsettling Pedagogy* aspect of the relational framework employed positions Western legal institutions and practices in Australia and Canada as the object of study, which creates a sound basis of comparison. While the participating communities' Indigenous laws and legal traditions are considered in this thesis, they are

not subject to the same degree of analysis by virtue of the Critical Whiteness approach taken (which positions the institutions of ‘Whiteness’ as a construct as the locus of study).

### 1.6.1 Preparing and Working Together

The research protocol included obtaining ethics approval from the University of Wollongong’s Human Research Ethics Committee (HREC) and two overlapping and interconnected stages, each of which comprised different data collection methods and materials: 1) preparing (background/contextual research), and 2) working together (ethnographic fieldwork). Preparing (background/contextual research) included conducting a review of literature (70 documents) and interviews (22 in total, including 20 online and 2 in-person) with e-learning and consultation experts (academics and practitioners at least 10 years of experience in their field) focused on the background and evolution of consultations as well as consultation and e-learning. As aforementioned in the *Writing Matters* section, expert (academics or practitioners with at least 10 years of experience) narratives are included to honour oral traditions<sup>14</sup> (Wilson, 2008) and to provide space for the perspectives of practitioners and Indigenous peoples who have historically been marginalized within academia (Martin, 2008; Smith, 2012).

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<sup>14</sup> Specifically, I travelled from Attawandaron territory (London, Ontario) Canada to Dharwal Country (Wollongong, NSW, Australia) in February 2011 for orientation and to become acquainted with my Supervisors. I returned to Attawandaron territory (London, Ontario) in March 2011 and worked at a distance on my research proposal, so that I could help with and attend my sister’s wedding. I travelled back to Dharwal Country (Wollongong, NSW, Australia) in August 2011 and presented my research proposal. I also travelled to Narungga territory/Bookayana (Port Victoria, South Australia) where I commuted daily to the Narungga community of Point Pearce daily during a brief stay to present to the Point Pearce Aboriginal Corporation about the proposed project in October 2011. I travelled home to be with my family for Christmas in December 2011 and then to Kwanlin Dun territory (Whitehorse, Yukon Territory) for the Canadian portion of my fieldwork in March 2012. I stayed in Kwanlin Dun territory (Whitehorse, Yukon Territory) and commuted to Tagish/Tlingit territory (Carcross/Tagish First Nation) daily between March and July 2012. In August I returned to Attawandaron territory (London, Ontario) briefly en route to Dharwal Country (Wollongong, NSW, Australia). In February 2013, I travelled to Narungga territory/Bookayana (Balgowan, South Australia) where I commuted daily to the Narungga community of Point Pearce. In April 2013, I returned to Dharwal Country (Wollongong, NSW, Australia) to meet with my supervisors and debrief. In May 2013 I returned to Attawandaron territory (London, Ontario) to finish my thesis write-up and pursue a job position as First Nations, Metis and Inuit (FNMI) Education Advisor with the Thames Valley District School Board. I plan to return to Tagish/Tlingit territory (Carcross/Tagish First Nation community) in June, 2014 to present the findings of my research with the Narungga Community of Point Pearce (NCP) and overall, as well as to discuss next steps alongside a member of the NCP.

Working together included ethnographic fieldwork, which was conducted in the Carcross/Tagish First Nations (C/TFN) community between March and July 2012 and in the Narungga Community of Point Pearce (NCP) between February and March 2013. This involved a significant amount of travel across vast distances over the course of this project (Figure 6).<sup>15</sup> During this fieldwork, I conducted 42 (21 with C/TFN; 21 with NCP) research conversations and consultations (interviews with individuals), 6 discussion groups (3 with C/TFN; 3 with NCP), participant observation in 2 consultations (1 in C/TFN; 1 in NCP), a community ambassador exchange (involving one ambassador from each community visiting the other), the development of the online tools, and digital ethnography (the implementation and monitoring of online tools). The content of the C/TFN online tool has been monitored via online participant-observation over the life of the pilot project (the C/TFN website was piloted in July 2012-May 2013, and the Point Pearce Aboriginal Corporation (PPAC) website will be monitored once it is developed).

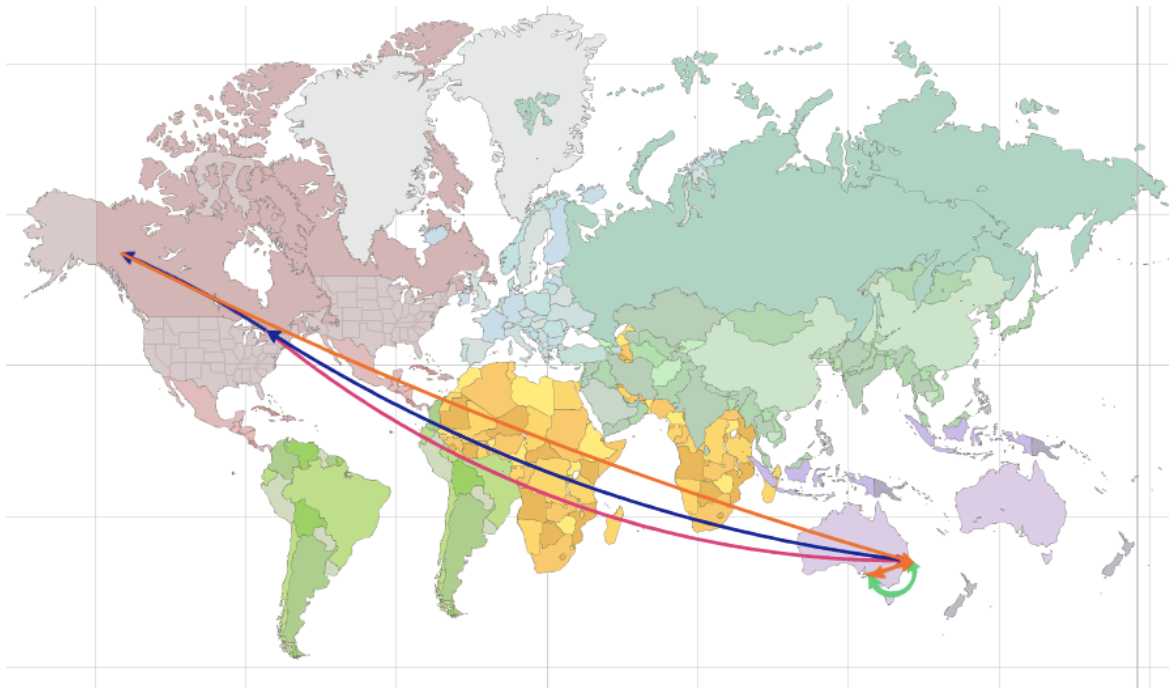


Figure 6. Map of my travels for this research project. Template Adapted from Prezi, retrieved from <http://prezi.com>

<sup>15</sup> While the anonymity of research participants is a condition of my Human Research Ethics Council approval, the anonymity of communities is not. I negotiated an MOU (Appendix A) to ensure joint copyright of this thesis among the University of Wollongong, and the C/TFN Executive Council and the Point Pearce Aboriginal Corporation.

## 1.7 Location And Participants

### 1.7.1 Location

The two communities featured as case studies in this project are the Narungga Community of Point Pearce (NCP), and the Carcross/Tagish First Nation (C/TFN). Brief descriptions and maps of each community are included below.

#### *1.7.1.1 The Narungga Community of Point Pearce (NCP).*

Point Pearce is a Narungga community, located nearby the Spencer Gulf on South Australia's Yorke Peninsula, approximately 115 km from Adelaide (South Australia Government, n.d.b) (Figure 7)<sup>16</sup>.

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<sup>16</sup> It should be noted that the boundaries of Aboriginal territories in Australia outlined in many maps are based on the contested work of Anthropologist Norman B Tisdale (Munro, 2014). See <http://tracker.org.au/2012/11/the-tindale-legacy/>

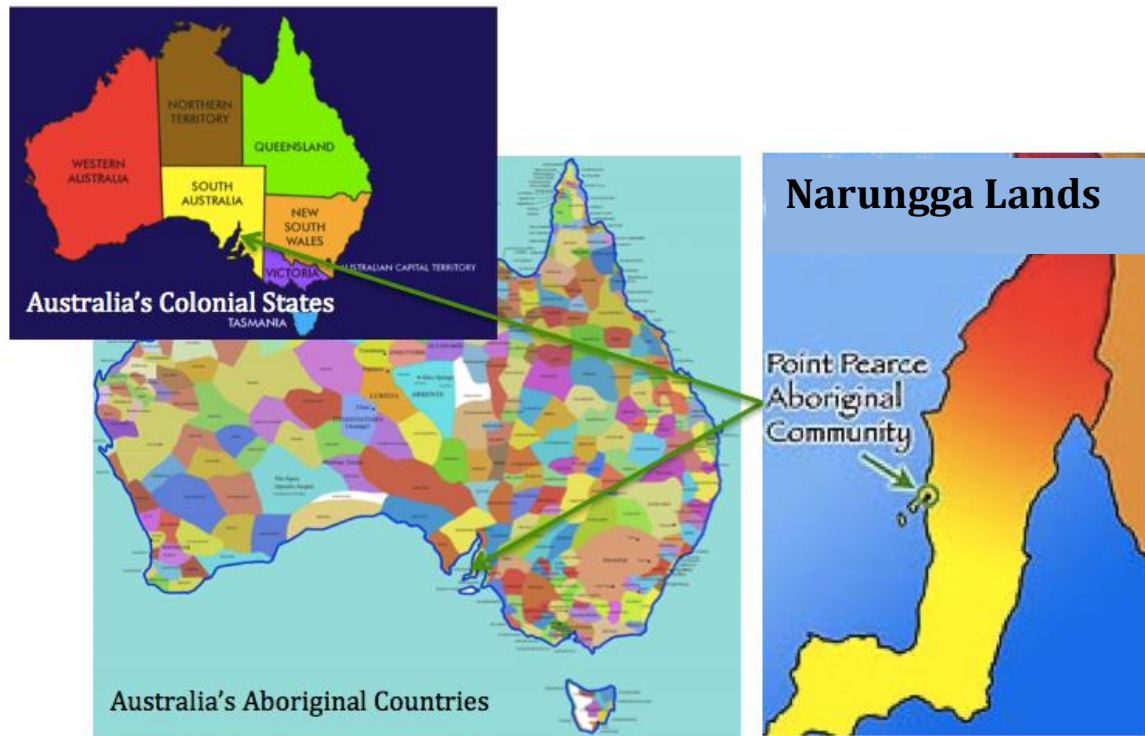


Figure 7. Map of the Point Pearce Narungga Community in Australia. Adapted from *Aboriginal Languages and Groups*, by Google Images, 2005, retrieved from <http://townsvilleplace.blogspot.ca/2013/02/aboriginal-languages-and-gropus.html>; *Australia States Rs01 - Australia maps*, n.d., retrieved from <http://mapsof.net/map/australia-states-rs01#.UmSiJuDhrZY>; *State Library of South Australia*, by Geospatial Services, National Native Title Tribunal, 2005, retrieved from <http://guides.slsa.sa.gov.au/content.php?pid=278586&sid=2307085>

#### 1.7.1.2 The Carcross/Tagish First Nation (C/TFN).

The Carcross/Tagish First Nation (C/TFN) community is located in Tagish/Tlingit country, 74 km from Whitehorse, Yukon Territory, Canada, and 110 km north of Skagway Alaska (White Pass & Yukon Route, Carcross/Tagish First Nation, and Yukon Government, 2005) (Figure 8).



Canada's and the Yukon's Indigenous Territories by Language Group with Colonial Provincial and Territorial Borders

Figure 8. Map of The Carcross/Tagish First Nation in Canada. Adapted from *Mount Logan Canadian Titan*, by Virtual Museum.ca, 2007, Retrieved from <http://www.museevirtuel-virtualmuseum.ca/sgc-cms/expositions-exhibitions/logan/en/index.php?/md/fnation/yukonfn>. Copyright [n.d.] by Yukon Native Language Centre; Who are the First Nations and Inuit People of Canada?, by Eco Kids, n.d., retrieved from [http://www.ecokids.ca/pub/eco\\_info/topics/first\\_nations\\_inuit/groups.cfm](http://www.ecokids.ca/pub/eco_info/topics/first_nations_inuit/groups.cfm). Copyright [n.d.] by Earth Day Canada.

Communities were selected based on existing relationships and purposeful sampling (Patton, 2002). Purposeful sampling was used to select information rich cases, the “insights and in-depth understanding” of which lend understanding to Indigenous consultations, particularly in a highly nuanced comparative legal anthropology context (Patton, 2002, p. 273). Moreover, empirical generalizations would be inappropriate in the Indigenous consultation context, since each case varies considerably. (Selection criteria are outlined in the *Chapter 4 – The Aterihson:sera Kaswenta as Relational Protocol (Methodology)*).

### 1.7.2 Participants

Six categories of participants took part in this research project, some of which overlap, including:

- 1) expert interviewees (consultation and e-learning specialists);
- 2) community ambassadors;
- 3) community participants;
- 4) governmental participants;
- 5) non-governmental participants; and
- 6) informal project contributors.

Like communities, participants were also selected based on purposeful sampling (Patton, 2002) and the aforementioned community selection criteria. Participants were primarily recruited via email and telephone, although a few were recruited in person.

## 1.8 Data Analysis

Data collected through all methods (ethnographic fieldwork, community ambassador exchange, expert interviews, interview and discussion group research consultations, intervention, digital ethnography, and post-intervention interviews) were analysed using thematic content analysis. This involved using a constant comparative coding method to identify themes as they emerged and manually organize corresponding data under these themes (Guba & Lincoln, 2000; Ritchie & Lewis, 2003; Silverman, 2000 as cited in Glasser & Strauss, 1967). Thematic content analysis was selected because it provides a systematic way to analyse and nuance rich data (Creswell, 2003; Stemler, 2001), promotes self-reflexivity, and conveys lived experience through story work, which lends itself to combatting internal colonizer currents (Denzin, et al., 2008; Marshall, 2001; McCaslin & Bretin, 2008; Wilson, 2008). Moreover, sample sizes were too small for rigorous quantitative analysis.



## 1.9 Chapter Outlines

This thesis is broken down into eight chapters, including this one. *Chapter 2 — Literature and Expert Narrative Review* positions this thesis within Indigenous consultation discourse by providing a critical review of literature and expert narratives in relation to: 1) consultations in Canada and Australia, 2) e-learning in Canada and Australia, and 3) consultations and e-learning.

*Chapter 3 — The Aterihwihsón:sera Kaswénta As a Relational Framework (Theoretical Framework)* provides an overview of the relational framework employed for this thesis, which is represented by my interpretation of the Haudenosaunee Aterihwihsón:sera Kaswénta (Guswentha) (“Two Row Wampum belt”). It combines Feminist Community Based Partnerships Research (FCBPR) with Critical Indigenous Philosophy and Unsettling Pedagogy. This chapter first describes my interpretation of the Kaswénta’s original intended sentiment to symbolize the relationship between Indigenous peoples and non-Indigenous Settlers. It is then divided into three parts, corresponding with the relational framework’s three macro methods: 1) the Birch Bark Canoe as Critical Indigenous Philosophy, 2) the European Ship as Unsettling Pedagogy, and 3) the River as Feminist Community Based Partnership Research (FCBPR). Each part contains an overview of literature on contributing theory and draws on metaphor to outline how the framework was applied to the project through its respective macro method.

*Chapter 4 — The Aterihwihsón:sera Kaswénta As a Relational Protocol (Methodology)* provides a full account of how the research was conducted through the lens of the Aterihwihsón:sera Kaswénta, as a relational framework. A rationale for the use of a case study approach is provided as well as key elements of the communities and individuals involved. The research process, including data collection methods and materials, are also detailed within an overview of the process’ two stages: 1) preparing (background/contextual research), and 2) working together (ethnographic fieldwork). Finally, the ways in which data were analysed is discussed.

*Chapter 5 — Findings* reports on the findings of this research project, drawing primarily on research conversations and participant-observation as well as data from literature and interviews with consultation and e-learning experts. First, this chapter

provides a brief comparative analysis of the C/TFN and NCPP communities to contextualize and nuance the findings for the reader. Second, this chapter presents a discussion of features and processes, challenges, and leading practices of meaningful consultation common to consultations with the two case study communities. Third, it presents information about how an online tool can facilitate more meaningful consultation, drawing on consultation and e-learning experts, scholarly literature and case study participants' informed narratives, as well as the results from the implementation of PPAC and C/TFN online consultation tools. Fourth, it discusses how the process of working with the C/TFN and PPAC on participatory research project about consultation helped to build capacity about community consultation protocol within and between communities and among organizations.

*Chapter 6 — Consulting About Consulting (A Metanarrative)* provides the findings that emerged from the process of consulting about consulting and which respond to the question “How can I effectively consult with Indigenous communities in Australia and Canada about consulting?” First, this chapter discusses the findings in the context of the education and learning processes that took place during the research. This includes learning from the Land, community, relationships, and the process. Second, it discusses specific findings in relation to my experience consulting about consulting. Third, it evaluates my consultation process using the findings from *Chapter 5* as criteria.

*Chapter 7 — Conclusion (The Beginning)* summarizes the research findings and provides recommendations for future research and actions. First, it summarizes the impetus for the research project and the main findings. Second, it summarizes the metanarrative of my reflections as a researcher consulting about consulting. Third, it interprets the collective findings and metanarrative within the broader context of consultations and e-learning. Fourth, it recommends future work on this project and others in the field. Fifth, it presents the reader with a call to action, which reiterates the significance of consultations.

## Chapter 2

# Literature And Expert Narrative Review

*“It is the notion of the superiority of empirical knowledge that leads to the idea that written text supersedes oral tradition.” (Wilson, 2008, p. 58)*

### 2.1 Introduction

The purpose of this review is to scope and, thus, position this thesis within Indigenous consultation discourse. A traditional scholarly literature review would not adequately convey Indigenous perspectives because academia has historically marginalized Indigenous peoples and their oral histories (Martin, 2008; Smith, 2012, Wilson, 2008). Therefore, I decided to identify and make such gaps visible, as well as to incorporate consultation and e-learning expert narratives to better balance this review. I use the term ‘expert’ in a subversive manner consistent with the decolonizing context of this thesis. This subversion of the colonial concept of ‘experts’ as elitist and oppressive creates space for those who have been historically marginalized within academia, such as Indigenous peoples and practitioners.

For the purpose of this thesis, e-learning and consultation experts are defined as individuals with extensive experience (ten years or more) and expertise in their respective fields. Most of these experts are current or former consultation and e-learning practitioners from Canada and Australia (and one from the United States) and many identify as Indigenous. They are referenced throughout as “Anonymous” to ensure that

the information they have provided will not be linked to them, as much of it is sensitive in nature. Protecting the anonymity of research participants was a condition of my University of Wollongong Human Research Ethics approval, as well as my personal preference to ensure the authenticity of the information collected and protect the privacy of these experts.

This chapter provides a critical review of literature and expert narratives in relation to: 1) consultations in Canada and Australia, 2) e-learning in Canada and Australia, and 3) consultations and e-learning. Figure 9 diagrammatically illustrates the plan for this review. “The evolution of land development consultations in Australia and Canada” has been covered in the Background and Significance section of *Chapter 1* to provide the reader with sufficient context. However, the remaining areas for inquiry are covered in this review, demonstrating the gap in discourse focused on the potential role of e-learning in consultations.

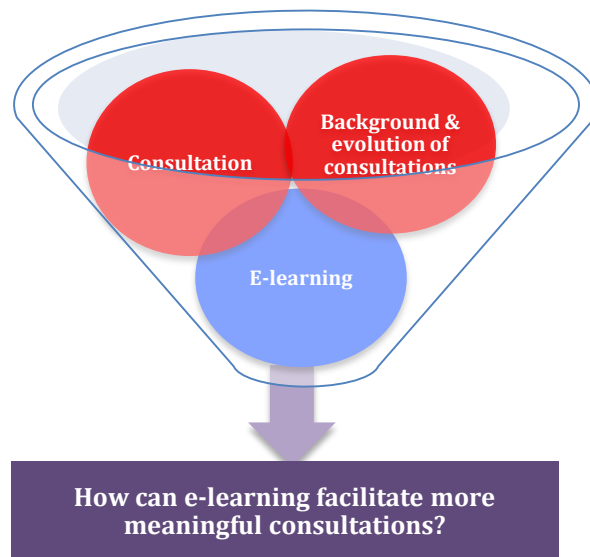


Figure 9. Literature Review and Expert Interviews Plan

## 2.2 Consultation In Canada And Australia

Consultation literature is somewhat limited, despite the fact that consultations are upheld as a priority for reconciling Indigenous with state interests in Canada and Australia. This could be because the term ‘consultation’ is less formalized in Australia.<sup>17</sup> Existing pockets of Canadian literature tend to focus on non-Indigenous, non-practitioner perspectives, including critical academic, federal government regulatory reporting, and/or pro-development industry-supported texts and Australian consultation literature which tends to provide broader theoretical and community based research on Indigenous settler relationships and agreement making as opposed to consultation specifically. While the literature tends to be pessimistic about consultations in their current form, the expert narratives provide many rich, real-life examples of successful processes and outcomes.

Several common themes emerged from an analysis of the literature and interview data. First, consultations are context-specific and, thus, vary considerably, which contributes to ‘consultation ambiguity’. Second, while the literature suggests that consultations are seldom meaningful or successful, the interview data corroborates some of the common challenges upon which these assertions are based, but also highlights some examples to the contrary. Third, solutions to meaningful consultation are examined. While the literature tends to focus on overarching approaches and guidelines, expert interviews provide insight into the elements of meaningful consultation.

### 2.2.1 Ambiguity

Both the literature and interviews revealed that consultation in Australia and Canada remains unclear (Anonymous, personal communications, May 14, 2012; May 18, 2012; May 25, 2012; May 31, 2012), although some interviewees suggested it is becoming clearer (Anonymous, personal communications, May 15, 2012; May 25, 2012).

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<sup>17</sup> As discussed in the “Background” section of *Chapter 1: General Introduction*, Canada is a treaty-settler nation wherein most Indigenous land claims are settled, Indigenous rights are constitutionally recognized, and a legal doctrine has been developed to govern consultations, the *Duty to Consult*. In contrast, Australia has no historic treaties is only now working toward problematic constitutional reference and has no equivalent to Canada’s *Duty to Consult* (In South Australia, consultation is encouraged through the Indigenous Land Use Agreement process).

One interviewee stated that there is sometimes clarity within parties, but not among them (Anonymous, personal communication, May 31, 2012).

In Australia, there is no equivalent to the Duty to Consult (DTC) (Behrendt & Kelly, 2008; Brennan & Crawford, 1990; McRae et al., 2009; Newman, 2009a; Short, 2007). Consequently, the consultation process in Australia remains ambiguous. For example, in the South Australian context, consultation is considered the first step in negotiating outcomes within the Indigenous Land Use Agreements framework (Australian Human Rights Commission, 2006; South Australian Native Title Services, n.d.). However, consultations may become better defined in Australia, as there is a growing movement for constitutional recognition of Indigenous rights in Australia (*Assembly Of First Nations*, 2013; National Congress of Australia's First Peoples, 2011).

In Canada, the DTC was deliberately constructed to be vague with the intention that the doctrine would evolve through court rulings, as they define and express Indigenous rights (Manley-Casimir, 2011; Newman, 2009a; Potes, 2006). While government has released general guidelines, experts hold that imposing protocol is paternalistic and that a "one-size-fits-all" approach is inappropriate because every community and consultation differs (Anonymous, personal communication, May 19, 2012). Communities have begun to develop their own protocols (Anonymous, personal communication, May 19, 2012), but the government prefers to streamline consultation using their protocol guidelines (Anonymous, personal communication, May 15, 2012). One expert stated the colonial government often ends up in litigation over their inconsistent approaches to consultation, "I continue to be amazed at how the federal government and provincial governments as well continue to get shipwrecked on the shoals of the ambiguity they have in [providing a] consistent, practical approach to implement[ing] duties" (Anonymous, personal communication, May 31, 2012).

The dual purpose of the DTC, as a mechanism for defining Indigenous rights and determining whether projects are justified, has reportedly contributed to consultation ambiguity as well. One expert explained that while proponents tend to focus on ensuring that they have adequately consulted and their project is considered justifiable given the potential infringement of an Indigenous right(s), communities are sometimes more concerned with defining and furthering their rights (Anonymous, personal

communication, May 31, 2012). However, this same expert attributed the propensity of communities to take a rights-based approach to the fact that, in his view, “Some Aboriginal negotiators are so tied into treaty negotiation culture that they’re still negotiating them” (Anonymous, personal communication, May 31, 2012).

Moreover, the crown’s routine delegation of the procedural aspects of consultations to third party organizations further contributes to this ambiguity because “[c]ompanies who are delegated to conduct procedural elements of the consultation aren’t always clear on what the procedural aspects are” (Anonymous, personal communication, May 14, 2012). A few experts stated that consultations stand to become even more ambiguous in Canada with the passing of Bill C-45<sup>18</sup>, which undermines the DTC (along with First Nations treaties’ and environmental legislation) to promote development (Anonymous, personal communications, May 19, 2012; May 25, 2012).

### 2.2.2 Lack Of Indigenous Influence in Decision Making

The literature suggests that consultations generally lack Indigenous influence in decision-making. One relatively comprehensive study found that Indigenous peoples only had influence in two of sixty-eight consultations examined with forestry industry representatives in Quebec and Indigenous influence was no greater in distinct consultations (specifically for Indigenous community members) than in non-distinct consultations (involving the general public) (Wyatt, et al., 2010). The study seemed to suggest that most of these consultations serve as information sessions rather than opportunities to engage the public and incorporate their concerns and suggestions (Wyatt, et al., 2010). It concludes in stating that, “If First Nations wish to have a direct role in decision-making for their traditional Lands, as is claimed in many negotiation and consultation processes, then it appears unlikely that existing consultation exercises will meet this expectation” (Wyatt, et al., 2010, p. 739). Similarly, a case study of the Atikamekw found that of twenty-two local consultations, none employed their preferred

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<sup>18</sup> This Bill undermines Canada’s legal *Duty to Consult* (DTC) Indigenous communities (as well as treaties and environmental legislation) in order to fast track development projects (For more information, see: <http://openparliament.ca/bills/41-1/C-45/>).

methods, which favour voicing local concerns and interests (Wyatt, et al., 2010). Moreover, only one of these consultations was aimed at influencing decision-making (Wyatt, et al., 2010). Nevertheless, caution should be taken in generalizing these findings beyond the Quebec forestry industry.

In a case study of the experiences of two Indigenous traditional landowners in Queensland involved in negotiations over a Regional Forest Agreement, one Elder remarked that, in his experience, Indigenous perspectives have been recorded, but disregarded or else misrepresented by decision-makers (Lloyd, et al., 2005). The Elder also observed that legislative constraints to Indigenous participation thwart influence (Lloyd, et al., 2005). While this study provides rich qualitative data, its sample size is too small to merit generalization even within the Queensland forestry industry. Taking caution in generalizing such viewpoints is especially critical, given the diversity of perspectives on development within and among communities and the inequitable representation of such perspectives in consultations (Lloyd, et al., 2005; Natcher, et al., 2002).

Although, these articles provide limited, industry-specific insight, their sentiments are reflected in the broader literature in Australia and Canada (Iverson, 2003; Natcher, 2001; Short, 2007). In the Canadian context, Natcher (2001) argues the vagueness of the DTC doctrine leads to procedural inconsistencies that constrain Indigenous influence over final decision-making. It is also important to note that the issue of Indigenous influence is not only about veto or final decision-making, but meaningful engagement throughout the process. In a study about Victorian Indigenous Land management projects, one participant mentioned the need to meaningfully involve Indigenous peoples from the beginning of the process throughout, as opposed to as an afterthought (Kingsley, et al., 2009).

When asked whether, in their experience, all parties have had equal influence over consultation outcomes, expert interviewees generally responded that Indigenous communities tend to have less influence because they tend to have fewer resources and less capacity (Anonymous, personal communication, May 14, 2012; May 15, 2012; May 19, 2012; May 25, 2012). One interviewee explained that communities are almost always limited in influencing consultation outcomes when they engage in consultations with



multinational resource companies because if these ‘multinationals’ encounter barriers, they can choose to work with Indigenous communities’ in another part of the world where Indigenous rights are less well protected (Anonymous, personal communication, May 19, 2012). In Canada, increased pressure for development has reportedly led to decreased rigor in terms of meaningfully considering and responding to Indigenous interests and concerns,

Government is still reconfiguring how it deals with Aboriginal groups and the economic imperative that is such a focal point and its always been there but its even more enhanced now is what kind of blinds government to what it ought to be doing so we have a propensity to do that which the courts have said we can’t which is make consultation ‘windowdressing’ (Anonymous, May 25, 2012)

Other interviewees suggested the degree of Indigenous influence varies by consultation and that, in some cases, communities actually most influence consultation outcomes (Anonymous, personal communications, May 15, 2012; May 25, 2012). In particular, one consultation expert explained that the company he represents provides Indigenous communities with veto over development projects (Anonymous, personal communication, May 14, 2012). However, experts also explained that systemic barriers could sometimes thwart communities from enjoying veto or ‘free and prior consent’ where it is offered (Anonymous, personal communications, May 14, 2012; May 15, 2012; May 25, 2012). For example, communities that are impoverished may not be well positioned to reject large-scale development projects and likewise communities that are governed by a leader who does not represent their interests well may not enjoy veto to its full extent.

### 2.2.3 Embedded Within A Western Framework

In connection with, and owing to, the limited ability of Indigenous participants to influence the outcomes of consultations are the problems inherent with embedding consultation within a Western framework that fails to adequately include Indigenous legal traditions. Several articles suggest Indigenous peoples are disadvantaged by the

Western enculturation of consultation frameworks. These frameworks tend to be based on Western ideologies, such as the ‘indivisible sovereign’ and ‘liberal-capitalism’, as well as the notions of: unrestricted access to and appropriation of different ‘knowledges’ and absolute truth, all of which conflict with many Indigenous value systems (Havemann 1999; Salter, 2009). The notion of the ‘indivisible sovereign’ upon which the Western legal system is built, negates legal pluralism altogether, which precludes Indigenous legal traditions and laws from the consultation process and outcomes (Havemann, 1999). This is problematic because “Respect and understanding of culture means recognising that there are two parallel and equal systems of law” (Janke, 1999, XXVVIII).

The values and rights liberal-capitalist frameworks prescribe to Land, as well as cultural and intellectual property are also problematic because they can conflict with Indigenous value systems. For example, liberal-capitalism tends to focus on individual rights and value Land and intellectual property as commodities to be commercialized (Behrendt & Kelly, 2008; Janke, 1998). In contrast, Indigenous value systems tend to focus on collective rights and to value Land and knowledge as sacred (interconnected with themselves) resources to be protected through custodianship (Behrendt & Kelly, 2008; Janke, 1998). Likewise, the Western-based systems (e.g. education, financial, legal, management, etc.) that flow therefrom retain and reflect these conflicting value systems, limiting and disadvantaging Indigenous participation (Behrendt & Kelly, 2008; Ivison, 2003; Lloyd, et al., 2005; Salter, 2009; Short, 2007). Langton and Palmer (2004) write about the effects of neo-liberal and colonial ideologies on such new policies as consultation,

The settler state benefits (as usual) from the exploitation of land and resources in the Indigenous domain, while Indigenous people extend their customary jurisdictions, in which the incidents of native title or customary property rights originate, into the modern economic and political sphere” (p. 49).

Hemming & Rigney (2010) also describe consultation as tokenistic,

Engagements that take the form of meetings, consultations and travel expense funds are a new form of the older ration system. These can be found in Aboriginal heritage, NRM, native title and ILUA negotiations. They provide a distraction and a token recompense for Indigenous leaders as their lands, waters and natural resources are further colonised and appropriated (p. 100)

In a study by Kingsley et al (2009), an Indigenous participant alluded to the critical importance of cultural protocols in consultations, stating, “There’s got to be appreciation and respect of our cultural protocols” (p. 117). Inupiat-Inuvialuit Associate Professor with the University of British Columbia’s Faculty of Law Gordon Christie has argued that consultations tend to be one sided, focusing on the government’s Land use agenda and overlooking the community’s interests (Manley-Casimir, 2011).

The experts interviewed generally agreed that community protocol and cultural traditions are increasingly included in consultations. However, few said consultations include Indigenous laws and legal traditions. Many interviewees mentioned the inclusion of hereditary chiefdoms, clan-based sub groups, and Elders, as well as the incorporation of Indigenous traditional knowledge, perspectives, and Land use practices (Anonymous, personal communications, May 15, 2012; May 18, 2012; May 23, 2012; May 25, 2012; May 31, 2012). Expert interviewees representing colonial governments and companies acknowledged the importance of dealing with sub-groups and following local protocols, but stated that they prefer a simple, streamlined approach, dealing with the broadest aggregate possible because parallel processes can create challenges (Anonymous, personal communications, May 15, 2012; May 18, 2012; May 25, 2012).

One expert stated his company included a First Nations’ traditional laws regarding environmental custodianship and their traditional talking circle dispute resolution process in their Impacts and Benefits Agreement (Anonymous, personal communication, May 14, 2012). However, another expert explained that some Indigenous communities lacked knowledge about and consensus on what constitutes their laws and legal traditions,

... many communities are just reinventing themselves and rediscovering and trying to piece together from oral histories and from people that know a little bit or from other groups...their own histories their own legal traditions, their own governance system...a lot of times they just don’t exist right now...(Anonymous, personal communication, May 19, 2012).

According to another expert, attempts to include traditional law in consultations with communities that lack consensus on the subject have sometimes created community

divisions and conflict (Anonymous, personal communication, May 31, 2012).

Importantly, Rigney (2008), in reference to the Howard government years in Australia, raises concern over the propensity of these processes to attempt to integrate Indigenous knowledge into Western systems, which are colonizing. Pearson (2002) further argues this raises concerns about the potential for overregulation and discrimination of traditional rights in relation to commercial rights.

Consistent with this concern, most experts were hesitant to view such traditions as “legal” and such knowledge as “law”, preferring the terms “norm...[and]...cultural practice” and instead referring to their inclusion as a matter of community protocol (Anonymous, personal communication, May 31, 2012). In Australia, the *Native Title Agreement* does not provide for self-government or customary law (Langton, 2004). In Canada, one federal government representative explained that Indigenous laws might be viewed as infringing upon federal and crown jurisdiction, stating,

...as a government we're not willing to let go of jurisdiction very readily...we're not wanting to reconfigure how we govern so we would have difficulty getting to a place where we really take into account laws and constitutional elements that groups come to the table with. The only exception would be where we negotiate those things into a modern treaty agreement... (Anonymous, May 25, 2012)

Furthermore, one Canadian lawyer interviewed explained that Indigenous laws and legal traditions are often “impotent with respect to their actual application...[and] will have minimal effect even though...[Indigenous communities are led to]...believe that they're solid in terms of traditional law...(Anonymous, personal communication, May 31, 2012). He stated that while modern treaties in Canada often afford equal treatment to Indigenous communities' traditional laws and practices in decision-making, this seldom occurs in practice (Anonymous, personal communication, May 31, 2012). He attributes this to “a problem of translation conceptually” in which “Aboriginal governments have had a difficult time articulating their...[Traditional Knowledge]...in a way that can inform a decision”, given the “inherent bias towards science-based evidence within the courts and within regulatory decision making” (Anonymous, personal communication, May 31, 2012).

One extreme example of Western enculturation in consultation is the

homogenization of consultation processes, or non-distinct processes aimed at Indigenous and non-Indigenous peoples alike. This approach dismisses and undermines the unique relationship Indigenous peoples have with the Land and the crown and their inherent special rights that flow from these unique relationships. Wyatt et al.'s (2010) study found that non-distinct processes for Indigenous people often tend to be finite, offer less time for comments, and make funding for assistance and resources for capacity development less readily available (Wyatt et al., 2010). Conversely, in some instances distinct processes are jointly developed and Indigenous participation is welcomed throughout the process (Wyatt et al., 2010). Perhaps most importantly, the study also found that distinct processes often lead to distinct-continuous agreements, (such as the James Bay Northern Quebec Agreement), which might align with communities' broader goals (Wyatt et al., 2010).

Natcher et al. (2002) assert that where attempts have been made to include Indigenous communities in land management processes, Indigenous cultures and preferences have been homogenized. They argue that community land management systems often adopt the top-down approach of western systems so that sub groups' (often gender- and age-specific) interests are overlooked in the same way that Indigenous interests tend to be overlooked in the broader scheme (Natcher et al., 2002). This lack of inclusiveness dissuades community members from participating, further perpetuating the cycle (Natcher et al., 2002). Lloyd et al. (2005) also contend that consultations fail to accommodate the diverse languages, cultures, generations (youth are often excluded), and interests of Indigenous groups and that wider community engagement is needed.

Community representation was raised as an issue in expert interviews as well. One expert stated that "It's mostly Elders who are educated on culture - they're watching us struggle and are frustrated, but [it's] mostly young people who are not as engaged with culture and community, but educated in White world who sit on boards" (Anonymous, personal communication, May 17, 2012). She argued that there is "a lack of representatives who truly represent [the] community because in becoming educated community members also lose their connectedness with the community and become colonized" (Anonymous, personal communication, May 17, 2012). Hemming, Pearce, and Rigney (2007) and Pearson (2011; 2009) have also written of instances in which

Australian consultations have failed to include Indigenous leadership. Hemming, Pearce, and Rigney (2007) also refer to the exclusion of Indigenous peoples in Australia from engagement in decision-making related to economic or political interests, confining their involvement to cultural and/or ecological interests.

Moreover, several other expert interviewees stated that lawyers often attend consultation meetings, which sets a litigious tone and imposes a Western legal culture on what is intended as an alternative dispute resolution process (Anonymous, personal communications, March 15, 2012; May 17, 2012; May 19, 2012; May 23, 2012; May 31, 2012).

#### 2.2.4 Oppressive of Indigenous Communities

The Western enculturation of Australia's and Canada's legal systems have extended to Alternative Dispute Resolution (ADR) processes along with the power imbalances inherent therein; whereby, Indigenous peoples are disempowered and proponents empowered, due to the socio-economic and psycho-historical impacts of ongoing colonization (Behrendt & Kelly, 2008). The limited accessibility of a framework built upon Western ideologies, paired with this socio-economic disadvantage, has led to capacity challenges among Indigenous communities (Janke, 1998; Lloyd, et al., 2005). Indeed, the literature suggests that Indigenous communities are generally disadvantaged in consultations by a lack of capacity and resources, compared with the crown and industry proponents who consult on their behalf (Behrendt & Kelly, 2008; Lloyd, et al.; Newman, 2009a).

This supports Moreton-Robinson's (2007) contention that the "logic of patriarchal white sovereignty" ...is continually reaffirmed in the relations of power found in spaces such as natural resource management" (p. 112). Berg (2011) points out that the Indigenous communities are further oppressed by the forced nature of this system, as

Engaging with State institutions both creates and threatens our existence as Indigenous peoples. However, disengagement from State mechanisms is not a choice in settler societies where the relationship between Indigenous peoples and the State continues to be constructed (p. 541)

In the context of the Ngarrindjeri Nation in South Australia, Bignall, Rigney and Hattam (2014) support Moreton-Robinson's contention,

the law in South Australia (indirectly) upholds the privileged interests of non-Indigenous South Australians, who effectively maintain a (presumed universal) sovereign control over political decisions about resource management, economic development and cultural representation (p. 15).

In Kingsley et al (2009) both a Boonwurrung Elder and Yorta Yorta traditional custodian explained that communities in their regions were under-resourced and, in turn, their more active community members were overworked. Expert interviewees corroborated that many communities are inundated with requests for consultations for which they are under-resourced to address, resulting in "consultation fatigue" (Anonymous, personal communications, May 19, 2012; May 24, 2012; May 25, 2012). Fasoli and Farmer (2012) use the analogy of a tsunami to describe the "waves" (pp. 16-17) of non-Indigenous Australians who enter Indigenous communities to consult over Early Childhood Education. Tess Lea (2008), in her landmark book *Bureaucrats and Bleeding Hearts*, terms over-consultation in this regard as "professional loitering" (p. 98).

One expert stated, "We get fifteen to twenty calls to initiate duty to consult a day. We don't even know what to do; we don't have the capacity to answer the calls" (Anonymous, personal communication, May 19, 2012). Expert interviewees explained that many Indigenous communities that fit this profile use "sit down fees" to streamline consultation requests. They require these fees before they are willing to consult to: 1) ensure the proponent is serious; 2) ensure the proponent has the means to accommodate them; and 3) pay for the time of community members who will be involved (Anonymous, personal communications, May 19, 2012; May 24, 2012).

Many consultations are also oppressive of Indigenous communities that lack the expertise to consult on equal footing because "they haven't had access to the information that they need to be effective" (Anonymous, personal communications, May 19, 2012; May 24, 2012). For example, Rigney (2008) writes that Indigenous communities are poorly resourced compared with consulting firms that are hiring graduates with various technical specializations. Hemming, Rigney and Pearce (2007) have asserted that limited

timeframes within the ILUA framework have represented a challenge for Ngarrindjeri leaders,

Local negotiations and planning are often determined by the timetables and plans of the state-wide strategy. The pressures and demands on such groups as the Ngarrindjeri are urgent and often cannot be delayed to meet the long-term planning of the government in relation to ILUAs (p. 226).

Langton (2004) also points to capacity issues in both South Australia and Canada.

Several experts stated that many Indigenous communities lack capacity, compared with their crown and industry counterparts, in business, law, economics, and other areas that can prove beneficial during consultations generally, as well as industry-specific technical knowledge (Anonymous, personal communications, May 15, 2012; May 19, 2012; May 23, 2012; May 24, 2012). For example, experts stated that, in their experience, Indigenous communities often lack negotiating capacity, “[they]...often don’t know what to ask for [,]...how big these projects can be and how much they can benefit from them” (Anonymous, personal communication, May 19, 2012). Consequently, communities sometimes undersell themselves or otherwise scare developers off with unreasonable expectations based on ‘hearsay’ from other communities who have consulted over incomparable projects (Anonymous, personal communications, May 19, 2012; May 24, 2012; May 31, 2012). Moreover, communities are often intimidated by these capacity differentials, which can inhibit relationship building (Anonymous, personal communication, May 19, 2012).

Experts stated that federal government, provincial/territorial/state government, and third party delegates often help support the communities with which they consult to engage on equal footing by providing them with independent consultants or otherwise training, education, and employment opportunities to build capacity (Anonymous, personal communications, May 19, 2012; May 24, 2012). However, one interviewee stated he had worked with communities that have been taken advantage of by ineffective consultants (Anonymous, personal communications, May 19, 2012; May 24, 2012). Although Wyatt et al.’s study (2010) found that capacity development funding is more accessible to Indigenous peoples, communities remain disadvantaged by resource and financial differentials that outweigh such preferential treatment.



Consultations can be especially oppressive of impoverished or high needs Indigenous communities. One interviewee stated, “a lot of times [developers] come in for one hundred to two-hundred million dollar propositions and all they’re asking for is jobs” because basic needs are more urgent than long-term community wealth and well-being (Anonymous, personal communications, May 19, 2012; May 24, 2012). In such instances, communities can undersell themselves in negotiations by focusing on more immediate outcomes out of necessity, such as lump sum payments and job creation, or procurement rather than the longer-term benefits that come with revenue sharing, business partnerships, and capacity building. One expert interviewee explained, “...They either want cash or jobs and that’s it. That’s all they can see because there’s like these massive blinders of abject poverty...there should be so much more” (Anonymous, personal communication, May 19, 2012).

In addition to resource and expertise capacity, the literature has also criticized the diminished role of government (as the crown routinely delegates the procedural aspects of consultation to industry proponents) in these processes as oppressive of Indigenous communities (Fidler & Hitch, 2007; Natcher, 2001; Newman, 2009a; Lem & Reiner, 2011; Robinson, 2007). Natcher argues that industry faces a conflict of interest when acting on behalf of the crown because industry’s interests often conflict with those of the community (2001). Experts support Natcher’s contention, explaining that the honour of the crown is to “protect the interest of the community” in order to fulfil its functions of defining and giving expression to Indigenous rights (Anonymous, personal communications, May 19, 2012; May 31, 2012). However, this is “an inherent conflict of interest because government is obviously persuaded by big business” (Anonymous, personal communications, May 19, 2012; May 31, 2012).

Moreover, experts have questioned the degree to which the delegated aspects of consultation are procedural in nature, as one stated “The government wants the company to deal with the First Nation until they have a solid agreement. Well, that’s not process; that’s substantive conclusion...but because government says it’s not until they agree to it...[it’s considered substantive]” (Anonymous, May 24, 2012). Another stated “...delegation is occurring without anybody really delegating anything... it’s happening in spades across the country but there’s no rigour around it...how can...[the crown]...say

if [the consultation] has been adequate when [it doesn't] know half of the story?" (Anonymous, personal communication, May 31, 2012).

Natcher (2001) regards the delegation of third parties in consultations as inconsistent with the nation-to-nation consultation process many communities desire. One expert explains further that "many First Nations [in Canada] do not recognize provinces because they never signed an agreement with provinces...[therefore,] ...they want the [federal] government in there as part of the process (Anonymous, personal communication, May 24, 2012). He also explained that, as the "thin edge to the wedge", government is well positioned to project cumulative impacts (Anonymous, personal communication, May 24, 2012). Last, Fidler and Hitch (2007) assert that unmediated corporate dealings with communities can result in wealth disparities when decision-making does not represent its collective interests and members do not equally share benefits.

Conversely, Newman (2009a) argues for the merits of diminished government involvement in consultations, noting that, while time-consuming and costly, it provides a competitive advantage for companies in Australia where compensation can be traded for the right to negotiate. Pearson (2009; 2010) argues that the Australian government has used consultation to promote environmentalist agendas that undermine community desires for sustainable development, manipulating the outcomes through funding and handpicking the stakeholder groups. In this regard, he argues government use Indigenous communities as pawns for their own political purposes (Pearson, 2011).

Several experts also stated that government involvement in consultations has complicated the process and has generally "not worked well", and that communities would prefer that government did not attend consultation meetings (Anonymous, personal communications, May 15, 2012; May 19, 2012; May 24, 2012; May 25, 2012; May 31, 2012). Moreover, as one government representative interviewee explained, consultation outcomes are often better achieved through working with third party organizations, "reconciliation ...[,which]...we're asked by the courts to strive towards in our dealings with Aboriginal groups, can be achieved through a...pragmatic approach as opposed to a rights focused process...I think that is accommodation..." (Anonymous, personal communication, May 31, 2012).

Last, even the benefits of accommodation that flow from consultations can be oppressive of Indigenous communities when they contribute to existing wealth disparities. Several experts explained that some Indigenous communities have oppressive governance practices in place that favour certain clans or families such that they remain in power, retain the majority of community wealth, and make decisions for the benefit of their families as opposed to the broader community (Anonymous, personal communications, May 19, 2012; May 24, 2012; May 31, 2012). Government or other organizations conducting the procedural aspects of the consultation are not always privy to local politics. As one government representative put it

...Pickup trucks for the band council and chief...that wouldn't be a good suite of benefits that the honour of the crown would want to support. And, yet, if we don't know what's going on, how can we know if that's what triggered the support of the community? (Anonymous, personal communication, May 31, 2012)

While government and third party organizations have limited control over how money is spent, the community may still hold them accountable for such inequities. As one interviewee put it, "If all the sudden the chief has a truck and you got a deal...you've got a problem down the road" (Anonymous, personal communication, May 24, 2012). However, consulters avoid interfering with local politics because it could be viewed as paternalistic (Anonymous, personal communications, May 19, 2012; May 24, 2012).

### 2.2.5 Ineffective In Resolving Disputes

That many cases involving consultation end up in litigation, despite the fact that consultations are intended as an alternative (to the courts) dispute resolution mechanism, evidences the need for improvement in the consultation framework and/or way in which it is implemented. Ironically in some places, such as the Canadian province of British Columbia, the release of consultation guidelines have resulted in cases flooding the court system (Failing et al., 2008). Litigation is time-consuming, complex, and costly and can still leave all parties unsatisfied (Chartrand, et al., 2008; Newman, 2009a; Ochman, 2008). Indigenous peoples are often disadvantaged in litigation because of their limited budgets and capacity in the Western law context (which often conflicts with fundamental

Indigenous cultural values and laws) in comparison to industry and crown proponents (Ochman, 2008). However, Natcher (2001) holds that litigation will continue and escalate until government devises an equitable consultation framework.

In 2001, the Australian Human Rights Commission (then Human Rights and Equal Opportunity Commission) hired Rhonda Kelly and Ciaran O’Faircheallaigh to conduct a study on native title, agreement-making, and corporate social responsibility in Australia (Australian Human Rights Commission, 2001). While much of the information obtained about agreements observed in Australia (and one in Canada) is confidential, some background information was released and showed that of nine agreements observed: four involved legal requirements to negotiate, seven involved consultations with Indigenous groups, and seven resulted in Memoranda of Understandings (MOUs) as part of negotiation protocols (Australian Human Rights Commission, 2001). This suggests that the participating mining companies were proactive in consulting with Indigenous groups even where negotiation was not legally required, and MOUs play an important role in this process (Australian Human Rights Commission, 2001). Interestingly, the government was only involved in two cases, which supports the contention that the crown is devolving its DTC responsibilities to corporations, especially in Australia (Australian Human Rights Commission, 2001). The vast majority (eight out of nine) of the agreements considered included employment and educational, business and contracting (procurement), and cultural heritage opportunities and benefits. However, most excluded environmental management provisions (five out of nine) or support for Land title recognition (eight out of nine). According to Everard (2009), research shows that the inclusion of environmental management and cultural heritage issues in negotiated agreements is critical to minimizing negative cultural and social impacts on communities. Taken together with the findings from Kelly and O’Faircheallaigh’s study, this provides some evidence that heritage issues are adequately included in some of these agreements to have the intended positive socio-cultural impacts, but there is a need to better integrate environmental protection provisions. However, the sample size for this study is too small, and more information is needed on the perceived level of interest and satisfaction of Indigenous communities in these agreements, to draw such conclusions with certainty.

While the literature is generally pessimistic about the effectiveness of

consultations in resolving disputes, the expert interviews provide greater nuance. One expert stated that consultations with Indigenous communities usually end up in the courts (Anonymous, personal communication, May 19, 2012). However, a few of the other experts said their companies have either never or rarely ended up in litigation over consultation (Anonymous, personal communications, May 23, 2012; May 25, 2012; May 31, 2012). Though, this lack of litigation might be attributed to the fact that these practitioners are regarded as leaders in consultation and Aboriginal relations generally.

Another expert stated that the absence of litigation should not be equated with the effectiveness of a consultation (Anonymous, personal communication, May 31, 2012). He explained that Indigenous communities have often used the courts to further their rights, and that such consultations could be considered effective in fulfilling one of the DTC's functions in this regard (Anonymous, personal communication, May 31, 2012). Moreover, he argues that it would be a mistake to assume that consultations that do not result in litigation are effective, as this may "speak more to the capacity of communities to challenge the government and the processes that are in place" (Anonymous, personal communication, May 31, 2012). Moreover, another interviewee explained that court litigation is not always the end of a meaningful relationship with an Indigenous community, "sometimes we can divert to a court decision on one issue and continue to work outside of the system on other matters" (Anonymous, personal communication, May 25, 2012). Last, one expert stated that consultations are generally effective in regards to protecting Indigenous rights, but ineffective in facilitating meaningful dialoguing with Indigenous communities about cumulative effects (Anonymous, personal communication, May 15, 2012).

### 2.2.6 Assimilation vs. Decolonization

While there appears to be a relative consensus regarding most of the problems inherent in consultations, the literature is much more divided on proposed solutions. At one extreme of this dialogue are those calling for decolonization of the system, such as Taiaiake Alfred, Kevin Gilbert, and Irene Watson who hold that effective consultation cannot occur within the Western legal system (Iverson, 2003; Short, 2007; Watson, 2002).

Watson argues that equitable treaty making requires decolonization, which negates the purpose of treaty making. Therefore, decolonization is requisite to everything else:

[i]f we were to have all of that returned to us what would be left to agree to? Peaceful co-existence perhaps...until we reach a place of the fullness of equality, we will remain in the business of burying the dead and struggling to save Nunga [(Aboriginal Australian)] lives from the ongoing struggle against genocide (Watson, 2002, par. 5).

At the other extreme, are those calling for assimilation, who promote the elimination of Indigenous special rights through the abolition of the *Indian Act* and the privatization of Indigenous Lands, such as Tom Flanagan (along with Christopher Alcantara and André Le Dressay), in *Beyond the Indian Act: Restoring Indigenous Property Rights* (2011), and Frances Widdowson and Albert Howard, who take a social Darwinist standpoint in positioning Indigenous cultural preservation as deprivation in their book *Disrobing the Indigenous Industry: The Deception Behind Indigenous Cultural Preservation* (2008). The first standpoint rejects all systems that are currently in power, which makes it unworkable in the short term. The second is essentially ‘assimilist’, harkening back to white paper liberalism and the United States’ *Dawes act* (in the case of Flanagan), which resulted in the dispossession of Land from American Indians.

### 2.2.7 Consent, Consensus, Compromise, Reconciliation, Conflict Resolution, Principled Negotiation, and Peacemaking Circles

The middle ground is somewhat less contentious, most scholars agreeing that consultations must include concessions from Indigenous as well as industry and/or government participants. However, scholars offer an array of theories on how this can best be achieved, including: consent, consensus, compromise, reconciliation, conflict resolution, and peacemaking circles in consultation frameworks. Mullen (2008), Newman (2009a), and Ochman (2008) argue that consultation remains tokenistic without Indigenous veto. Both Australia and Canada are signatories of the *United Nations Declaration on the Rights of Indigenous Peoples*, article 19 of which calls for “Free, prior and informed consent”, but neither country honours this article (Moreton-Robinson, 2011; Ochman, 2008, p. 350).

The experts seemed to struggle most in responding to whether they felt Indigenous communities should have veto over development. A few experts argued that communities should have veto, including one company that provides communities with a de facto veto and has been very successful with consultations as a result (Anonymous, personal communications, May 14, 2012; May 19, 2012). However, most experts argued against blanket veto, instead advocating for the sliding scale laid out in the Canadian courts, of which consent is one extreme (Anonymous, personal communications, May 15, 2012; May 25, 2012). One of these experts, however, stated that there have been instances in which government should require free and prior consent from communities and has not done so (Anonymous, personal communication, May 15, 2012). Another expert argued Indigenous communities should have a “final say” over how development occurs but not whether it occurs,

I think they should have a right to say, ‘Not that way...don’t build a road there. Build it here’...or ‘don’t put a big dam up, put a series of small ones up its easier for the animals and better for the environment and by the way we’re entitled to something too because we agreed to share the resources’...so I think its not a question of yay or nay it’s a question to how and when (Anonymous, personal communication, May 24, 2012)

One expert explained her indecisiveness on this issue, “I put on the Aboriginal hat and say absolutely...and then I think of the development opportunities where just the sheer fact that industry is next door gives the Aboriginal communities such a hand up not a hand out” (Anonymous, personal communication, May 23, 2012). In keeping with a protectionist view of Indigenous state relations and in reference to the Government of Australia’s Northern Territory Intervention, Pearson (2012) argues that foremost governments must protect Aboriginal rights and that this might take priority above consent.

Doelle and Sinclair (2005) advocate for consensus based decision-making in environmental assessments consultations. They define consensus as “agreement among spatial communities and communities of interest that the project will make a net contribution to sustainability” and recognize that “individual feelings about the suitability of the project to proceed may still differ” (Doelle & Sinclair, 2005 p. 188). Conversely,

experts stated that communities are often divided and fail to reach consensus internally and, therefore, consensus should not be the objective (Anonymous, personal communications, May 14, 2012; May 15, 2012; May 19, 2012; May 25, 2012). Hilson (2002) also argues that reaching a consensus is unrealistic and instead asserts that the goal should be compromise in which both the development (in this case a mine) and community “can co-exist in harmony” (p. 70). Moreover, while Doelle and Sinclair’s model may have its merits in application with the general public, its design does not account for the Indigenous-specific concerns that arise with distinct consultation, such as special rights, Indigenous legal traditions, and culturally appropriate methods of consultation. Importantly, Hemming and Rigney (2008; 2010) have argued that the ‘decentering’ of non-Indigenous ‘experts’ from negotiations with Indigenous groups is critical.

Manley-Casimir (2011) argues that reconciliation is required, describing this as a new relationship among Indigenous peoples, government, and industry founded on respectful dialogue and in which Indigenous concerns influence decision-making processes in a meaningful way. She takes her argument a step further in reference to Mark Walter’s (2006) conception of “mutual reconciliation”, which proposes a constitutional middle ground composed of both Indigenous legal traditions and Western common law (2011, p.38). In support of her legal pluralist view, Manly-Casimir (2011) references the Supreme Court of Canada, “Here, the court formulates reconciliation as a bridging concept that equally values pre-existing Indigenous cultures and non-Indigenous societies” (p.33). Her view of reconciliation, or the restoration of government relations with Indigenous peoples, as the intended purpose of consultation aligns with that of the Australian and Canadian governments’ (Australian Human Rights Commission, 2011b; Department of Aboriginal Affairs and Northern Development Canada, 2011). Expert accounts of the consultation reality in these countries, however, suggest there is dissonance between the stated purpose of consultations and how they occur in practice.

According to Behrendt (2003), “reconciliation can only occur when sovereignty is acknowledged through the recognition of past injustices, property rights and cultural practices” (as cited in Kingsley et al, p. 114). This is supported by the testimonials of Indigenous participants in the study by Kingsley et al (2009), who emphasized the



importance of recognizing Indigenous peoples as land managers and—more importantly—as original custodians. While in 2001, Natcher argues for “the reorientation of government hegemony by enabling Indigenous communities to express concerns and aspirations within a framework that acts upon the fundamental rights of Indigenous resource users” (p. 120), in 2002, he shifts his argument with Hickey, resolving that conflict resolution frameworks would be more effective in consultations than attempting to tackle ideological issues.

Fisher and Ury’s (1983) landmark text *Getting to Yes: Negotiating Agreement without Giving In* continues to be upheld for its insights on negotiations broadly. The principled negotiation approach it recommends remains largely relevant in today’s negotiation landscape, including its four tenets: 1) separating the people from the problem, 2) focusing on interests not positions, 3) generating options for mutual gain, and 4) insisting on using objective criteria (Fisher & Ury, 1983). However, some of its insights do not translate into the context of Indigenous consultations. For example, some experts and scholars might argue that rather than separating people from the problem, as might be useful in more of a strictly business type model, building a strong relationship based on trust and respect is integral to Indigenous consultations. Moreover, the focus on interests instead of positions can be problematic where one proponent fails to understand the dual purpose of some consultations in defining rights. While giving expression to Indigenous rights may not be of interest to proponents, it may be the priority of the community.

Last, one of the expert interviewees recommended Pranis, Stuart, and Wedge’s (2003) work on Peacemaking Circles in the context of consultations. The Circles they describe create safe, participatory environments for dialogue (Pranis, Stuart, & Wedge, 2003). They are based on core human values that ancient wisdom has proven conducive to positive human relations, including: honesty, trust, humility, sharing, inclusivity, empathy, courage, forgiveness, love, and respect (Pranis, Stuart, & Wedge, 2003). They are also characterized by several principles that relate with these values. Specifically, they “Call on us to act on our personal values”, “include all interests”, “are easily accessible to all”, “offer everyone an equal opportunity to participate”, are “voluntary”, encourage “everyone participates directly as themselves”, “guided by a shared vision”,

“are designed by those who use them”, “are flexible and accommodating”, “take a [w]holistic approach”, “maintain respect for all”, “invite spiritual presence”, and “foster accountability to others and to the process” (Pranis, Stuart, & Wedge, 2003, pp. 53-58, 60-62, 64-65, 67). Circles also draw on the medicine wheel framework to ensure wholism and balance in dialogue and have an outer frame composed of circle keeping (facilitators), consisting of: the talking piece, guidelines, ceremonies, and consensus decision-making (Pranis, Stuart, & Wedge, 2003).

### 2.2.8 Consultation Guidelines and Meaningful Consultation

Both expert narratives and the literature corroborate that there is no ‘one-size-fits-all’ approach for consultations (Kwiatkowski, Tikhonov, Peace, & Bourassa, 2009). However, guidelines and common principles have been proposed. In 2011, the Canadian government’s Department of Aboriginal Affairs and Northern Development (formerly the Department of Aboriginal Affairs and Northern Development Canada) released a guide for federal officials to fulfil the duty to consult, which sets out some guiding principles that have emerged from case law. These include:

- 1) consult with Indigenous groups where contemplated action could potentially adversely impact their rights;
  - 2) assess how contemplated act might infringe upon Indigenous rights and how consultations should be carried out;
  - 3) engage in early consultation;
  - 4) balance Indigenous with other societal interests;
  - 5) coordinate federal departments for efficiency;
  - 6) integrate consultation into other mechanisms (environmental assessment and regulatory approval processes);
  - 7) coordinate with partners (i.e. corporate proponents); and
  - 8) honour existing agreements and build long-term relationships with Indigenous groups and partners in consultation and accommodation activities
- (Department of Aboriginal Affairs and Northern Development Canada, 2011).

Although heavily focused on interest-based consultations, these guidelines appear to be somewhat promising to the extent that they reinforce the DTC. The Australian government released a similar document on mediation and facilitation in 2006, which proposes:

- 1) a more wholistic approach;
- 2) the incorporation of Indigenous expertise;
- 3) ethical standards;
- 4) the provision of mediation training to Indigenous mediators who are inexperienced in Native title training; and
- 5) the provision of native title training packages (Bauman, 2006).

Nonetheless, there remains vagueness around consultation and negotiation processes in practice in both countries, which leaves such constructs vulnerable to the aforementioned problems with consultation (tokenism, Euro-centrism, oppression, and ineffectiveness). Furthermore, history provides reason for pessimism about the schism between government policy and practice in this arena. As aforementioned, non-government organizations (especially resource development corporations) and Indigenous communities are increasingly developing their own guidelines and protocols for consultation and negotiation as well. However, an exhaustive review is beyond the scope of this thesis. As Nakata (2003) notes,

Building guidelines as part of building a regional framework for agreement making would contribute greatly to the process of extending influence and control over policy determination and strategies to achieve policy goals for Islanders in key areas. This approach is currently being used widely in Indigenous communities across Australia including the Torres Strait and represents the basic blocks of any future regional framework (p. 179).

As leaders in the area, the experts interviewed provided some leading consultation practices as well that are more specific and community-focused. One expert stated that the best definition of meaningful consultation he has come across is that of Robert

Mainville (2001), “The consultation should take place in a timely manner and in such a way that the results of the consultation may be fully taken into account before final or irremediable decisions of action are taken” (p. 82). However, when asked, experts provided a more robust definition of meaningful consultations, based on the following principles:

1. balance interests and rights;
2. initiated early;
3. relationship-based;
4. conducted according to a collaboratively established protocol agreement;
5. inclusive of community sub-groups;
6. culturally relevant;
7. capacity building;
8. facilitative of two-way, honest dialogue;
9. considerate of cumulative impacts.
10. flexible in providing ample time for community members to consult through their various networks;
11. conducive to unity of thought and collaborative decision-making; and
12. outcome-oriented, mutually beneficial, and reasonably accommodating.

*1. Balance interests with rights.*

The literature and expert narrative review suggests that both interests and rights are critical to meaningful consultation. While some experts argued that rights-based consultations are less effective than interest-based consultations (Anonymous, personal communications, May 19, 2012; May 31, 2012), other experts and scholars hold that rights-based approaches are more meaningful and effective in advancing Indigenous rights (Anonymous, personal communication, May 15, 2012; May 31, 2012; Behrendt, & Kelly, 2008; Everard, 2005). Kelly and O’Faircheallaigh seem to propose a suitable solution, arguing that companies should approach agreement-making with Indigenous communities: based on the tenets of corporate social responsibility; promoting the

adoption of policies, practices and allocation of resources for Indigenous communities; and consistent with Indigenous rights or exceeding legislative requirements where necessary to recognize such rights (Australian Human Rights Commission, n.d.).

*2. Initiated early.*

Meaningful consultations are initiated as early as possible in the contemplation stage, before any decisions are made to ensure Indigenous influence over decision-making from the conceptual stages (Anonymous, personal communications, May 14, 2012; May 15, 2012; May 17, 2012; May 23, 2012; May 31, 2012).

*3. Conducted according to a collaboratively established protocol agreement.*

Meaningful consultations are conducted according to a collaboratively established protocol agreement, outlining guidelines and expectations or “rules of engagement” with some degree of flexibility (Anonymous, personal communications, May 14, 2012; May 15, 2012; May 31, 2012). This agreement should be developed in the early stages of consultation, prior to implementation of process, and should outline how the process will evolve, where and when meetings will be held, who will hold them, who will be involved, how they will be facilitated, and how decisions will be reached (Anonymous, personal communications, May 14, 2012; May 15, 2012; May 31, 2012).

*4. Relationship-based.*

Meaningful consultations are based on strong, positive human relationships that are founded on mutual open-mindedness, good faith, respect, trust, time, and ongoing dialogue (Anonymous, personal communications, May, 15, 2012; May 17, 2012; May 18, 2012; May 19, 2012; May 23, 2012; May 24, 2012; May 31, 2012; Desjarlais, 2012). According to one expert, demonstrating respect is the first step in building trust (Anonymous, personal communication, May 25, 2012). Establishing trust with Indigenous communities in both Australia and Canada can be very challenging because

of historical and ongoing colonization as well as what one expert refers to as “consultation stigma”, a “kneejerk” negative reaction to consultations due to past injustices (Anonymous, personal communication, May, 19, 2012).

Several expert interviewees suggested that excluding lawyers from the consultation meetings can set a more human and less litigious tone more conducive to building strong, positive human relationships (Anonymous, personal communications, May 14, 2012; May 15, 2012; May 19, 2012; May 23, 2012). However, reportedly, once trust is established and such relationships are built, the process can be more informal leading up to accommodation (Anonymous, personal communication, May 24, 2012). Both Everard (2009) and Failing et al. (2008) argue that relationship building is key to resolving differences and realizing effective outcomes in consultations. Failing et al. highlight the importance of trust and credibility as a determinant of participants’ support.

Martin et al. (2011) assert that “Anthropologists need to work with Indigenous claimants, corporations, governments etc. on consultations not study about them” (p. 26). Specifically, they suggest (Martin et al., 2011), along with Everard (2009), that anthropologists could play an important role in mediating and acting as intermediary translators (making values, structures, process and intent understandable) to both sides in such agreements, resolving disputes, providing valuable ethnographic research into how they can best be implemented, and studying the institutions, values, and practices involved

##### *5. Inclusive of community sub-groups.*

Meaningful consultations are engaging of all community subgroups (hunters, entrepreneurs, Elders, youth, women, men, traditional people, leaders, clans, etc.) in decision-making processes (Desjarlais, 2012; Anonymous, personal communications, May 14, 2012; May 19, 2012; May 23, 2012). A few experts suggested that providing food is a great way to attract community members because it sets a more affable tone and helps to offset the inconvenience of taking time from one’s schedule to prepare a meal either prior to or following the meeting (Anonymous, personal communications, May 14, 2012; May 17, 2012).

### 6. *Culturally relevant.*

Meaningful consultations are culturally relevant to the community, drawing on relevant localized Indigenous cultural frameworks, such as local interpretations of the medicine wheel and circle (roundtable) (Anonymous personal communications, March 15, 2012; May 17, 2012; May 19, 2012; Lloyd, et al., 2005). Behrendt and Kelly (2008) argue that grounding Alternative Dispute Resolution processes in Indigenous cultural values can encourage Indigenous self-determination, which improves socio-economic conditions and, thus, empowers communities. Amy Desjarlais (2012) raises the significance of cultural-linguistic relevance as well, distinguishing between the Ojibway (Anishinawbemowin) and English interpretation of the term “consultation”. According to Desjarlais (2012), unlike the English interpretation, in Anishinawbemowin, consultation implies: 1) acknowledgement and inclusion of all parties involved; 2) focus on relationships (founded on mutual respect and collaboration); and 3) communal and consensus decision-making (meaning discussions continue until all parties agree). As such, the Anishinawbemowin interpretation upholds the personal concern of other stakeholders (Desjarlais, 2012). This definition aligns closely with Pranis et al.’s (2003) Peacemaking Circle.

### 7. *Capacity building.*

Meaningful consultations build capacity among parties so they can consult in accordance with community protocol and on equal footing (Anonymous, personal communications, May 14, 2012; May 15, 2012; May 19, 2012; May 23, 2012; May 24, 2012; May 25, 2012). Proponents should build capacity prior to consultations by researching the community’s geography, colonial and consultation histories, culture(s), leaders, and governance systems in preparation for consultation and extend to continually learning from the community about protocol and cultural nuance (Anonymous, personal communications, May 14, 2012; May 19, 2012; May 31, 2012). Experts stated that federal government, provincial/territorial/state government, and third party delegates

often help the communities with which they consult to build capacity by providing them with independent consultants or otherwise training, education, and employment opportunities (Anonymous, personal communications, May 19, 2012; May 24, 2012).

8. *Two-way, honest dialogue.*

Meaningful consultations facilitate two-way, honest, open, transparent, responsive, and ongoing dialogue, in which both parties enter prepared to make concessions to reach an agreement (Anonymous, personal communications, May 14, 2012; May 23, 2012; May 25, 2012; May 31, 2012). One expert described this as “Providing sufficient information to a community in a timely fashion and in sufficient detail that they have enough detail that they can make informed decisions in time to [have an effect on] the companies decision or activities” (Anonymous, personal communication, May 14, 2012). In particular, the importance of honesty in disclosing all information about potential impacts transparently and accurately was stressed, “you can’t be caught in a half truth or you’re totally screwed...you don’t want to arouse false expectations ...do what you say, say what you do and be able to demonstrate it” (Anonymous, personal communication, May 14, 2012). Experts also mentioned the importance of disseminating pre-meeting briefings well in advance of meetings to provide those who will attend with sufficient time to review the information, consult with their networks, and bring relevant questions, as well as disseminate post-briefings following meetings to ensure their questions and comments are adequately conveyed (Anonymous, personal communication, May 17, 2012).

9. *Considerate of cumulative impacts.*

Meaningful consultations are considerate of cumulative impacts of proposed projects, with existing activities in the region, on the Indigenous community (Anonymous, personal communication, May 15, 2012). One expert explained that government is well positioned to project cumulative impacts because they review all



consultations and, thus, have access to this information (Anonymous, personal communication, May 24, 2012).

*10. Flexible in providing ample time.*

Meaningful consultations are flexible in providing ample time for community members to consult through their various networks (Anonymous, personal communications, May 14, 2012; May 15, 2012; May 17, 2012; May 18, 2012; May 19, 2012; May 23, 2012; May 25, 2012). This layer of consultation – referred to as the ‘moccasin telegraph’ in Canada—is not always apparent to outsiders but critical to community decision-making processes. It is also a way of ensuring community input when families, clans, Elders, and other various sub groups are asked for their ideas.

*11. Conducive to unity of thought and collaborative decision-making.*

Meaningful consultations are conducive to unity of thought and collaborative decision-making (Anonymous, personal communications, March 15, 2012; May 14, 2012; May 31, 2012). Desjarlais (2012) lists the need for communal and consensus decision-making among the factors that distinguish the Anishinawbemowin interpretation of “consultation” and that which is generally upheld in the Western world. Consensus decision-making is also a characteristic of Pranis et al.’s (2003) Peacemaking Circles.

*12. Outcome oriented, mutually beneficial, and reasonably accommodating.*

Consultations should be outcome-oriented, mutually beneficial, and reasonably accommodating in addressing both community and proponent concerns and interests (Anonymous, personal communications, May 14, 2012; May 31, 2012). Doelle and Sinclair argue that consultations should be more “outcome oriented” (2005, p. 185). This is supported by the account of one expert, who spoke to the propensity for consultations to focus too greatly on process, “So many parties are focused on process from beginning to end and lose sense of what is the content even there to talk about – can spend so much

time on the process but never get around to the substance” (Anonymous, personal communication, May 31, 2012). Expert interviewees seem to be moving toward greater accommodation of community needs and desires, although they do not like to frame business partnerships this way (Anonymous, personal communications, May 18, 2012; May 24, 2012; May 31, 2012). One expert interviewee stated that it is important to “work toward a ‘win-win’ not a ‘win-lose’ ‘cause at the end of the day if you’ve got a ‘win-lose’, you’ve got a party that’s totally unhappy and that’s not a recipe for being successful in the long run” (Anonymous, personal communication, May 14, 2012). Everard (2009) suggests that benefits should be focused on and designed to flow to communities’ smaller groups, families, and individuals to which they tend to have strong obligations.

Much of the literature focuses on problems in the logistical and procedural aspects of consultations, such as meeting schedules, legal processes, and protocols (Failing et al., 2008). Fewer articles focus on substantive issues, such as Indigenous community values and custodianship of Land (Failing et al., 2008). Failing et al. point to the lack of guidelines for what collaborative analytical and decision-making methods should be applied and what the process should look like to balance stakeholder interests. They argue Indigenous community stakeholders should be engaged in reviewing options and potential consequences and deliberating a preferred course of action (Failing et al., 2008). This is an area for further investigation, as expert interviewees did not provide insight into these gaps.

## 2.3 Gaps In Indigenous Consultation and Negotiation Literature

As aforementioned, literature about consultations involving Indigenous communities is sparse, especially in Australia. In addition to the lack of comparative studies on Canadian and Australian legal frameworks (Newman, 2009a), this literature review revealed two gaps in the literature 1) the merits of and best practices in consultation (largely crown and corporate advocacy documents), and 2) education consultations.

### 2.3.1 South Australian Political and Legal Context

Discourse on the South Australian Indigenous political and legal context is limited, especially in relation to the Narungga (Krichauff, 2008). In 1999, the South Australian Government implemented a state-wide Indigenous Land Use Agreement (ILUA) negotiation process, which took place between 2002 and 2006 and that resulted in templates for the negotiation of land use agreements among Indigenous land claim parties under the Native Title Act (Local Government Association of South Australia, n.d.; Agreements, Treaties and Negotiated Settlements Project, 2011). In 2004, the Narungga ILUA was signed by the Yorke Peninsula District, Barunga West, Copper Coast and Wakefield Regional Councils to govern native title matters involving the Narungga Nation and the South Australian Government (Local Government Association of South Australia, n.d.; Finlaysons Lawyers, 2004). While these agreements and briefing papers are available, there is a lack of scholarly discourse on their implications for communities, including in regards to consultation.

### 2.3.2 Merits of And Best Practices in Consultation

While consultations are often problematic, they remain an important step forward in Indigenous relations in both countries, as a tool for empowering Indigenous communities to exercise their rights and interests. Dwight G. Newman's (2009a) *The Duty to Consult—new relationships with Indigenous peoples* is one of the few optimistic literary contributions on consultations, touting them as a major development in Indigenous rights and relations internationally. Indeed, there is a lack of literature on the merits of and best practices in Indigenous consultation outside of crown and corporate advocacy documents in both countries. In contrast, consultation expert interviewees many of whom are highly experienced practitioners and regarded as leaders in the field, generally spoke at length on the merit of and best practices in consultation.

In particular, many cases in which mutually beneficial agreements and business partnerships have developed between resource companies and communities might serve as best practices. For example, the Dhimurru Indigenous Corporation in Australia has engaged in many successful and award-winning partnerships with organizations that balance Indigenous with Western values (Hoffmann et al., 2012). Pearson (2006) also writes about successful Indigenous-lead partnerships with businesses and philanthropic organizations across Cape Yorke Peninsula in which private-sector partners provide financial support and capacity building, including through sharing of personnel.

In Canada, the Little Red River Cree Nation (LRRCN) successfully negotiated a permit for commercial timber that created a relationship of mutual dependence between the LRRCN and industry (Natcher, et al., 2002). While some Little Red River Elders are concerned with the effects on their land-base, the arrangement has empowered the First Nation with increased influence over forestry on their Land, employment opportunities, and economic development opportunities (Natcher, et al., 2002). The Conference Board of Canada has released a series of reports that highlight the importance of Indigenous businesses, which resulted from consultations (Anderson & Loizides, 2006; Loizides & Wuttunee, 2005; Sisco & Nelson, 2008; Sisco & Stewart, 2009). According to Hickey and Nelson (2005) (as cited in Wyatt 2008), there are four types of Indigenous business partnerships: “contracting relationships, cooperative business arrangements, MOUs and protocols, and joint ventures” management, and sociocultural benefits” (p. 171). Such agreements serve to dispel the false dichotomy between Indigenous traditionalism and modernism, which oversimplifies much more complex realities.

In South Australia, the Ngarrindjeri negotiated the Kungun Ngarrindjeri Yunnan (KNY) Agreement (Listen to what Ngarrindjeri people have to say) with the South Australian Government, which “provides a legal framework for consultations and negotiations between the State and the Ngarrindjeri over issues to do with Ngarrindjeri Ruwe/Ruwar (country/body/spirit)” (Hemming, Rigney, & Berg, p. 95). The framework has been successful in persuading the South Australian government “to incorporate the Ngarrindjeri relationship between land, waters, people and all living things in government planning” and thus, provided a more equitable and just context for Ngarrindjeri to protect their interests in this regard (Berg, 2010, p. 542). Moreover,

Rigney (2008) argues that it provides a “a strong statement of Ngarrindjeri rights, identity, authority and responsibility” (p. 765) and Bignall, Rigney, and Hattam (2014) argue that this represents a new use of the law in which Indigenous and state parties can sign contractual agreements as sovereign parties for mutual responsibility and interest over resources.

However, in the context of Land and resources co-management arrangements between First Nations and industry (or government), Natcher, Davis, and Hickey (2005) argue that such partnerships are not a panacea for conflict. They assert that conflict often occurs due to “cultural distances and colonial histories” and can inhibit the effectiveness of such arrangements (Natcher, Davis, & Hickey, 2005, p. 247). In another article, Natcher et al. (2002) argue that contrary to common portrayal of First Nations communities as homogeneous, they comprise of individuals with varying perspectives, interests, and concerns. Furthermore, they argue that community perspectives tend to mimic top down approaches of external management arrangements in that dominant community perspectives tend to overshadow the alternative viewpoints (Natcher et al., 2002). Gender or generational inequities prevail when community pluralism is not accounted for (Natcher et al., 2002). In this regard, community consultations appear to be susceptible to the same problems as consultations with the crown and industry.

### 2.3.3 Education Consultations

Much existing literature on Indigenous consultations in Australia and Canada focuses on Land and resource issues. Education is often overlooked in consultation literature, despite its historical use as a weapon of Indigenous genocide in both countries. Existing literature on education consultations tends to focus on large-scale consultations, such as the Canadian Royal Commission for Indigenous Peoples (RCAP), the negotiations that led up to the Indian and Residential School Settlement Agreement, and the Truth and Reconciliation Commission, and the Australian 1997 Human Rights and Equal Opportunity Commission’s (‘HREOC’) *Bringing them Home* report and the 2009 Public Interest Advocacy Centre’s (PIAC) *Moving Forward Consultation Project*

(Australian Human Rights Commission, 2010; Cassidy, 2006; Aboriginal Affairs and Northern Development Canada, 1996; Truth and Reconciliation Commission, 2012). Moreover, the duty to consult or negotiate does not appear to be triggered by potential infringements on Indigenous educational rights in either country. Rather, engaging Indigenous peoples in discussions regarding major educational issues is seen as good practice. Consultations over land claims agreements, which include provisions for education is evident but educational aspects tend to remain somewhat peripheral.

## 2.4 E-Learning in Australia and Canada

E-learning literature is popularizing in academia, although less has been written on e-learning and Indigenous populations. However, studies on e-learning in consultations represent a gap in scholarship. E-learning and consultation experts interviewed for this thesis generally had not been involved with e-learning and consultations. However, they were able to provide some insights based on their extensive experience in their respective fields.

### 2.4.1 E-Learning Definition

E-learning experts provided a variety of different definitions of e-learning. While some e-learning experts defined e-learning as any learning that draws on information communication technology (including video, photography, and mobile phone use), others stated that e-learning requires a majority of learning taking place online, a combination of synchronous and asynchronous technologies, structured content delivery, and “teacher-direction” or learning “support” (Anonymous, personal communications, May 19, 2012; May 21, 2012; May 22, 2012; May 24, 2012; May 25, 2012; May 28, 2012). One expert stated, “Facilitating learning takes a more deliberate instructional design and more deliberate creation of instructional sequences of how to scaffold the learning” (Anonymous, personal communication, May 21, 2012). Another expert stated, “communication that aims to create mutual understanding is learning” (Anonymous, personal communication, May 25, 2012).

### 2.4.2 E-Learning Benefits

Several studies note the value of e-learning as an alternative or supplement to in-person learning in Indigenous communities that provides more equitable access to education, by minimizing distance as a barrier (Dyson, 2007; Eady, 2010; Greenall & Loizides, 2001; Philpott, Neville, Sharp, 2009; Sharpe, Philpott, & Bourgeois, 2011; Sisco, 2010). Most experts interviewed agreed that students prefer a blended approach to learning that incorporates both face-to-face and electronic-based learning (Anonymous, personal communications, May 21; 2012; May 22, 2012; May 25, 2012), one held that students prefer online learning (Anonymous, personal communications, May 21, 2012), while another stated that it depends on the student and program (Anonymous, personal communication, May 24, 2012).

The literature reveals an array of benefits associated with e-learning in Indigenous communities. Specifically, studies suggest that e-learning can increase engagement and build knowledge and essential skills, including computer literacy among Indigenous students (Alexander, 2000; Doherty, 2002; Dyson, 2007; Greenall & Loizides, 2001; Aboriginal Affairs and Northern Development Canada, 2009; Sisco, 2010; Twyford, Crump, & Anderson, 2009; Wall, 2008; Whiteduck, 2009). Studies by Dyson (2007), Greenall and Loizides (2001), and Sisco (2010) suggest that e-learning can help to prepare Indigenous communities for participation in the knowledge economy, leading to economic development and employment and, in turn, improved socio-economic conditions in Indigenous communities. Dyson (2007) and Sisco (2010) note that e-learning provides the flexibility to learn from one's community and home and, thus, maintain community, cultural, and linguistic ties, as well as attend to family responsibilities. Along with Twyford et al. (2009), they (*op cit*) also state that e-learning provides a democratic, deinstitutionalized environment that can better avoid 'Western enculturation', which can help to minimize discrimination by virtue of making identity less apparent. Alexander (2000) suggests information technology in general can empower Indigenous communities and bring about a paradigm shift in which Indigenous peoples are better able "to communicate, to form coalitions, to mobilize and to bring about

political and policy change in their own communities and organizations and in the nation” (p. 295).

Expert interviewees referenced a number of benefits of e-learning. One expert noted its ability to provide more immediate feedback than former distance learning approaches, such as correspondence (Anonymous, personal communication, May 22, 2012). Other expert narratives were more nuanced and mixed in terms of e-learning benefits. For example, some expert interviewees support the literature that e-learning increases student engagement and participation (Anonymous, personal communication, May 21, 2012; May 22, 2012). They attributed this to the flexibility of self-paced learning, absence of distance as a barrier, and increased willingness to participate with the degree of anonymity e-learning can provide (Anonymous, personal communication, May 21, 2012; May 22, 2012). However, a few experts stated that e-learning has the potential to decrease student participation when it lacks instructional design that is suited to an online environment (Anonymous, personal communications, May 19, 2012; May 21, 2012; May 25, 2012). One interviewee held that it depends on the student, stating that some are ideal e-learners and others flourish in face-to-face environments (Anonymous, personal communication, May 22, 2012).

Several experts stated that e-learning democratizes learning because it can reach students who have diverse needs, are remotely located, and who have busy timetables that conflict with conventional classroom scheduling (Anonymous, personal communications, May 19, 2012; May 21, 2012; May 22, 2012; May 24, 2012; May 25, 2012). However, a few experts stated that technology also has the potential to make learning less democratic because of the ‘digital divide’, in which certain individuals and groups (such as many Indigenous communities) have lower technological skills and less access to reliable equipment, internet connectivity, and technological support (Anonymous, personal communications, May 19, 2012; May 21, 2012).

### 2.4.3 E-Learning Challenges

Many challenges to implementing effective e-learning in Indigenous communities are cited in the literature as well. Foremost, appears to be a lack of adequate and secure



funding and associated human and technological resources and infrastructure (Greenall & Loizides, 2001; Sharpe, et al., 2011; Sisco, 2010). Indeed a digital divide exists between Indigenous and non-Indigenous communities, in which the latter have much lower adoption rates, due to limited access (Dyson, 2004). Even when the programs are adequately funded and supported, the high turnover rate of teachers in many Indigenous communities can lead to inconsistencies in implementation and can make performance measures difficult to benchmark (Sisco, 2010). Low student ICT literacy can be a challenge as well (Dyson, 2004; Sharpe, et al.). Moreover, balancing the needs of younger students with older students (as Indigenous students tend to be older) as well as local cultural needs with national standards is often challenging for e-learning teachers (Sisco, 2010). Indigenous communities' limited control over education represents a major challenge as well, especially for communities affected by residential school experience (Greenall & Loizides, 200; Sisco, 2010). Last, a lack of standardized performance measures often thwarts the acquisition of funding (Sisco, 2010).

Experts also listed many challenges with e-learning. One expert stated that technology is stigmatized, as a learning medium and even feared by some, although this was truer in the 1990s (Anonymous, personal communication, May 25, 2012). Moreover, access to ICT infrastructure, technical knowledge, training, and support was represents a barrier for some e-learners (Anonymous, personal communications, May 21, 2012; May 22, 2012; May 24, 2012; May 25, 2012). Other challenges experts noted included ensuring e-learning is well-suited to the program content, engaging, technologically current, and adheres to ministry standards (Anonymous, personal communications, May 21, 2012; May 22, 2012; May 24, 2012; May 25, 2012). Additionally, designing programs for human interaction and sustainability were challenges (Anonymous, personal communications, May 21, 2012; May 22, 2012; May 24, 2012; May 25, 2012). Experts also mentioned e-students sometimes "miss the social opportunities", but performance has dropped when video conferencing has been used because it infringed on the flexible aspect that allowed students to work at their own pace (Anonymous, personal communication, May 19, 2012). In relation to video-conferencing, another expert stated, "[they] do not want to be like in a regular class where people can see them want to be able to control when they talk and when people look at them" (Anonymous, personal

communication, May 28, 2012). Last, one expert suggested that website content can be less reliable and credible, physical material is more difficult to disseminate to e-learners and e-learning can decrease accountability to the extent that there can be an increased incidence of “lazy plagiarism” (Anonymous, personal communication, May 19, 2012). Some experts suggested that it is best to meet with students face-to-face prior to teaching with technology to build relationships and assess their optimal e-learning style (asynchronous or synchronous), especially in the context of many Indigenous cultures (Anonymous, personal communications, May 21, 2012; May 24, 2012).

#### 2.4.4 E-Learning Effectiveness

There is a need for performance metrics for the effectiveness of e-learning, and experts interviewed stated that e-learning is often used in a blended context alongside face-to-face learning or otherwise for distance learning, making its effectiveness difficult to gauge (Anonymous, personal communications, May 21, 2012; May 22, 2012; May 23, 2012). However, one of the most comprehensive studies on e-learning in Canada to date<sup>19</sup> suggests that general e-learning student populations perform as well as or slightly better than other learners and e-learning is particularly effective with distance learners (Abrami et al., 2006). Sisco (2010) notes that, among Indigenous e-learners, “improved student engagement”, “increased educational attainment rates”, “improved computer skills”, “improved written communication skills”, and “enhanced understanding of the subject matter” have been observed (p. 11). One expert stated, “e-learning...works because our [Indigenous] students are staying home in their communities...you can’t put a value on that I think” (Anonymous, personal communication, May 19, 2012).

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<sup>19</sup> “a review of e-learning in Canada from 2000 onwards by synthesizing information drawn from multiple sources, not only primary research. In total, there were 726 documents included in our review: 235 views expressed in the public printed media (an expression of general public opinion); 131 views from trade/practitioner perspectives; 88 views of policy-makers contained in public policy documents; 120 sources of evidence contained in reviews of research; and 152 sources of evidence contained in primary empirical studies. As far as we know, this is the first review of its kind to be as inclusive of sources” (Abrami et al., 2006).

### 2.4.5 E-Learning Optimal Learning Conditions

While there is also a shortage of metrics for the optimal e-learning conditions for Indigenous learners (Abrami et al., 2006), the literature suggests these conditions include student readiness to e-learn (Philpott, et al., 2009) and efficacy in independent learning (Sisco, 2010). Much of the literature advises that e-learning should be a supplement rather than replacement to in-person learning (Philpott, et al.; Sisco, 2010). Some sources suggest that e-learning is not ideal for certain subjects, such as math (Keewaytinook Okimakanak, 2010). Additionally, although typically user-friendly, e-learning students require support (Crump & Boylan, 2008). The learning curve involved with new technology can discourage students from embracing e-learning (Sisco, 2010).

However, much of this data is based on a patchwork of attitudinal surveys with small sample sizes, the data for many of which were collected and analysed by program administrators. Moreover, some of these studies conclude that e-learning improves educational outcomes based on the observation of increases in secondary and postsecondary attainment rates since its introduction, without consideration of third variables (e.g. the increase may be owed in whole or part to the increased support or attention they were receiving or to access to equipment). In one instance in particular, high school graduation rates (94%) among program participants are attributed to program effectiveness, although students were selected based on their potential (Sisco, 2010). Indeed, stronger performance metrics are needed. While the Australian Flexible Learning Framework and the Australasian Council on Open, Distance and E-Learning (ACODE) offer benchmark systems that provide some consistency in e-learning performance measurement (Australasian Council on Open, Distance and E-Learning, n.d.; Choy, 2007), the diverse goals, approaches, and frameworks across Canada make benchmarking performance measures difficult (McGreal & Anderson, 2007; Sharpe, et al., 2011). Importantly, there is also an apparent lack of literature about Indigenous communities' perceptions, concerns, aspirations, and suggestions for improvement with respect to e-learning (Abrami et al., 2006).

E-learning experts identified a number of conditions that support optimal e-learning. This includes blended learning, incorporating asynchronous and synchronous e-

learning with multimodalities and in-person learning (text, video, audio, etc.)

(Anonymous, personal communications, May 19, 2012; May 25, 2012; May 28, 2012).

They also noted optimal conditions for the teacher, content, and media. Specifically, one expert stated that e-learning effectiveness requires flexible, dedicated, and knowledgeable teachers who provide quick, meaningful feedback; quality, engaging curriculum; and current, relevant technological infrastructure, equipment, training, and support

(Anonymous, personal communication, May 21, 2012). This same expert also noted that strong, human relationships between teachers and students based on trust are also important and that content should be locally and culturally relevant (E.g. include local Indigenous voices and photographs) and should not be overtly educational (Anonymous, personal communication, May 21, 2012). Moreover, this expert suggested the use of a virtual roundtable facilitation design that provides everyone with the opportunity to speak in turn would be culturally appropriate in Indigenous contexts (Anonymous, personal communication, May 21, 2012). Another expert noted that community ownership over the program is important to engagement (Anonymous, personal communication, May 25, 2012).

One expert argued synchronous e-learning is better because it encourages classroom learning (which in this participant's view was better) (Anonymous, personal communication, May 28, 2012), while another argued the flexibility of asynchronous e-learning made it much more effective (Anonymous, personal communication, May 22, 2012). Experts were also divided in opinions about how learner qualities relate with e-learning. One expert stated that self-motivated, self-disciplined students who are able to work independently and self regulate on the computer are optimal e-learners (Anonymous, personal communication, May 22, 2012). This expert also stated that e-learning is effective when students are introduced to learning with technology at a young age, implying e-learner skills can be acquired over time (Anonymous, personal communication, May 22, 2012). Another expert stated that programs should be custom designed to suit learner constituencies (Anonymous, personal communication, May 21, 2012).

### 2.4.6 Technological Pessimism

At the same time, a wealth of literature exists on technology as a hegemonic force to which humans have become subordinate, relegated to mere devices (Ellul, 1963/2000; Ellul, 1978; Edward, 2004; Huxley, 2000). Scholars like Jacques Ellul and novelists like Aldous Huxley popularized this literature in the 1960s and 1970s, along with early thinkers on the relationship between education and technology, such as Robert M. Hutchins (Ellul, 1963/2000; Ellul, 1978; Edward, 2004; Huxley, 2000). However, this school of criticism toward technology has regained popularity and been reproduced for postmodern interpretations with the ICT boom and more recently with e-learning's increased uptake. The work of Neil Postman has been particularly influential in building on the sentiment of earlier technological pessimists who warn that technological advancements will transform humans into information processing (rather than information producing) machines (Dyson, 2004). He is quoted as stating that "we have transformed information into a form of garbage and ourselves into garbage collectors" and describing the infiltration of technology in education as a breakdown of our "information immune system" or filter akin to AIDS (Postman, 2004, p. 4, 5). From Postman's (2004) perspective, technology is leading to uncritical processing of information, which threatens scholarship and innovation. Somewhat more neutral are the socio-political and volunteerist technological theorists, such as Chandler and Martinand, respectively (Dyson, 2004). The former school holds that technology's use depends on its environment (technology embodies and influences its social, political, cultural and historical environment) and the latter holds that technology's use depends on the individual user (Dyson, 2004). Dyson's (2004) position is that cultural appropriateness is paramount and dependent on meaningful partnership with the community.

Renowned French critical social theorist Michele Foucault wrote extensively on education's use of discipline to conform student behaviour to the desired state of society ("the social body") (Jardine, 2005). From this perspective, education is disempowering. Some neo-Foucauldian theorists would argue e-learning is an "apparatus", or mechanism to maintain power over society (the social body) (Jardine, 2005). In the context of Indigenous education (or capacity building) specifically, Western education has

historically been a force of colonization and tool of cultural genocide, of which the stolen generations and residential school survivors are living proof in Australia and Canada, respectively (Human Rights and Equal Opportunity Commission, 1997; Miller, 1006). The colonial education imposed through missionary or religious residential schools was also used to enforce the West's positional superiority over Indigenous knowledge (Smith, 2012, p. 67). Of critical importance, however, is that the nature of education proposed by this study is intended to be decolonizing by providing ways for Indigenous communities to share community consultation protocols with organizations to encourage (and create accountability measures for) more meaningful and respectful consultation.

## 2.5 The Use Of E-Learning In Consultations

There is an apparent lack of scholarly literature on how e-learning can be used to improve consultation processes. There have been a few studies that look at the use of e-learning in health impact assessments. For example, a study by Street, Braunack-Mayer, Facey, Ashcroft, and Hiller found that blogging was effective in Indigenous community health consultations (2008), and a study by Kwiatkowski et al. (2009) makes reference to the use of e-learning to build capacity in Indigenous communities in relation to health impact assessments, but does not comment on the effectiveness of these programs. Moreover, some scholarly literature alludes to the need for consultations to evolve and the potential for e-learning specifically to play a role in consultations. Martin et al. (2011) argue that consultation processes must change with the times, as research has shown large public in-person meetings to be ineffective for decision-making in Indigenous communities.

A study by Alexander (2000) argues for the need to use the Internet (among other technologies) in consulting with Indigenous peoples regarding Indigenous-state relations. She states that the majority of federal government departments in Canada have “experimented with Internet-based consultations” (Alexander, 2000, p. 280). However, she notes that some Indigenous communities do not want to share information and should be entitled to the right to refuse (Alexander, 2000). She argues the use of technology in consultations with Indigenous communities can either represent a new form of colonial

imperialism that will degrade democracy or digital inclusion that will improve democracy (Alexander, 2000). Ultimately, Alexander asserts that “The promise and implications of e-governance—when governments use new technologies to share and to seek information, and sometimes, to facilitate consensus among diverse communities—merits serious study”, arguing e-consultations would be less expensive and both more convenient and efficient (Alexander, 2000). Together with studies focused on the role of e-learning in Indigenous consultations representing a gap in the literature, such claims underscore the need for studies like this one.

One expert stated she had been involved in consultations that used e-learning in the preliminary stages, including Skype and other types of videoconferencing as well as podcasts of Elders who explain traditional knowledge and other critical background information in relation to the consultation (Anonymous, personal communication, May 31, 2012). However, most experts stated that they had not experienced consultations where e-learning has played a role in preparing the participants, but that this could work well, especially as a capacity building tool (Anonymous, personal communications, May 19, 2012; May 21, 2012; May 23, 2012; May 24, 2012; May 25, 2012; May 31, 2012). Another expert noted the potential for e-learning to reduce costs and time associated with consultations as well, “It’s a great idea when you mentioned it I thought, “wow fantastic!” I saw a huge role for it in terms of saving money, resources, and time, and building capacity” (Anonymous, personal communication, May 15, 2012). According to experts, in addition to “overcoming geographic hurdles”, e-learning also stands to remove pressure from community members to provide immediate feedback; online, they can take additional time to make decisions (Anonymous, personal communications, May 19, 2012; May 21, 2012).

While e-learning in pre-consultations was generally viewed as a way to enhance face-to-face consultations (Anonymous, personal communications, May 15, 2012; May 24, 2012), some interviewees were pessimistic about its potential role in pre-consultations, given the shortage of technology skills and limited access to ICT infrastructure in many Indigenous communities. One interviewee stated “[technology] is important but it’s not panacea...having it doesn’t mean it’ll be used and even if it’s used, it doesn’t mean it’ll be useful because it’s a pipeline of information – as a potential

capacity building tool, yes it's useful" (Anonymous, personal communication, May 24, 2012). Moreover, several experts argued the absence of in-person interaction would be a major drawback for many Indigenous communities for which in-person interaction is culturally significant, "In my experience our Aboriginal communities want to see my face, they want me to be there...so my experience has always been face to face, which just has worked better with our Aboriginal communities" (Anonymous, personal communication, May 22, 2012). Ultimately, experts stressed that e-learning cannot replace but only supplement in-person meetings, emphasizing the importance of in-person interaction to trust building (Anonymous, personal communications, May 19, 2012; May 21, 2012).

### 2.5.1 Supporting E-Learning In Pre-Consultations

Experts stated that a number of features would support e-learning effectiveness in this pre-consultation context. Accessibility was foremost, including access to infrastructure and bandwidth (Anonymous, personal communications, May 22, 2012; May 24, 2012), an easy-to-use platform, and features for the hearing impaired (Anonymous, personal communication, May 25, 2012). Preparedness of participants to engage with the technology was also important, including ICT skills, training, and virtual and community supports (Anonymous, personal communications, May 21, 2012, May 22, 2012; May 24, 2012). Cultural relevance was also identified as an important feature (Anonymous, personal communication, May 21, 2012). One participant explained that culturally relevant content might include medicine wheel frameworks and videos of Elders, and that culturally relevant design might include a virtual roundtable facilitation that ensures everyone has an equal opportunity to engage (Anonymous, personal communication, May 21, 2012). Additionally, multimodalities (videos, audio, text, etc.), the capacity to send feedback privately (Anonymous, personal communication, May 21, 2012), and community ownership of and engagement with the online tool (Anonymous, personal communications, May 19, 2012) were mentioned.



## 2.6 Conclusion

Together, literature and expert narratives reveal that consultations in both Australia and Canada share common challenges and leading practices. Specifically, consultations are often lacking in Indigenous influence; couched within a Western framework of ideologies; oppressive of communities; and ineffective in resolving disputes outside of the courts system. However, expert narratives reveal there are many examples of meaningful and successful consultations. Scholars have proposed guidelines to meaningful consultation that while useful are too general to clarify these ambiguous processes. Experts provided some more robust, specific, and community-focused leading practices that support meaningful consultation.

E-learning literature is growing, although Indigenous e-learning literature remains sparse in comparison. E-learning in consultation represents a gap in scholarship, and the majority of experts have not experienced consultations where e-learning has played a role in preparing the participants. Experts generally agreed that e-learning could be useful in the pre-consultation stage, especially in relation to capacity-building, but that it could not replace in-person meetings and its effectiveness is conditional on the accessibility of infrastructure and support, culturally relevant design and content, and capacity for community engagement.

## Chapter 3

# The Aterihwihsón:sera Kaswénta As A Relational Framework (Theoretical Framework)

*“With relatedness as the premise and impetus, there is no such thing as Outsider, or Other, but of Another” (Martin, 2008, p. 148)*

### 3.1 Introduction

It is from the premise that relationships are foundational to everything, which I have arrived at applying a *relational* rather than *theoretical* framework for this thesis. I tend to assume a relational lens naturally from a feminist perspective. I also embrace a relational lens because I acknowledge that a diversity of Indigenous peoples share a relational worldview and way of being (Martin, 2008; Smith, 2012; Wilson, 2008).

Martin (2008) articulates this philosophy as ‘relatedness theory’,

The sets of conditions, processes and practices that occur amongst and between the Creators and Ancestors; the Spirits; the Filter and the Entities...across contexts and is maintained within conditions that are: physical, spiritual, political, geographical, intellectual, emotional, social, historical, sensory, instinctive and intuitive (Martin, 2008, p. 69)

Similarly, Wilson (2008) argues that ‘relationality’—the concept that “All things are related and therefore relevant”—is foundational to Indigenous ways of knowing (p. 58).

Both Wilson (2008) and Smith (2012) argue for the importance of ‘relational accountability’ in research, which makes researchers accountable for our relatedness to all things, including knowledge seeking.

In a research context, the term ‘relational’ conveys an organic and reciprocal way of coming to know through collaborative knowledge seeking and gathering. In contrast, ‘theory’ tends to connote the deliberate imposition of an academic viewpoint through the more recent traditions of scientific inquiry and empiricism. In Indigenous contexts, ‘theory’ tends to represent a hegemonic and colonizing force because it has historically undervalued traditional knowledge and ways of knowing covertly, by omission, and overtly, by supporting modern era ideologies of White supremacy, absolutism, and progress with which Indigenous traditional knowledge and ways of knowing are generally incompatible (Wilson, 2008).

Therefore, it is from this premise of ‘relatedness’ and ‘relationality’ that I sought to identify an appropriate framework for engaging and relating with all of the Entities involved in this work, including Ancestors, Elders, Cosmos, Lands, Waterways, Plants, Animals, and Peoples, as well as the work of research. Having grown up nearby Haudenosaunee territory, the Aterihwihsón:sera Kaswénta (“Two Row Wampum belt”) was highly influential to my understanding of First Nations relations in Canada. This began through my familiarization with the Kaswénta symbology with which I was surrounded, which developed into a curiosity and then more comprehensive understanding in my advanced education. In this regard, I have chosen to apply my interpretation of the Haudenosaunee Aterihwihsón:sera Kaswénta as a relational framework, as much as it has chosen to apply itself.

However, if I were to identify a rationale for choosing this relational framework, it would be fourfold. First and foremost, this belt represents a treaty to which I am party—between Settler Canadians and Indigenous peoples in Canada broadly as well as specifically within South-western Ontario region of Canada, where several Haudenosaunee communities are located and in which I was born, raised, and currently reside. As such, I feel a sense of responsibility to share and honour the original intent of this treaty. Second, I feel it is important for me to apply an Indigenous framework to avoid colonizing the research process to the greatest degree possible. While I understand

the danger of misrepresentation, I have opted to qualify this framework as my interpretation rather than use a colonial lens with which the research would be incompatible. Third, this belt has significance for both communities involved in this study as a symbol of the principles of respectful relations and consultation between Indigenous and non-Indigenous peoples. Fourth, it does not originate from either community, thus, remains somewhat neutral. However, it would be remiss to overlook the special significance of the Aterihwihsón:sera Kaswénta for Canadian First Nations as a symbol of the spirit and intent of relations with Settler Canadians generally and treaty making henceforth specifically. As such, the reader should be apprised that the framework takes on a distinctly Haudenosaunee paradigm and broadly Canadian narrative.

The purpose of this chapter is to provide an overview of my interpretation of the Haudenosaunee Aterihwihsón:sera Kaswénta (“Two Row Wampum belt”) as a relational framework. Expressed diagrammatically in *Chapter 1 —Introduction* (Figure 5), this framework combines Feminist Community Based Partnerships Research (FCBPR) with Critical Indigenous Philosophy and Unsettling Pedagogy. I have selected these ‘macro methods’ in place of theories because macro methods provide an informal, contextual, and dynamic approach to applying methods to localized derivative knowledge gathering (Kidd & Kral, 2005, p. 187; Cornwall & Jewkes, 1995, p. 1667). Metaphor is used to describe this Kaswénta framework and its component relations to create understanding across social, cultural, linguistic, and ideological divides (Lakoff & Johnson, 2003).

This chapter first describes my interpretation of the Aterihwihsón:sera Kaswénta’s original intended sentiment to symbolize the relationship between Indigenous peoples and non-Indigenous Settlers. It is then divided into three parts, corresponding with the framework’s three macro methods: 1) the First Nations Birch Bark Canoe as Critical Indigenous Philosophy, 2) the European Ship as Unsettling Pedagogy, and 3) the River as Feminist Community Based Partnership Research (FCBPR). Each part contains an overview of literature on contributing theory and draws on metaphor to outline how this relational framework was applied to the project through its respective macro method.

### 3.2 Literature Review of Contributing Theoretical Perspectives (the Aterihwihsón:sera Kaswénta)

#### 3.2.1 Definition and Description

According to Haudenosaunee Chief Oren Lyons:

The highlights of this agreement are first, we will call one another brothers. This row of purple wampum on the right represents the ONGWAHOWAY or Indian people, it is their canoe. In the canoe along with the people is our government, our religion or way of life. The row of purple wampum on the left is our White brethren, their ship, their government, and their religions for they have many. The field of white represents peace and the river of life. We will go down this river in peace and friendship and as long as the grass is green, the water flows, and the sun rises in the east. (Lyons, 1986, p. 119)

The Aterihwihsón:sera Kaswénta records the covenant chain intended to express the spirit and intent of the relationship between First Nations and non-First Nations peoples in all treaties henceforth (Doxtater, 2011; Lyons, 1986; Muller, 2007; Stevenson, 2006). The two purple rows symbolize two vessels travelling down the river (of life), one a birch bark canoe in which First Nations peoples travel and the other a ship in which the Europeans travel, each with their own values, customs, and laws (Doxtater, 2011; Lyons, 1986; Muller, 2007; Stevenson, 2006; Turner, 2006; Williams, 2005). The white beads in the belt symbolize the “peace, friendship and respect” as well as “equality...dignity and a sharing of the river we travel on” that is intended to underpin the relationship between Indigenous and non-Indigenous peoples (Borrows & Turpel in Williams, 2005, pp. 43-44).

Chief Lyons and other scholars’ interpretations of the Kaswénta (Borrows & Turpel in Williams, 2005, pp. 43-44) include three key concepts that define the spirit and intent of all subsequent treaties. Specifically, they assert that the spirit and intent is that First Nations and non-First Nations peoples shall: 1) be equals (described as brothers, in contrast to the paternalistic relationship imposed by the crown); 2) remain distinct (in

their own vessels) and self-determined, without interference over one another's lifestyles and affairs; and 3) co-exist harmoniously, and interdependently.

### 3.2.2 Scholarly Studies

The literature review conducted did not reveal any studies in which the Kaswénta has been used as a relational or theoretical framework. However, one action research study uses the Kaswénta as a model for mediation/dispute resolution and co-management of disputed territory at Tutelo Heights, Ontario (Doxtater, 2011). According to Doxtator, "[t]he attempt to scaffold Tutelo's experience into a Grand River Valley "learning community" promoted cross-cultural communication between the sailing ship and the canoe" (Doxtater, 2011, p. 50). The article suggests the Kaswénta might be an effective model for action research projects for which cross-cultural communication, learning communities, and mediation is critical (Doxtater, 2011).

### 3.2.3 Application and Significance

The significance of reasserting this treaty as a relational framework is twofold. It acknowledges the importance of the aforementioned principles to guide Indigenous-non-Indigenous relations in this research process and through the broader consultation process. According to Haudenosaunee scholar Dale Turner (2006), peaceful co-existence is not being realized between Indigenous and non-Indigenous peoples in Canada because the Canadian state fails to uphold respect for Indigenous autonomy (or sovereignty), reciprocity, and renewal of this original treaty. The principles enshrined in the Kaswénta are equally applicable in Australia, which shares with Canada a similar colonial context.

It is important to note that this relational framework is premised on my limited interpretation of the Kaswénta, as a non-keeper of this knowledge, non-Haudenosaunee, and non-Indigenous person. Scholars have raised inconsistencies in both the oral histories related by the keepers of the belt and the biography of the belt that pose challenges to deriving an accurate and complete interpretation of it (Muller, 2007; Tooker, 1998). For

example, the belt has more recently become a symbol of Haudenosaunee sovereignty (Doxtater, 2011; Muller, 2007), whereas this relational framework's interpretation focuses instead on its self-determination symbolism. The belts have also gone missing over the years in the exchange of hands (Doxtater, 2011; Muller, 2007). Nevertheless, my interpretation of the Kaswénta is premised on the three aforementioned converging principals emergent from the interpretations of Indigenous scholars and non-Indigenous scholars who self-identify as Allied Others.

Using the Kaswénta as a guide, this relational Framework calls for the division of Indigenous and non-Indigenous actors into two distinct groups—"the European ship" and "birch bark canoe", respectively. It also calls for their harmonious and interdependent co-existence for this project and beyond or—"the River (of life)". Therefore, the following section is divided into three parts: 1) the birch bark canoe as Critical Indigenous Philosophy, 2) the European Ship as Unsettling Pedagogy, and 3) the River as Feminist Community Based Partnership Research (FCBPR). Each part draws on metaphor to explain how its respective macro method relates with the overarching framework in applying to this project.

### 3.3 The Birch Bark Canoe as Critical Indigenous Philosophy

*This row of purple wampum on the right represents the ONGWAHOWAY or Indian people, it is their canoe. In the canoe along with the people is our government, our religion or way of life. (Lyons, 1986, p. 119)*

The purpose of this section is to explain the First Nation birch bark canoe in this relational framework as a representation of Critical Indigenous Philosophy. First, this section provides a brief history, definition, description, and critique of Critical Indigenous Philosophy. Second, it provides an overview of the three approaches intended to correspond with and frame Critical Indigenous Philosophy's call to action. These approaches include Critical Indigenous Decolonizing Methodologies, Indigenous Paradigms, and Critical Indigenous Pedagogy. This section will conclude by discussing how Critical Indigenous Philosophy has been incorporated into the proposed framework through the representation of the birch bark canoe.

### 3.3.1 Critical Indigenous Philosophy

*A brief history.*

Critical Indigenous Philosophy emerged through the “modern [I]ndigenous peoples’ project”, which began 500 years ago with the onset of colonization as a survivalist movement (Smith, 2012, p. 111). The project evolved after World War II, took shape as a decolonization movement in the 1960s, and now focuses primarily on Indigenous self-determination (Smith, 2012, p. 111, 120). This project inspired the development of Indigenous theory, based on criticism of the historically oppressive theories used to study Indigenous peoples and a call for Indigenous peoples to develop self-representation research tools (Smith, 2012). As such, Indigenous theory was proposed as a means to create opportunities for Indigenous self-determination through emancipatory research (Smith, 2012). Consistent with the project’s shift to prioritize Indigenous self-determination, Haudenosaunee academic Dale Turner (2006) developed Critical Indigenous Philosophy as a way forward in reasserting the “nation-to-nation” (p. 96) relationship between Indigenous peoples and the Canadian state. Smith (2012) argues that Indigenous philosophy offers alternatives to the hegemonic status quo.

*Definition and description.*

Critical Indigenous Philosophy tasks “Aboriginal intellectuals...[who]...engage the non-Aboriginal intellectual landscapes from which their political rights and sovereignty are articulated and put to use in Aboriginal communities” (Turner, 2006, p. 90), referred to as “Word Warriors” (initially coined by Native American academic Gerald Vizenor in Ruoff & LaVonne Brown in their 1986 *Woodland Word Warrior: An Introduction to Gerald Vizenor with a Bibliography of His Work*) with three specific responsibilities (Turner, 2006, p. 90). These include: [1] “... tak[ing] up, deconstruct[ing], and continu[ing] to resist colonialism and its effects on Indigenous peoples; [2] ...protect[ing] and defend[ing] [I]ndigeneity; and [3] ... engag[ing] the legal



and political discourses of the state in an effective way” (Turner, 2006, p. 96). In order to satisfy these responsibilities, Turner argues that Word Warriors must define Critical Indigenous Philosophy by the questions with which it is concerned, rather than in relation to European philosophy (2006). He argues that Indigenous peoples must clearly define their distinct ways of knowing and knowledge, as well as how such pedagogies and knowledge might serve to promote Indigenous rights and interests (Turner, 2006).

### *Criticisms.*

However, Critical Indigenous Philosophy is not entirely unproblematic. Smith (2012) has alluded to the challenges inherent in the insider/outsider research Word Warriors conduct in the Indigenous communities to which they belong and those to which they are visitors. Negotiating their identities in relation to the insider/outsider nexus is complex and has various implications in both circumstances (Martin, 2008; Smith, 2012). Moreover Word Warriors face a double-edged sword in the liminal roles they occupy; the academy and communities constantly challenge their legitimacy as intellectuals and keepers of traditional knowledge, respectively (Martin, 2008; Smith, 2012).

Last, Turner’s (2006) philosophy might be criticized for its borrowing of Liberatory writer Frantz Fanon’s (1963) thesis of the three responsibilities Indigenous intellectuals must assume (1) reveal how Indigenous peoples have been enculturated by the West, 2) remain grounded and in touch with identity, culture, and history during times of instability and transformation, and 3) inspire emancipatory change in others through intellectual writing) (in Smith, 2012, p. 73). Smith (2012) has argued that Fanon’s thesis might be inappropriate for an Indigenous context for two reasons. First, it was developed from his privileged perspective, which falls short of reflecting Indigenous perspectives as marginalized peoples (Smith, 2012). Second, it was based on his work with colonized peoples in Algeria, whose experiences differ significantly from those of Indigenous peoples in Canada and Australia (Smith, 2012). Therefore, it may not apply equally to the Indigenous agenda of self-determination through emancipation from oppression in colonial Canada and Australia.

### 3.3.2 Critical Indigenous and Decolonizing Methodologies

Critical Indigenous and Decolonizing Methodologies have been incorporated into the birch bark canoe to correspond with Critical Indigenous Philosophy's first call to action, to "... take up, deconstruct, and continue to resist colonialism and its effects on Indigenous peoples" (Turner, 2006, p. 96).

#### *A brief history.*

Critical Indigenous methodologies, such as Decolonizing research, emerged from the postcolonial theory and studies of the 1990s and early 2000s (Swadener & Matua, 2008) and were popularized through Linda Tuhawai Smith's landmark text *Decolonizing Methodologies* (Grande, 2008, p. 233). During "The Decade of the World's Indigenous Peoples" that followed (1994-2004), Indigenous and non-Indigenous scholars have used decolonizing Methodologies to criticize and decolonize Western methodologies (Denzin et al., 2008, p. 3).

#### *Definition and description.*

According to Denzin et al. (2008), Indigenous Methodology "can be defined as research by and for Indigenous peoples, using techniques and methods drawn from the traditions and knowledges of those peoples" (p. x). Like postcolonial theory, Decolonizing Methodologies attempt to make visible colonial forces in research (Swadener & Matua, 2008). However, Decolonizing Methodologies broaden the definition of colonization beyond the spatial-temporal, to include groups bound by shared social, cultural, political, sexual, gendered, interest, as well as other characteristics and experiences (Swadener & Matua, 2008). Specifically, decolonizing research (theory and methodologies) reveals four main colonial forces behind traditional academic research. These include: 1) "English language" to explain Indigenous paradigms, 2) "Western

epistemologies” that undermine Indigenous knowledge, 3) “Methodological imperialism” that undermine Indigenous ways of knowing, inquiry, and pedagogy, and 4) “Positional superiority” (Said as cited in Smith, 2012, p. 3) over validity in research (Smith, 2012, p. 38). This ‘positional superiority’ perpetuates existing power differentials through foregrounding colonial voices and silencing Indigenous voices (Smith, 2012).

Decolonizing research resists colonization through praxis, using Indigenous language, epistemologies, voice (including first person narratives, critical personal narratives, and counter narratives) (Denzin et al., 2008, p. 12) and Indigenous customs in research (Swadener & Matua, 2008). It aims to undo some of the damage both colonization and colonizing research has done to Indigenous peoples and to Indigenize the academy (Swadener & Matua, 2008). Decolonizing research has drawn from feminist research traditions of “analys[ing], challeng[ing], and counter[ing] dominant forms of knowledge, discourse, and institutional practices and...examin[ing] experiences in the everyday world”, and “introduc[ing] issues of [multiple and hybrid perspectives,] voice[s], representation[s], text[s], and ethics” (Cannella & Manuelito, 2008, pp. 45-46).

Decolonizing research requires the decolonizing of the academy as well as researchers. Indigenous and non-Indigenous researchers must decolonize themselves and contribute to decolonizing research in different ways (McCaslin & Bretin, 2008). Indigenous researchers must create dissonance with the colonial methodologies with which they may be familiar and comfortable and reconnect with traditions (McCaslin & Bretin, 2008; Martin, 2008). Non-Indigenous researchers must “combat internal colonizer currents” and learn to relate with all beings respectfully to become “allied Others” in the decolonizing movement (Denzin et al., 2008, p. 6; McCaslin & Bretin, 2008, p. 514). They must also base their analysis on their lived experience to avoid appropriation and recolonization of Indigenous knowledges (Denzin et al., 2008, p. 6; McCaslin & Bretin, 2008).

### *Criticisms.*

Among the most considerable criticisms of Critical Indigenous and Decolonizing Methodologies are the risks of recolonizing the academy, Indigenous methodologies, and

both Indigenous and non-Indigenous researchers (Cannella & Manuelito, 2008; Denzin et al., 2008; Kincheloe & Steinberg, 2008; Swadener & Matua, 2008). Specifically, critics are concerned Allied Others can (perhaps unintentionally) appropriate Indigenous knowledges and promote hegemonic processes that result in colonization (Denzin et al.; Kincheloe & Steinberg, 2008). Canella and Manuelito (2008) and Denzin et al. have argued that this risk can be managed by Allied Others focusing on: 1) their lived experience through counter narratives, and 2) collectivist methodologies involving meaningful collaboration with Indigenous peoples who can provide critiques “from within” (Canella & Manuelito, 2008, p. 50). Moreton-Robinson (2004) also argues that when Indigenous scholars deconstruct White representations of Indigenous peoples they validate the Western academy, which oppresses Indigenous pedagogy and knowledges. Kincheloe and Steinberg (2008) point to the risk of such methodologies allowing oppression to define Indigenous peoples. They emphasize the importance of focusing on Indigenous agency in overcoming oppression (Kincheloe & Steinberg, 2008). For example, Mestiza warrior activism centralizes Indigenous women’s agency in colonial contexts (Cannella & Manuelito, 2008).

Swadener and Matua (2008) also argue that the lack of consensus in Critical Indigenous and Decolonizing Methodologies is problematic. However, Kincheloe and Steinberg (2008) point out the inclusion of multiple, sometimes conflicting, perspectives is integral to Critical Indigenous and Decolonizing Methodologies and to combatting the essentialist portrayal of Indigenous identities as homogenous and stable. Moreover, Smith (2012) argues that consensus is not necessary in Decolonizing Methodologies, and that struggle is a relational tool essential to emancipation, empowerment, critical consciousness, and praxis. Last, Decolonizing Methodologies have been critiqued for upholding, centring around, and providing the impetus for praxis on the basis of the possibility of overcoming oppression (Cannella & Manuelito, 2008). Anticolonialist social science has emerged in response, which resembles decolonization research, but disputes the possibility that decolonization can eliminate oppression entirely (Cannella & Manuelito, 2008; Denzin et al., 2008).

### 3.3.3 Indigenous Paradigms

Indigenous Paradigms have been incorporated into the birch bark canoe to correspond with Critical Indigenous Philosophy's second call to action, to "protect and defend [I]ndigeneity" through engagement with discourse (Turner, 2006, p. 96). Indigenous researchers and Allied Others are increasingly calling for the inclusion of Indigenous paradigms specifically (Koster, Baccar, & Lemelin, 2012). This is because these research frameworks, while well intended, are products of Western institutions, such as academia, the ideologies of which tend to clash with Indigenous ways of knowing. For example, nature is often central to Indigenous ways of knowing, whereas, nature is typically viewed as the object of study in Western research (historically, including Indigenous peoples) (Aikenhead & Michell, 2011; Koster, Baccar, & Lemelin, 2012).

#### *Definitions and descriptions.*

Louis (2007) holds that, while Indigenous research paradigms vary, there are some common principles, such as inclusion of Indigenous perspectives, recognition of non-Western research paradigms, and ways of defining research goals that are "sympathetic, respectful, and ethical" (as cited in Koster, et al., 2012, p. 198). Drawing on the work of Kirkness and Barnhardt's (1991), Louis (2007) provides 4-R's of Indigenous paradigms:

1. "[R]elational accountability" (p. 133): researcher honours their accountability to all relations (animate and inanimate) involved in the research process (E.g. ideas are developed collaboratively and findings are shared with the community).
2. "[R]espectful representation" (p. 133): researcher respects the community's wishes for the research project, including what information is shared.
3. "[R]eciprocal appropriation" (p. 133): researcher works with the community to their mutual benefit.

4. “[R]ights and regulation”: the researcher conducts research that is “driven by Indigenous protocols” (p. 133).

Moreover, Fletcher (2003) and Louis and Grossman (2009) propose four general steps for conducting research according to Indigenous research paradigms:

1. “Form a research partnership with Indigenous peoples and co-create the research process;
2. Discuss how the benefits of the research should flow to the community, how the community should control the information generated, how it is to be used and how it will be disseminated;
3. Develop a mechanism for Indigenous partners to review and revise drafts of findings and ensure access to the final product; and
4. Develop and maintain relationships within both Western ethics protocols and within Indigenous cultural frameworks” (as cited in Koster, et al., 2012, p. 199).

Kincheloe and Steinberg (2008) hold that Indigenous knowledges are not only plural but “[m]ultilogical...” (p. 138). “Multilogicality” holds that there are multiple perspectives across dimensions of one’s life experience (Kincheloe & Steinberg, 2008). Furthermore, in some Indigenous knowledge contexts, such as that of the Chagga of Tanzania, the truth is not universal (Kincheloe & Steinberg, 2008).

### *Contributions.*

Indigenous paradigms help reveal the ways in which the academy legitimizes and delegitimizes knowledge, based on culture (Kincheloe & Steinberg, 2008). In addition to contributing to the decolonizing and Indigenizing the institution, Freire and Faundez (1989) argue “[I]ndigenous knowledge is a rich resource for any justice-related attempt to bring about social change” (Kincheloe & Steinberg, 2008, p. 136). Indigenous paradigms, particularly about relationships among humans and the eco-system, are

increasingly being incorporated into the academy as a part of the larger movement to decolonize and Indigenize the academy (Kincheloe & Steinberg, 2008; Martin 2008).

#### *Criticisms.*

However, the legitimacy of Indigenous knowledge remains subject to criticisms, due to its deviation from normative Western ideologies that have become naturalised within the academy (Smith, 2012). Moreover, non-Indigenous attempts to portray Indigenous paradigms have been frequently criticised. For example, Jones and Jenkins (2008) argue that the very act of attempting to know the Other colonizes the Other, as it requires the apprehension, objectification, and enculturation of the Other's image into one's cultural context to it make comprehensible.

### 3.3.4 Critical Indigenous Pedagogy

Critical Indigenous Pedagogy has been incorporated into the birch bark canoe to correspond with Critical Indigenous Philosophy's third call to action, "engage the legal and political discourses of the state in an effective way" (Turner, 2006, p. 96).

#### *A brief history.*

Critical Indigenous Pedagogy emerged in the 1980s in response to the limitations of Freirean 'pedagogy of the oppressed' in the Indigenous context. Indigenous scholars' reinterpreted Western qualitative ethics, epistemologies, and methodologies (Denzin et al., 2008, p. xi). Critical Indigenous Pedagogy is the embedding of critical pedagogy within an Indigenous adaptation of Freirean 'pedagogy of the oppressed' (Denzin et al., 2008, p. 2). It "fold[s] theory, epistemology, methodology, and praxis into strategies of resistance unique to each Indigenous community" (Denzin et al., 2008, p. 10). For example, Red Pedagogy encourages Indigenous scholars to reconnect with communities and work with non-Indigenous peoples to reverse colonialism's damage (Grande, 2008, p. 234). It is "grounded in hope" and based on pedagogy, "praxis of collective agency",

critical theories, education for decolonization, and the “interrogat[ion] of both democracy and indigenous sovereignty” (Grande, 2008, p. 250). Moreover, it rejects the Western ideologies upon which critical theory is based, such as the Western notion of democracy and Marxist anthropomorphism (Grande, 2008, p. 235).

*Definition and description.*

Like Participatory Action Research (PAR), Critical Indigenous Pedagogy promotes participatory research and posits that all inquiry is political, but also moral and ethical. It values multiple perspectives, including Indigenous knowledge and ways of knowing, but is also overtly unruly and disruptive. Like PAR, it embraces emancipatory and empowering inquiry and praxis and uses critical methods. However, it is specifically committed to community, decolonization, self-determination, and cultural autonomy. Last, like PAR it promotes social justice and equity outcomes (Denzin et al., 2008). However, Critical Indigenous Pedagogy also encourages healing and transformation, is specifically concerned with producing outcomes that meet Indigenous communities’ needs, is not evaluated using neocolonial paradigms, and is concerned with the “performative...disrupt[ion] and deconstruct[ion]” of Western ways of knowing (Denzin et al., 2008, p. 8).

### 3.3.5 Arming, Revitalizing, And Re-Orienting The Birch Bark Canoe

The birch bark canoe carries with it a history of Indigenous oppression by hegemonic colonial forces and White constructs, including in research contexts. My interpretation of the Kaswénta as a relational framework transforms the birch bark canoe to combat the European ship’s hegemonic White constructs, which have become internalized by researchers and embedded in research and society. It is comprised of Indigenous: co-researchers, Word Warriors, intellectuals, philosophers, and experts who are committed to meaningfully and safely contributing to the project in a manner distinct from, but equally important to, those of their non-Indigenous counterparts.

The process of applying Critical Indigenous Philosophy to this relational



framework can be understood through the metaphor of arming, revitalizing, and re-orienting the birch bark canoe. Arming the canoe involved critiquing and deconstructing White constructs in researchers, research, and society. Revitalizing the canoe involved Tlingit/Tagish and Narungga co-researchers revitalizing Indigenous paradigms by reconnecting with their respective traditions and communities. It also involved revitalizing Indigenous representations by reclaiming them from non-Indigenous portrayals and reasserting them ‘from within’. It involved revitalizing the research process by using Critical Indigenous Pedagogies for inquiry and revitalizing Indigenous constructs, such as Indigenous legal traditions, by reasserting them. Reorienting the canoe involved Tlingit/Tagish and Narungga co-researchers reorienting themselves as co-researchers, Word Warriors, intellectuals, philosophers, and experts. It also involved reorienting the research, in terms of Critical Indigenous Philosophy, and the study to decolonize Western law and include local Indigenous law and legal traditions. As an Allied Other, I positioned myself as a co-facilitator of this process to avoid appropriation and recolonization of Indigenous knowledges (Denzin et al., 2008; Martin, 2008). As such, the following sections provide an overview of my lived experience co-facilitating this process.

*The Birch Bark Canoe As Community Co-Researchers.*

In to order to conduct research respectfully and safely with the Carcross/Tagish First Nation (C/TFN) and the Narungga Community of Point Pearce (NCP), community co-researchers armed, revitalized, and reoriented themselves as the birch bark canoe by applying Critical Indigenous Philosophy. As an Allied Other, I have limited insight into and control over community co-researchers’ deconstruction of internalized White constructs and revitalization of Indigenous paradigms. However, I was able to help facilitate a safe space for co-researchers to decolonize themselves. Specifically, I did this by decolonizing the research process, which involved holding research conversations with community co-researchers in the community, framing the project with community co-researchers using decolonizing research methodologies, and probing to encourage reflection on Indigenous paradigms. One community co-researcher covertly armed the

canoe, explaining she was constantly making herself aware of the way in which colonization has been internalized in her thoughts and actions (Anonymous, Personal communication, May 17, 2012). For her, decolonization was an ongoing, internal process.

Community co-researchers also overtly revitalized the canoe by offering Indigenous paradigms in the conceptualization of the project. For example, education was consistently described as interconnected with Land and resources, health, and other areas from a Tlingit/Tagish worldview (Anonymous, Personal communications, July 2012). One C/TFN community co-researcher explained the importance of Land based education for the community as, “connection to place, self...[that]...provides them with self-worth” (Anonymous, personal communication, July 13, 2012). Moreover, co-researchers suggested several ways to make the online educational web portals and tools we developed culturally relevant and appropriate. These included promoting Elders’ voices first in digital formats, incorporating cultural virtues and the medicine wheel, embedding the tool in a button blanket, emulating the dispute resolution circle on the home page, and playing community dancing or singing in the background (Anonymous, Personal communication, June-August, 2012). I worked with the community to Indigenize the online educational web portal and tool in this regard. I also facilitated discussion group consultations and a series of interviews with the communities to help them reconnect with traditional local consultation protocols. As a result, protocols were developed.

Community co-researchers reoriented the canoe by reorienting themselves as Indigenous: co-researchers, Word Warriors, intellectuals, philosophers and experts. Many C/TFN and NCPP citizens were already oriented as such. PPAC asserted such agency in reviewing a presentation of my proposed project, voting on my participation, and signing an agreement to outline the nature of our research relationship (Appendix B). The C/TFN asserted this type of agency in requesting an MOU, which was developed and signed, to outline the nature of our research relationship (Appendix A). The MOU outlines the terms of our relationship, including its adherence to the National Aboriginal Health Organization’s (2006) ownership, control, access, and possession (OCAP) guidelines, the benefits to the C/TFN, and shared copyright of the thesis among the University of Wollongong, C/TFN, and the NCPP. It also made me accountable to collaborate with and

report to a project supervisor, team, and the Executive Council. Most community co-researchers were Word Warriors in that they were working with the C/TFN government, which is clan-based and grounded in community virtues, but requires knowledge of external Western governance systems as well. Although PPAC was content with a less formal agreement, we included PPAC in the MOU to ensure that they would also receive the same copyright over the dissertation.

### *The birch bark canoe as research*

In to order to conduct research respectfully and safely with the C/TFN and the NCPP, community co-researchers armed, revitalized, and reoriented the research as the birch bark canoe by applying Critical Indigenous Pedagogy. Community co-researchers deconstructed White constructs embedded in Western educational ideologies and the academy by: asserting a right to refuse information; using accessible non-academic language; participating in informal research discussions; and explicitly criticizing academic research approaches. One co-researcher and Word Warrior advised me that “a lot of the stuff we learn in universities doesn’t work in communities; you almost have to throw all that away” (Anonymous, Personal communication, May 17, 2012). She explained the discomfort informed consent and audio recording sometimes causes in Indigenous contexts. As an Allied Other, I helped to facilitate community co-researchers in deconstructing White constructs in the research by respecting their right to refuse information, using accessible non-academic language, participating in informal research discussions, and validating criticisms about academic research approaches in Indigenous contexts.

Community co-researchers revitalized Indigenous representations by asserting their own perspectives in every stage of the research. This ensured that Critical Indigenous Pedagogies were active throughout the inquiry. The co-researchers made me accountable to regular meetings with executive council to share information about the project process on behalf of the primary project team. They also encouraged me to speak with respected community Elders and keepers of traditional knowledge, such as former

C/TFN Kaa Shaa du Heni (community leader) and Elder Mark Wedge and NCPP Elder and Community Councillor Papa George Walker, about the research process. Research conversations were often conducted on country, thus, allowing for information sharing drawing on the environment for knowledge. Community co-researchers also frequently alluded to community virtues in research conversations. Last, community co-researchers reoriented the canoe as research by employing Critical Indigenous Pedagogy to promote meaningful collaboration, thus, decolonizing research focused on self-determination and outcomes relevant to the community (Denzin et al., 2008).

*The canoe as White/Settler constructs in society.*

In to order to conduct research respectfully and safely with the C/TFN and the NCPP, community co-researchers armed, revitalized, and reoriented the research as the birch bark canoe by applying Critical Indigenous Pedagogy. Community-co-researchers deconstructed White constructs in society, such as Western Law and consultation in research conversations. For example, several research participants noted that most consultations were modelled after the government's structures and processes and were not taking place in accordance with community protocol (Anonymous, Personal communications, May-August, 2011). As an Allied Other, I facilitated their deconstructing of White constructs, such as consultation through inquiry in research conversations and through presenting critical analysis of White constructs in literature reviews and interviews with consultation experts. Community co-researchers also reasserted Indigenous constructs, such as Indigenous law and legal traditions, through reconnecting with community and traditions in discussion group consultations to revitalize community protocol for consultations. Last, community co-researchers reoriented the ship to make the centre/object of the study Indigenous agency. This was done through the act of Indigenizing the research process and outcomes, including the development of consultation protocols, online educational tools, and the dissertation.

### 3.4 The European Ship as Unsettling Pedagogy

*The row of purple wampum on the left is our White brethren, their ship, their government, and their religions for they have many.*  
(Lyons, 1986, p. 119)

The purpose of this section is to explain the European ship in this relational framework as a representation of Unsettling Pedagogy. Therefore, this section provides a brief history, definition and description, and criticisms of Whiteness Studies; some models for Allied Others to work with Indigenous communities; and an explanation of how Unsettling Pedagogy has been applied to this project.

#### 3.4.1 Unsettling Pedagogy

*A brief history.*

Critical Whiteness studies emerged in the early 1990s, during the postcolonial period (Carey, et al., 2009). Edward Said's (1978) concept of Orientalism as the unmarked West, defined by its representations of the Orient and Others therein, and Foucault's notion that knowledge is derived through ordering of differences have been highly influential to its emergence (Moreton-Robinson, 2004, p. 76, 80). Critical Whiteness studies were introduced by labour historian David Roediger's (1991) work on the privileging of White labourers as a strategy to divide and conquer workers. This emerged simultaneously in cultural studies, history, feminist theory, labour studies, and sociology and was popularized largely through critical legal studies in the United States (Woollacott, 2009, p. 18). Scholarship is increasingly including a sub-set of Critical Whiteness specifically focused on Critical Settler studies in the context of Turtle Island (North America), such as the recent work of Paulette Regan (2010) *Unsettling the Settler Within*.

*Definition and description.*

Critical Whiteness studies define Whiteness as a racial category in need of interrogation, specifically in relation to its normativity and positional superiority and the power and privilege that flows therefrom (Carey, et al., 2009; Salter, 2009). It aims to reveal and interrogate Whiteness as an invisible regime of imperial dominance in colonial and neocolonial contexts, naturalized and portrayed as the universal form of humanity and measure of normativity to which Others might be defined as less human/inferior by their degree of deviation therefrom (Carey, 2009; Moreton-Robinson, 2004; Salter, 2009; Watson, 2011). Drawing on Critical Race Theory (CRT), White studies decentralizes and deconstructs Whiteness—including dominant language, culture and knowledge systems upheld as universal norms—to disempower it as a dominant force that marginalizes Indigenous languages, cultures, and knowledge systems (Dunbar, 2008; Watson, 2011). Moreover, like CRT, it combats the pretence of colour blindness and meritocracy in the academy and society, by making racism visible (Dunbar, 2008).

Whiteness theory holds that the White/non-White dichotomy was established in the 17<sup>th</sup> and 18<sup>th</sup> centuries through colonization of Indigenous Lands and peoples (Carey, 2009; Carey, et al., 2009; Lake, 2009; Watson, 2011). The concept of Whiteness was created as an unmarked racial category and non-White peoples were categorised according to race and ordered within a racial hierarchy. This was done in an attempt to structure colonies, justify colonial entitlement to proprietorship and extraction of resources from Indigenous Lands through the doctrine of “terra nullius” (in Australia) and treaties (in Canada), and defend colonies from perceived threats (Banivanua Mar, 2009; Lake, 2009; Martin, 2008; Moreton-Robinson, 2004; Smith, 2012; Watson, 2011). Both Canada and Australia established themselves as White nation-states through constitutions (Moreton-Robinson, 2004, p. 79), which made Whiteness a marker of citizenship. Under the White superiority regime that followed in the modern era, Indigenous peoples were systematically dehumanized; raced through representations of “savagery” and “otherness” in transnational discourse; and classed as “nearly-human”,

“almost-human”, or “sub-human” (Ellinghaus, 2009, p. 236; Martin, 2008; Smith, 2012, p. 63).

White Settlers used “miscegenation, assimilation and abdication” (Newman, 2009b, p. 32) and hegemonic tools like the census and passports to enforce notions of White supremacy in interactions with Others (Lake, 2009, p. 131). Both Australia and Canada’s Whiteness discourse has encouraged assimilation of Indigenous peoples into White society through: 1) Australia’s Racial Hygiene Association of New South Wales, a female-dominated eugenics movement of the 1920s and 1930s through which early feminists promoted the sterilization of Indigenous peoples and propagation of White children as a means to gain public support for their agenda; and 2) legislative and policy regimes that made White status attainable and desirable to Indigenous peoples through the use of incentives and Indigenous status endogamous and exclusionary to White peoples (Carey, 2009; Ellinghaus, 2009, p. 236; Newman, 2009b). However, these policies only invited Indigenous peoples onto the margins of Whiteness, to become more White, but never White enough to gain full acceptance within White society. Therefore, the Othering of Indigenous peoples inhibits the Indigenization of White spaces and protects the notion of White superiority by maintaining the illusion of an inferior Other (Ellinghaus, 2009).

Paulette Regan’s seminal *Unsettling the Settler Within* draws attention to what historian Roger Epp coined, “The Settler Problem” (2010, p. 11) described as Settlers’ colonial forces of oppression upon Indigenous peoples in Turtle Island (North America). Regan proposes Unsettling Pedagogy for Settlers to decolonise themselves and create space for Indigenous narratives, which tend to be counter-hegemonic (Regan, 2010). According to Regan,

An unsettling pedagogy is therefore based on the premise that settlers cannot just theorize about decolonizing and liberatory struggle: we must experience it, beginning with ourselves as individuals, and then as morally and ethically responsible socio-political actors in Canadian society (2010, pp. 23-24)

*Contributions.*

Whiteness studies have helped to reveal racially and culturally oppressive forces within the academy and society that afford White academics privilege as “knowers” and misrepresent and objectify Indigenous peoples (Moreton-Robinson, 2004). Thus, they serve to undo the marginalization of racialized voices that sustain inequity (Dunbar, 2008). Specifically, Whiteness studies uncover Western ideologies embedded within the academy, dispelling the myth of “a racially neutral mind and an invisible detached white body”, which has been instrumental to the positioning of White academics as ultimate authorities of valid representations of Others (Castleden, Morgan, & Lamb, 2012; Moreton-Robinson, 2004, p. 81). This has contributed to greater critical analysis of the representations of Indigenous peoples created largely by non-Indigenous scholars through the ordering of differences Whiteness produces (Moreton-Robinson, 2004).

It has also helped to legitimate the Foucauldian notion long upheld by feminist and Indigenous scholars that race can inform knowledge through lived experience within the academy (Moreton-Robinson, 2004, pp. 76-77), which has been central to the emergence of Critical Indigenous Studies, Philosophies, Methodologies, and Theories. Moreover, Whiteness studies, in conjunction with Critical Indigenous Studies, have invited insightful, critical Indigenous perspectives on representations of Whiteness into the academy, based on their experience of being Othered as among the “most conscientious students of whiteness and racialization” (Moreton-Robinson, 2004, p. 85). Examples include Zebedee Nungak’s Inuit representations of Whiteness through ‘Qallunology’ (the study of White people) and Aileen Morton-Robinson’s Maori representations of “Whitefella[s]” (Nungak, n.d.; Woollacott, 2009).

Paulette Regan’s work has been especially useful in the Settler/Indigenous context in Turtle Island in its ability to,

...Unravel the Canadian historical narrative and deconstruct the foundational myth of the benevolent peacemaker – the bedrock of settler identity – to understand how colonial forms of denial, guilt, and empathy act as barriers to transformative socio-political change...turn the mirror back upon ourselves and to answer the provocative question posed by historian Roger Epp regarding reconciliation in Canada: How do we solve the settler problem? (2010, p. 11)



*Criticisms.*

Whiteness studies have been most commonly criticized for their propensity to reify the centralization of Whiteness within the academy and society and for their lack of definitional clarity and methodological rigour (Carey, et al., 2009; Watson, 2011). Specifically, Carey et al. have raised the need to better account for the interconnectedness of Whiteness and colonialism and distinguish between Whiteness as a relational and methodological category. However, this call for a distinction is put into disrepute by scholars who uphold macro methods as overarching approaches that contextualize the application of methods in dynamic, localized studies wherein knowledge acquisition is derivative, such as this one (Cornwall & Jewkes, 1995; Kidd & Kral, 2005).

### 3.4.2 Models for Allied Others to Work With Indigenous Communities

Several research models for Settlers to work respectfully as Allied Others researching with Indigenous communities, largely proposed by Indigenous scholars, have emerged from Whiteness studies. Graham Smith (Smith, 2012), proposes four models that create the conditions for non-Indigenous research to conduct respectful research with and for Indigenous communities, including:

1. Tiaki/mentoring model: a community authority guides, oversees and supports research for a discrete project.
2. Whengai model: researchers participate in a community's daily-life on an ongoing basis, maintained by a lifetime relationship exceeding research.
3. Power-sharing model: the researcher works with the community to develop a project the community meaningfully supports.
4. Empowering outcomes model: addresses research questions of importance to the community and results in outcomes beneficial to the community (p. 179).

Bravette Gordon (2001) also refers to emergent bi-cultural models that include Indigenous and non-Indigenous researchers who collaboratively develop and implement projects. These projects are designed by bi-cultural teams to incorporate methodologies appropriate for working with both Indigenous and non-Indigenous participants. Moreover, they aim to effectively utilize power differentials—a major gap in FPAR (Bravette Gordon, 2001; Ponc, Reid, & Frisby, 2010). For example, bi-cultural projects sometimes task non-Indigenous researchers with collecting data from non-indigenous participants and Indigenous researchers with collecting data from Indigenous participants (Bravette Gordon, 2001).

Karen Lillian Martin (2008) also provides some tips for non-Indigenous researchers to respectfully conduct research with Indigenous communities in her landmark text *Please Knock Before you Enter: Aboriginal Regulations of Outsiders and the Implications for Research*. In this book, she refutes the Western academy's tradition of researching Indigenous peoples and the premise upon which this tradition is based—that only non-Indigenous peoples' research is legitimate for Indigenous peoples and that non-Indigenous researchers have a right to conduct research on or about Indigenous peoples; to access, appropriate and misrepresent Indigenous knowledge; and to portray Indigenous peoples as primitive (Martin, 2008).

Last, Jones and Jenkins (2008) argue for the foregrounding of the Indigenous-colonizer hyphen in ethnology, which “joins as well as separates” (p. 475). They argue that collaboration does not erase the importance of the distinct experiences and perspectives of collaborators and encourage non-Indigenous peoples to always reflect on these differences and their impact on this relationship (Jones & Jenkins, 2008). They explain that non-Indigenous researchers might be restricted in Indigenous research contexts by their limited access to Indigenous knowledges and limited ability to interpret these knowledges (Jones & Jenkins, 2008). They argue this is due to their ‘answerability’ as non-Indigenous peoples, limited exposure to information necessary to contextualize knowledges, and enculturation in Western ideology, including notions of positional superiority (Jones & Jenkins, 2008). The juxtaposition between White/Settler entitlement to research and the Indigenous right to refuse or selectively impart knowledge can cause

conflict (Jones & Jenkins, 2008).

These models shift research from studying *on* and *about* communities to *with* communities *on* and *about* colonizing forces, including self-reflexivity about Settler privilege and indoctrination with notions of superiority and entitlement. Regan argues, “The singular focus on the Other blinds us from seeing how settler history, myth and identity have shaped and continue to shape our attitudes in highly problematic ways. It prevents us from acknowledging our need to decolonize” (Regan, 2010, p. 11).

### 3.4.3 Unsettling the European Ship

The European ship carries with it a sordid history of colonial dominance and oppression of Indigenous peoples, including in research contexts. The Kaswénta as a relational framework transforms the European ship to critically reflect upon, rather than exercise force through, its construct of Whiteness. It is comprised of non-Indigenous Allied Others who are committed to meaningfully and safely contributing to the project in a manner distinct from, but equally important to, those of their Indigenous counterparts.

The process of applying Unsettling Pedagogy to the Kaswénta, as a relational framework, can be understood through the metaphor of capsizing, reconstructing, and re-orienting the European ship. Capsizing the European ship, involved Allied Others, including myself, using reflexivity and self-criticality to deconstruct the dominant hegemonic forces of White constructs inherent in researchers, research, the academy, and society. Reconstructing the European ship involved embedded self-criticality and reflexivity of Whiteness/Settlement within the vessel. Re-orienting the ship involved praxis, based on power sharing and respect for self-determination, consistent with the Kaswénta. This process did not occur in three distinct phases, but as an ongoing, overlapping cycle of reflexivity and action, congruent with Participatory Action Research (PAR). Moreover, this metaphor of Unsettling Pedagogy capsizing, reconstructing, and reorienting the ship is relevant in three ways, which are outlined below.

*The ship as researcher (me).*

In order to conduct research respectfully and safely with both Indigenous communities, I had to unsettle myself –capsize, reconstruct, and reorient myself as the European ship. This process did not begin with this distinct project, but has been ongoing since my first experience working with an Inuit community in the remote Canadian sub-arctic a decade ago. However, my subsequent experience with communities, which has evidenced this transformation, is not a form of transferable capital that can be accumulated for future use. On the contrary, it requires constant critical reflection to keep up with changing self-concepts and research contexts and to combat oppositional forces of Whiteness/Settler society that promote notions and praxis of positional superiority. Therefore, this transformation has been multilayered. It has consisted of deep reflection on transformative experiences as the impetus for my work, my previous transformations as a researcher, dissonance between my previous and current self-concept and research contexts, and evaluation of the necessity for new transformation.

Six transformative experiences as a young person figure prominently in my reflections on the impetus for my work with Indigenous communities. First, my experience as a sibling of someone with Asperger Syndrome was profoundly influential in this regard. Specifically, this relationship inspired me to become an Allied Other by virtue of fighting against my older brother's marginalization, which had the effect of helping me to create new insights and learned behaviours that made social norms objectionable and allowed me to decolonize dominant discourse. This transformation into an Allied Other occurred very early on in response to the incessant teasing and bullying my older brother and my siblings experienced and judgement our parents received from other parents, who were ignorant about Asperger Syndrome. Once I became an Allied Other, I remained loyal to this positionality but applied it to many other contexts. It was through my experience of my older brother's marginalization that such injustice became personal. Through higher education, I have identified hegemonic oppression as the source of the injustice with which I take issue. However, this transformation into Allied Other occurred as much through my experience of my older brother's oppression as it did of his agency.

My earliest memories are of my older brother teaching me about the world from his perspective. Due to my brother's "syndrome" he has difficulty conforming to social norms. I would argue against common understandings of Asperger's and insist that his behaviour was due to an aptitude, not deficiency, on his part. His "syndrome" allows him to see social norms as constructs that are invisible to most people. For example, he did not conform to certain social hierarchical expectations nor make distinctions between animate and inanimate objects based on social norms. I developed the ability to shift between my perspective and his out of necessity to relate with him. These learned aspects of Asperger's served to alienate me from my peers who exercised, from my purview, less critical thinking in regard to social norms.

Second, I was marginalized within White society as a female of low socio-economic status (SES). For much of my youth, my family was marginalized within White society, based on our low socio-economic status (SES). Poor Whites have been marginalized and even excluded from Whiteness, as a measure of preserving notions of White dominance and superiority (Watson, 2011). This has been reflected in the prevalence of derogatory terms like "White trash", which implies poor Whites are "trash" to be disposed of in order to preserve the supposed 'purity' of the White population (Watson, 2011, p. xv). Moreover, I have experienced a similar form of marginalization, as a female within White/Settler society, at times reluctantly invited but never fully included within. As a young person, many of my female role models were not educated through formal institutes of higher education and sometimes even oppressed in their homes, work lives, and society. Success was commonly measured by one's husband's financial success. As a result, many of my female peers placed more importance on processes of attracting a husband of prominent status than pursuing education. As a young, low SES female, my possibilities in White society seemed, and were in fact, limited. At the same time, as a low SES female, I experienced the other side of Whiteness from the purview of a person marginalized within.

Third, being "not quite White", I was attracted to and accepted within non-White spaces. In secondary school, most of my friends were people of colour and considered me "not quite White". They explained my belonging within this space of "Otherness", based on my remote Spanish ancestry evidenced by my last name and my father's darker

complexion. However, upon critical retrospection I came to realize this status was afforded to me because of our shared experiences as oppressed peoples. In these circles, being White was an insult. As a pseudo insider, I learned this meant you were “Wealthy”, “Privileged”, “Self-important”, and “Oppressive”. I felt a sense of belonging within this group that was only disrupted when I was occasionally reminded that I was White. In fact, when I first attended university I felt alienated amongst the wealthy White students with which I found myself surrounded. It was only in my first experience living in an Inuit community in 2003 that I began to reconceptualise myself as a White person.

Fourth, the occupation of Ipperwash and events leading up to and including the murder of Dudley George were influential to my interest in becoming an Allied Other with Indigenous communities specifically. My family used to travel to Ipperwash beach in the summer for daytrips, as it was only a 45-minute drive from our house. As a child, I imagined Ipperwash beach as a place for families to enjoy. However, in 1993 that all changed when my family took us to another beach. They explained the Chippewas of Kettle and Stony Point First Nation were protesting there by occupation because the government had failed to honour their promise to repatriate the Land to them after they appropriated it in 1942 under the *War Measures Act* to build a military camp during WWII. I learned that the beach was, in fact, a sacred burial ground. In an instant Ipperwash was transformed from the setting of childhood memories of fun-filled family beach days to a site of conflict between First Nations and the Ontario government, Ontario Provincial Police, and local White families who owned cottages in the proximity. In 1995, the situation escalated to a standoff between occupants and the Ontario Provincial Police, which resulted in Sgt. Kenneth Deane murdering innocent First Nation protestor Dudley George. Dudley might have lived if he had been helped sooner at the hospital, but he was initially held up with police questioning and denied urgent care due to discrimination on the part of hospital staff.

Dudley George’s murder gained national attention, as did many other standoffs with First Nations, such as Oka. However, Dudley’s murder was a uniquely significant and transformative moment in my life, perhaps because it happened in my own backyard. It uncovered the degree of tension between First Nations and non-First Nations, locally and nationally. It demanded we choose sides. For my adolescent self, it was an epiphany

triggered by total disillusionment. My trust in the good faith of the institutions of police enforcement, military, government, health care, and Whiteness in general was challenged. My whole world was called into question. This narrative did not fit with the colonial metanarrative with which I had been indoctrinated. I capsized this metanarrative and reconstruct my understanding of the world around the events that unfolded at Ipperwash. I reoriented myself to become more aware of Whiteness/Settlement. These institutions were not designed to protect people; they were designed to protect Whiteness/Settler society. I left my childhood innocence and my ignorance of White privilege, power, and oppression of First Nations on the Ipperwash beach that I had imagined as a daytrip destination for families. The Ipperwash beach I now imagined was a battleground of First Nations agency against White/Settler oppression.

Fifth, my most significant previous transformation as a researcher was articulated in my Master's thesis as becoming a "Qallunologist", or researcher of Qallunaa (the Inuit language/Inuktitut word for White person) (Sisco, 2010). Qallunology is summarized in my thesis abstract, as

...studying oneself or being self-reflective first and foremost. It also means developing partnerships with Inuit based on research conversations, while understanding the ways in which their path is parallel and in which it is distinct. Qallunologists are humble, at once shedding culturally relative (especially colonial) preconceived notions and embracing the tenets of what it means to be good human beings according to Inuit Qaujimajatuqangit. Last, Qallunologists respect the right for Inuit to refuse information and share findings in an action-oriented as well as interpretive manner (Sisco, 2010, p. ii).

I experienced this transformation largely while writing the thesis, which was a process of reflecting on my experience as a non-Inuk working with Inuit in the North. Through critical reflective practice, I came to realise that my initial encounters with the community fell short of my expectations. I became aware of my own sense of White/Settler entitlement to information and "capsized" my feelings of disappointment. I "reconstructed" an approach based on power sharing and "reoriented" myself toward greater reflexivity in my answerability as a non-Inuk researcher in Inuit research contexts.

Specifically, I learned from Inuit about local history while in the community and

observed its dissonance with what I had read in texts prior to my arrival. As I note in my Master's thesis,

Most of what I read about Inuit as a student of Anthropology fit with three general paradigms: "the savage Eskimo" who was "primitive," fuelled by primal instincts and even "not human;" the "exotic Eskimo" who was "promiscuous" and "alluring;" and the "child like Eskimo" who was "desperate," "naïve" and in need of European guidance (Sisco, 2009a, p. 47)

However, Settler impressions about the Inuit, and other Indigenous peoples, are informed at a much earlier stage in life. In my Master's thesis, I also note my earliest acquaintance with representations of Inuit and the far North,

A video I viewed in a grade nine or ten world issues class comes to mind immediately. I doubt it was the first image I had of Inuit, but it was certainly the one that I remember best of those prior to going up North. The video consisted of images of Inuit in tents and igloos, women drinking seal blood, and an Inuk man licking his partner's eyeball to clean it—a practice that was portrayed as cultural. Curiously, I never once witnessed this behaviour in my fieldwork. My best friend, the history student who eventually co-wrote my thesis with me, was also in this class. Her response was more knowing than mine; she had seen her own people (the Habesha) portrayed in a similar sensationalist fashion on television and in movies and magazines.

The video concluded with a sort of "by the way, Inuit now live in houses more like ours and drive skidoos." In retrospect, I suppose this caveat would have benefitted the grade three students in their Arctic unit. The video ended, the credits rolled, and the lights were turned on. We looked around. No one else looked offended. The class discussion consisted of a question and answer period that equally matched the video in terms of ignorance. I am sure my friend and I would have enlightened the class had we known what to say. We only knew the video reminded us of other sensationalist portrayals of Indigenous peoples. I think we may have commented that this video seemed outdated. However, a deeper intervention was necessary, one we were not equipped to deliver (Sisco, 2009a, pp. 47).

My doubt that this was the first image I had of Inuit was recently validated when I recovered my Level (Grade) Three Journal, which contains images and stories of the Inuit and far North (Figures 10 and 11) apparently inspired by content covered in a "Native Studies" or "Arctic" Unit in class. I wonder in retrospect, how influential this unit had



been to my eventual journey to the far North over a decade later and to the experience of déjà vu I felt in the far North. From a Critical Whiteness perspective, I wonder how influential this unit had been to informing my preconceived notions about Inuit and the far North.

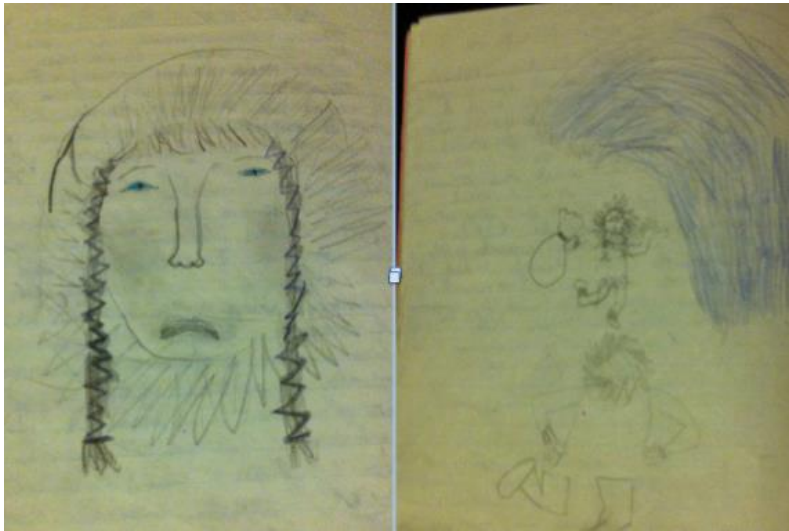


Figure 10. My drawings of Inuit and the far North in my Level (Grade) Three Journal.

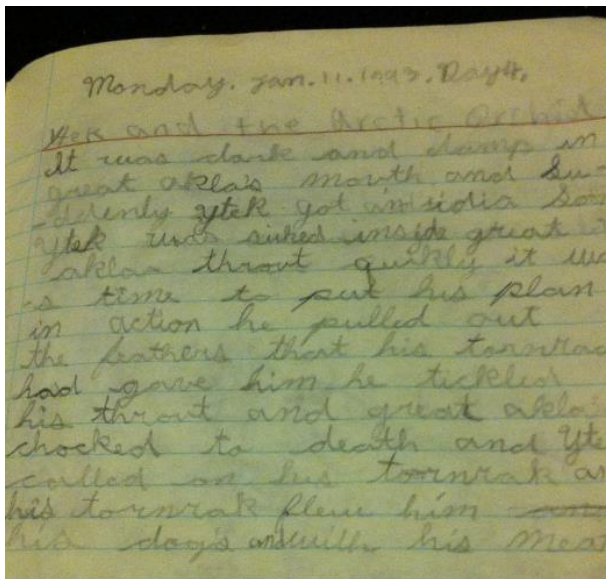


Figure 11. My Grade Three Journal entry about an Inuit story. Adapted from Hewitt, G. (1981). Ytek and the Arctic orchid: an Inuit legend. Vancouver: Douglas & McIntyre.

My Whiteness in these entries is glaring, as I reproduce archetypes of the Inuit. Specifically, the portrait of an Inuk woman on the left in Figure 6 resembles the aforementioned “child like Eskimo” who was “desperate,” “naïve”, and in need of European guidance” (Sisco, 2009a, p. 47). Together the images and written entry can be seen as colonizing because these representations or expressions serve to marginalize Inuit by placing them in the past or else in the context of folklore. Coming to terms with my Settler lens was and is important but emotionally difficult.

Sitting in front of my computer, my lens surfaced and I imagined all of the biases that might limit and inform my research rushing in between myself and my research participants. I felt a sense of loss about the distance between me and my research participants...that I might be doomed to forever reproduce the images and icons informed by the colonial underpinnings that, apparently, made everything comprehensible to me (and other members of Settler society), was disconcerting. Yet, it was undeniable (Sisco, 2009a, pp.99-100).

This inspired me to “capsize” dominant colonial narratives of Inuit history and peoples as well as notions of the universal legitimacy of academic texts and other media in relation to Indigenous histories. I reconstructed this history, based on the narratives and texts of local Inuit and Inuit organizations as well as counterhegemonic academic texts. I reoriented myself toward more critical reviews of academic texts about Indigenous histories and affording primacy to local narratives of self-representation. Moreover, I capsized my understanding of myself as a woman and reconstructed myself by embracing local Inuit interpretations of womanhood. I reoriented myself as a feminist researcher, critically aware of concepts of gender and their implications within different cultural and academic contexts. I capsized my previous self-concept as an unracialized person, reconstructed my self-identity within the community as a “Qallunaa”, and reoriented myself to become more critically aware of my Whiteness in research. Last I “capsized” previous notions about my unrestricted positionality within the larger decolonizing project, “reconstructed” myself within a more limited role as an Allied Other, and “reoriented” myself toward PAR research projects with Indigenous communities.

Six, I learned who I was in relation to this work when the Word Warriors (Figure 4) gave me the name ‘Decolonization Warrior’ (as mentioned in *Relative Matters*

(*Prologue*)) during my Master's program. Our original group of eight stay in touch regularly and have all embarked on individual paths for the collective purpose Turner (2006) outlines (discussed earlier in this Chapter) of decolonization and Indigenization. My understanding of my role as an Allied Other is that I must use my Unsettling Pedagogy and a Critical Whiteness positionality to help to decolonize.

This project called for a new self-transformation, responsive to my current self-concept and research context. This transformation has involved critically reflecting on my current self-concept as an international PhD student. As a Canadian living in Australia, I have occupied a liminal space as both foreign outsider and career competitor and White colonial comrade. As a PhD student, I occupy a similar liminal space between student and academic. This has been marked by my simultaneous marginalization as student and reverence as PhD candidate and, thus, potential future member of the intellectual elite. Through critical reflection, I have become aware that such positional superiority discourse has become more challenging to disavow because it lends opportunity to improve my status as a marginalized person. Nevertheless, I have "capsized" notions of positional superiority that were imposed upon me (as both White comrade and PhD) in this more vulnerable state (as both student and foreigner). I have reconstructed myself as a humble, respectful, and competent collaborator in community research. I have reoriented myself to better acknowledge the White transnational discourse that contributed to my new positionalities in Australia and to always return to my purpose as Allied Other.

This transformation has also involved critically reflecting on the Carcross/Tagish First Nation (C/TFN) and Narungga Community of Point Pearce (NCPP) communities, as my current research contexts. In working with the C/TFN and NCPP, it quickly became apparent that Qallunologist was an inappropriate position for me to assume. This is because to the C/TFN and NCPP, I was temporarily working with the community for the expressed purpose of research, whereas, to the Inuit community I had previously worked in, I was a person living in the community for a personal relationship, but also conducting research and retuning for 4-month periods over several years. Moreover, as a Qallunologist, I was working with an Inuit hamlet in a de facto Inuit territory without a formal agreement in place to outline the nature of our collaboration. In contrast, I have

been working for the C/TFN and NCPP in a far more collaborative context outlined through a formal Memorandum of Understanding (MOU). The C/TFN is a self-governing First Nation; the Narungga Community of Point Pearce does not enjoy the same degree of crown recognition as a self-governing nation. While working with the C/TFN, I reported directly to their government's Director of Capacity Building, and regularly to the Executive Council. While working with the NCPP, I reported directly to Papa George (Community Leader), and regularly to their Point Pearce Aboriginal Corporation.

In order to undergo the necessary transformation for this research project, I had to capsize my positionality as Qallunologist and essentialist treatment of communities. I reconstructed myself as an Allied Other as well as friend and familiar face to certain community members to reflect my answerability to the communities. I examined myself as a White researcher and "White fella" within the communities and how this differed from my identity as Qallunaa, by learning from local community members about community histories that might shape my answerability. I also reconstructed my understanding of my relationships with the communities as ones in which the communities had greater agency. I then reoriented myself toward "multilogicality", understanding it is possible to occupy different identities through different relationships in space and time.

*The ship as research.*

In order to conduct research respectfully and safely with both communities, I also had to capsize, reconstruct, and reorient the research as the European ship. This process was largely based on Karen Lillian Martin's (2008) work on respectfully conducting research with Indigenous communities as an outsider. It involved capsizing the notions that White academics (including myself) are privileged "knowers" who can objectify Indigenous peoples and represent them through their difference from Whiteness and that Indigenous peoples' lived experiences do not present a legitimate means of acquiring knowledge or ensuring self-representation (Martin, 2008). I reconstructed the research by replacing hegemonic theories and methods with the Kaswénta as a relational framework, which promotes more respectful research approaches that flow from the Critical

Indigenous Philosophy, FPAR, and Unsettling Pedagogy it incorporates. I also replaced non-Indigenous scholars' representations of Indigenous peoples as 'disempowered' Others with Indigenous self-representations of agency, based on their lived experiences as Indigenous and Othered peoples through methodologies that foreground Indigenous voices. Moreover, I refocused the role of non-Indigenous scholarship (including my own) largely on critically analysing the impact of Whiteness as a hegemonic force, and included the contributions of Indigenous scholars. Last, I reoriented the ship by assuming a critical Whiteness/Settler approach in research that makes Whiteness/Settlement visible and scrutinizes its impact on colonizing research, researchers, Indigenous peoples as co-researchers, and representations of Indigenous peoples and knowledges. This approach can be described as a combination of Graham Smith's (1992) *Power-sharing* and *Empowering outcomes* models because the topic is important to the community, both communities support the project through a power-sharing model, and the outcomes are beneficial to the communities (Smith, 1992, p. 179).

*The ship as White constructs in society.*

In order to conduct research respectfully and safely with both communities, I also had to capsize, reconstruct, and reorient the White constructs of Western Law and consultations as the European ship. In order to capsize these constructs, I interrogated Whiteness/Settlement as an invisible regime of imperial dominance and decentralized and deconstructed Whiteness/Settlement and its impacts and implications in law, consultations, and society. I capsized the notion of an indivisible sovereign and Western law's universal superiority, the supporting colonial metanarrative, and the illegitimacy of legal pluralism and, thus, Indigenous law influential to consultations. I reconstructed this research project's understanding of law, based on the notion of legal pluralism, incorporating Indigenous legal traditions and contextualizing them within a hegemonic Western legal framework. I reoriented this project's treatment of the law, utilizing 'Studying Up', a feminist legal anthropology approach makes White constructs of the law

the object of study, as opposed to Indigenous legal traditions exclusively (Donovan, 2008; Evans, Hole, Berg, Hutchinson, & Sookraj, 2009).

Reconstructing the law for this project involved reconceptualising Western law as a hegemonic White construct that has been naturalized through notions of White superiority and created as a central feature of the colonial project. From this purview, Australia and Canada share similar colonial narratives, including the continued and systematic dispossession of Indigenous Land and limiting of their ability to share in its development. In both countries, Lockean liberalism has legitimised colonization and naturalized the European Settler state by commodifying Land and dehumanizing its Indigenous inhabitants (Donovan, 2009; Havemann, 1999). Flowing from this philosophy, both nation-states have paternalistically appropriated Indigenous Lands without consent and their imposed Western legal systems have supported commercial interests in Land development—ultimately compromising the sustainability of Indigenous Lands for profit (largely enjoyed by non-Indigenous peoples) (Donovan, 2009; Havemann, 1999).

While Indigenous peoples in Australia and Canada have not been passive victims of this process (Nielson, 2007), their options for recourse have been limited within the Western legal system. The adversarial nature of both court systems favours the most persuasive argument rather than seeking truth (as in inquisitorial systems) (Donovan, 2009). This places Indigenous societies that lack capacity, resources, and the cultural context at a disadvantage in protecting their rights and advancing their interests, compared with the crown and industry proponents (Fidler & Hitch, 2007). Moreover, Indigenous legal traditions are delegitimized by the Austinian indivisible sovereign paradigm upheld in these countries (the concept that they are each one sovereign nation), with which legal pluralism is incompatible (Havemann 1999; Janke, 1998). Consultations are also largely White constructs because they are enculturated with and based upon Western law. The reconceptualising of Western law has contributed to a reconceptualising of consultations and other White constructs in the research, including governance models, social hierarchies, and policy.

### 3.5 Feminist Community Based Partnerships Research (FCBPR) as The River

*The field of white represents peace and the river of life. We will go down this river in peace and friendship and as long as the grass is green, the water flows, and the sun rises in the east. (Lyons, 1986, p. 119)*

The purpose of this section is to explain how Feminist Community Based Partnerships Research (FCBPR) is represented in my interpretation of the Kaswénta as a relational framework. FCBPR is a macro method I applied within this framework. FCBPR combines the basic principles of Participatory Action Research (PAR) with FPAR's feminist theoretical framework and CBPR's ('four Rs') principles for working with Indigenous communities. This section provides a brief overview of each of these theories, in turn, followed by discussion of how they have been applied to the relational framework in this project.

#### 3.5.1 Participatory Action Research (PAR)

*A brief history of the evolution of PAR.*

Participatory Action Research (PAR) has existed across many cultures throughout time and space, thus, "is truly a living movement worldwide for which no one person or community can claim ownership" (Reason & Bradbury, 2006, p. 3). Nevertheless, certain political and social theorists are more commonly regarded as major influences in its development including "Marx, Dewey, Fanon, Habermas, Gramsci, Kuhn, and Durkheim" (Brydon-Miller & Maguire, 2009, p. 81). Moreover, Kurt Lewin (founder of Social Psychology) is often credited as PAR's pioneer, introducing PAR in the 1940s as a means to link theory with practice to better utilize research for problem solving (Gardner, 2004; Reason & Bradbury, 2006).

The literature suggests that PAR was popularized due to a paradigm shift characterized by the convergence of several trends. Specifically, a call for pragmatic

research that revealed the pretence of objectivity emerged in response to Lewinian and Freirean liberatory criticisms of the positivist hegemonic traditions of reproducing power and privilege through supposedly neutral research (Brydon-Miller & Maguire, 2009; Cornwall & Jewkes, 1995; Torre & Ayala, 2009). Together with an increased interest in research that would contribute to a just and equitable society, this led to the introduction of liberatory critical race and gender discourse (Brydon-Miller & Maguire, 2009; Cornwall & Jewkes, 1995; Torre & Ayala, 2009). At the same time, globalization led to the application of post-colonial theory to international development and the empowerment and critical pedagogy approach expanded to adult education (Brydon-Miller & Maguire, 2009; Cornwall & Jewkes, 1995; Torre & Ayala, 2009).

Theoretically, PAR can be described as postmodern in its simultaneous willingness to adopt several theoretical orientations, and refusal to commit to any one exclusively. These orientations include complexity theory, constructivist theory, critical thinking, humanist psychology, liberationist thought, pragmatic philosophy, and systems theory (Reason & Bradbury, 2006). Originating in the subfields of social psychiatry, public health and community psychology, PAR has evolved differently within many health and social science disciplines (Brydon-Miller & Maguire, 2009; Kidd & Kral, 2005; Tetley & Hanson, 2000). However, these philosophical, applied, theoretical, and disciplinary trajectories of PAR converge on several common principles.

#### *Defining and describing PAR.*

Reason and Bradbury (2006) define the five characteristics of action research in terms of “Human Flourishing, Practical issues, Knowledge in-action, and Participation and democracy” (p.2), which share reciprocal relationships with the fifth characteristic—“Emergent development forms”. Drawing and elaborating on these principles, scholars define PAR as a dynamic and highly contextual, pragmatic, political, democratic, collaborative, research approach of co-operative inquiry, which involves participants in addressing a shared problem through sequential reflexivity/self-criticality and action toward social justice outcomes (Brydon-Miller & Maguire, 2009; Cornwall & Jewkes, 1995; Heron & Reason, 2001; Kidd & Kral, 2005; Reason & Bradbury, 2006). Reason



and Torbet (2001) propose three types of PAR: 1) “First person action research”, which is a self-inquiry process; 2) “Second person action research”, which is cooperative inquiry with communities about practical problems of mutual concern; and 3) “Third person action research”, which involves political change on a grander scale (pp. xxv, xxvi).

PAR addresses practical issues in order to help people with their everyday lives (Bradbury & Reason, 2001). However, this focus on pragmatism is coupled with more ambitious and wide-reaching goals. The practical knowledge gained through PAR contributes to its wider purpose of “Human flourishing” through improving ecological, human and community well being (Bradbury & Reason, 2001, p 2). Of critical importance, the research process must first exemplify the type of power levelling it aims to reflect in participating communities and the world.

Participation and democracy are central to PAR. PAR researchers serve to facilitate more equitable power relations in projects through “co-operative inquiry”—conducting research with and for, rather than on and about, peoples (Castleden, et al., 2012; Cornwall & Jewkes, 1995; Heron & Reason, 2001, p. 144; Kidd & Kral, 2005; Koster, et al., 2012; Reason & Bradbury, 2006; Tetley & Hanson, 2000). As such, participants in PAR research are regarded as experts, their perspectives are integral, and their ways of knowing and knowledge are valued equally to researchers’ expertise (Cornwall & Jewkes, 1995; Kidd & Kral, 2005). PAR researchers work with communities by incorporating local perspectives, knowledge, and expertise to develop an approach and methodology, gather and analyse information, and create outcomes (Cornwall & Jewkes, 1995; Freire, 1982 as cited in Kidd & Kral, 2005; Gardner, 2004; Heron & Reason, 2001; Tetley & Hanson, 2000). This collaborative approach leads to more dynamic and context-specific research projects that require greater flexibility from researchers to navigate through the intricacies of relationships amongst oneself, participant collaborators, and the environment, and their impact on the research (Brydon-Miller & Maguire, 2009; Cornwall & Jewkes, 1995; Kidd & Kral, 2005; Tetley & Hanson, 2000).

PAR collaborators seek to gain knowledge through action. Therefore, PAR processes and outcomes are action-oriented. The PAR process is a cycle of reflexivity/self-criticality, and action with participants (Bravette Gordon, 2001; Brydon-

Miller & Maguire, 2009; Cornwall & Jewkes, 1995; Heron & Reason, 2001; Kidd & Kral, 2005; Marshall, 2001). According to Marshall (2001), reflexivity must be twofold, including both “inner and outer arcs of attention” (p. 335). Inner arcs of attention, include actions of internal inquiry that encourage self-awareness with respect to the way in which one understands, frames, and articulates issues, such as recognition of internal dialogue patterns, and themes, embracing a “multidimensional frame of knowing” (that links “intellectual, emotional, practical, intuitive, sensory, imaginal and more knowings”) and thematic content analysis of note taking (Marshall, 2001, p. 336). Outer arcs of attention involve actions of external inquiry that encourage self-awareness with respect to the way in which one understands, frames, and articulates issues, such as “actively questioning, raising issues with others, or seeking ways to test out...developing ideas” (Marshall, 2001, p. 336).

Scholars have proposed various interpretations of what steps PAR’s cycle of reflexivity/self-criticality and action comprises (Bravette Gordon, 2001; Heron & Reason, 2001; Marshall, 2001). Marshall (2001) describes the steps involved in this cycle generally as engagement, tracking, reflection, and planning engagement (p. 337). Heron and Reason (2001) propose a more detailed and research design-based cycle of steps, including: 1) collaborative research design and planning; 2) transformation of co-researchers into co-subjects, who collaboratively conduct data collection and analysis; 3) full immersion of co-subject into project, leading to deeper inquiry, analysis, new pathways, and transformative experience; and 4) reassembling of project team to review results and revise project (Heron & Reason, 2001, pp. 145-146).

PAR research outcomes are action-driven and action-oriented (Heron & Reason, 2001). They include empowering communities through “conscientization” (raising critical awareness of their disadvantage and means to empowerment), creating knowledge and action (emancipatory change) useful to affected groups/communities (second person PAR), and “transformation of fundamental societal structures and relationships” (third person PAR) (Brydon-Miller & Maguire, 2009, p. 82; Cornwall & Jewkes, 1995; Freire, 1982 as cited in Kidd & Kral, 2005; Gardner, 2004; Heron & Reason, 2001; Kidd & Kral, 2005; Tetley & Hanson, 2000). These outcomes represent Reason and Bradbury’s (2001) PAR principle of “Human flourishing (p. 2). The flow of benefits from PAR outcomes is

reciprocal, such that both researchers and communities benefit from providing their time, energy, and expertise (Tetley & Hanson, 2000).

As a “macro method” (Cornwall & Jewkes, 1995; Kidd & Kral, 2005, p. 187) inductive, qualitative methods are best suited to PAR research, both traditional (interviews, discussion groups, ethnographic fieldwork) and non-traditional (storytelling, dance, performance art, community meeting minutes, video, photography, and drawings) (Cornwall & Jewkes, 1995; Kidd & Kral, 2005; Tetley & Hanson, 2000). While PAR embraces the “systematic inquiry and data collection” (Gardner, 2004, p. 53) of the social sciences, it also includes aspects of education and action that set it apart (Brydon-Miller & Maguire, 2009). According to Smith (1997) and Lather (1991), evaluation of PAR research should be triangulated, and include local knowledge methods and thick descriptions of change and knowledge outcomes (Kidd & Kral, 2005). Moreover, emancipatory change is considered a measure of success in PAR as well (Kidd & Kral, 2005).

#### *Criticisms of PAR.*

One of the most fervent criticisms of PAR is that it has largely been tokenized through loose interpretations of ‘participatory’ and reduced to a form of ‘social capital’ that does not necessarily empower communities (Cahill, Quijada Cerecer, & Bradley, 2010; Kothari & Cooke, 2001; Tetley & Hanson, 2000). Specifically, critics claim it has frequently been co-opted and abused to obtain funding, “justify short-cut research within a top-down process” (Cornwall & Jewkes, 1995, p. 1668), and gain access to and legitimacy from participating communities (Cornwall & Jewkes, 1995; Tetley & Hanson, 2000; Torre & Ayala, 2009). In connection with critiques of the tokenism of PAR that has led to a shallow interpretation of it, other scholars argue PAR has often served to perpetuate colonialism through the reification of modernist dualism (Cannella & Manuelito, 2008).

Another common criticism is that PAR is “‘easy’, ‘lacking rigour’ and ‘unscientific’” (Wadsworth, 2001, p. 332). Bradbury and Reason (2006b), however, address many of these concerns with their “choice-points” for action research quality

evaluation, including: “Quality as Relational Praxis”, “Quality as Reflexive-Practical Outcome”, “Quality as Plurality of knowing”, “Quality as Engaging in Significant Work,” “Emergent Inquiry Towards Enduring Consequence” (pp. 347-348). From their purview, quality PAR is challenging, rigorous, and systematic.

On the other hand, PAR critics have also expressed scepticism about the difficulty of PAR. Sceptics have critiqued researchers’ abilities to balance their multiple roles as researchers, facilitators of research partnerships, and agents of participant empowerment (Ponic et al., 2010; Rahaman, 1991 as cited in Kidd & Kral, 2005). In particular, the complexity of PAR researchers’ roles as facilitators has attracted much criticism in scholarship. This includes managing disagreement amongst participants over the research agenda or process, as well as constraints such as cultural differences, “consensus tyranny” (the use of processes like groupthink and intimidation to silence individual perspectives and create unrepresentative participation), and a lack of commitment due to either disinterest or a lack of time, resources, or comfort (Cornwall & Jewkes, 1995; Smith 1997 as cited in Kidd & Kral, 2005, p. 190). Additionally, Heron and Bradbury (2001) list a variety of skills and validity procedures important to co-operative inquiry, including: “[b]eing present and open”, “[b]racketing and reframing”, “[r]adical practice and congruence”, “[n]on-attachment and meta-intentionality”, “[e]motional competence”, “[r]esearch cycling”, “[d]ivergence and convergence”, “[a]uthentic collaboration”, “[c]hallenging consensus collusion”, “[m]anaging distress”, “[r]eflection and action”, “chaos and order” (pp. 149-151).

Critics also assert that PAR research is not immune to pervasive social hierarchies. All communities are heterogeneous and influenced by power differentials marked by the “Indigenous elites” that colonial education created, which raise issues of representation (Cornwall & Jewkes, 1995; Smith, 2012, p. 67; Tetley & Hanson, 2000). Cornwall and Jewkes (1995) explain how this invites further problems for PAR researchers:

On the one hand, working through local power structures invites manipulation of the research according to the agendas of the powerful. On the other, working outside (and, inevitably, potentially against) these structures can weaken both the potential impact of the project at a wider level, as well as invite continued marginalization (p. 1673).

Moreover, those engaged in PAR have the propensity to default to social hierarchies during times of ambiguity and tension (Kidd & Kral, 2005), which are commonplace (Torre & Ayala, 2009). For example, PAR researchers may be uncomfortable relinquishing power and control and accepting different forms of knowledge as legitimate (Tetley & Hanson, 2000). They may use their social positions to impose beliefs, and participants may be resistant to assume more power and agency in the process (Cornwall & Jewkes, 1995; Kidd & Kral, 2005). PAR researchers also face challenges in building trust and relationships with participants, identifying research problems, developing appropriate and accessible data collection and dissemination, and managing more time-consuming projects (Castleden, et al., 2012; Gardner, 2004; Tetley & Hanson, 2000). Martin (2008) asserts that this may be due to the fact that such methodologies remain embedded in Western theories.

Additionally, PAR research has been criticized for requiring support that is beyond the means of the institutions, which implement it. For example, the lack of knowledge in academia on PAR research methods can result in inadequate student support for and supervision of PAR research (Kidd & Kral, 2005). Similarly, the lack of constraints in time, budget, and topic for PAR research can also be inconsistent with institutions' expectations and result in inadequate resources to support such projects (Kidd & Kral, 2005). Despite a lack of institutional support, PAR has become a requirement and ethical standard for conducting research with groups/communities, especially Indigenous communities (Castleden, et al., 2012; Kidd & Kral, 2005).

Last, PAR has been criticized for overlooking gender among other types of bias in research (Gatenby & Humphries, 2000; Maguire 1987 as cited in Brydon-Miller & Maguire, 2009). According to Maguire (2006), "any action research which continues to ignore, neglect or marginalize diverse feminist thought and its goals is simply inadequate for its supposed liberatory project" (p. 60). Yet, the tremendous importance of feminist theory to PAR often remains obscured (Maguire, 2006). This considerable school of critique of traditional PAR has contributed to the development of Feminist Participatory Action Research (FPAR) (Gatenby & Humphries, 2000; Maguire 1987 as cited in Brydon-Miller & Maguire, 2009).

### 3.5.2 Feminist Participatory Action Research (FPAR)

Feminist Participatory Action Research (FPAR) theory encompasses the aforementioned characteristics of PAR research, but also treats research as a political process aimed at rectifying gender inequalities (Ponic, et al., 2010). FPAR emerged in response to the extensive critique of early PAR's male-centricity (Maguire 1987 as cited in Brydon-Miller & Maguire, 2009). The relationship between PAR and FPAR is complex, characterized by a non-continuous cycle of mutual influence over time. The power sharing, relational, and reflexive traditions of feminist theory have been highly influential to PAR (Ponic, et al.; Maguire, 2006). However, PAR only developed into a feminist theory in its own right when it adopted a critical gender dimension, acknowledging women's experiences and gender bias manifest especially in the marginalization and silencing of women's voices (Gatenby & Humphries, 2000; Maguire 2001 as cited in Ponic, et al.; Maguire, 2006). Since then, FPAR has significantly contributed to PAR theory and practice (Ponic, et al.).

FPAR arguably provides a better foundation to support some of the tenets of PAR research, which are drawn from feminist theory and inspired by female academics' experiences of being discriminated against and excluded from research. For example, power sharing, the centrality of relationships, and reflexivity are strengths of feminist theory and research (Behar, 1995; Brydon-Miller, & Maguire, 2009; Cahill, et al., 2010; Canella & Manuelito, 2008; Greaves 2009 as cited in Ponic, et al., 2010; Smith, 2012) drawn from women's shared experiences of "oppression, devaluation and exploitation" (Maguire, 2006, p. 61) central to feminism. Whereas, traditional PAR attempts to apply these feminist concepts within a framework with which they are inherently incompatible because it developed from patriarchal institutions (such as subfields of health and social science) (Kidd & Kral, 2005). Feminist theory has drawn attention to the failure of critical theorists to recognize their patriarchal traditions that have marginalized female academics (Smith, 2012).

FPAR's shift from studying marginalized voices to foregrounding them has created opportunities for PAR to better apply within Indigenous contexts (Canella & Manuelito, 2008; Smith, 2012). Indeed, women and Indigenous peoples share some

common experiences (such as dehumanization, oppression, devaluation and essentialism), although their perspectives of these experiences may differ in important ways (Canella & Manuelito, 2008; Moreton-Robinson, 2000/2002; Smith, 2012).

Furthermore, FPAR has come to reclaim feminist traditions such as the reflexive writing practices of women that have been devalued, sanctioned, and appropriated by male academics. Female academics have a history of embracing reflexive writing in disciplines, such as anthropology throughout the 20<sup>th</sup> Century, due to their exclusion from academic forms of expression (Behar, 1995). As Behar so aptly points out, when James Clifford developed a new agenda for Anthropology based upon the reflexive writing that was called “confessional” and “popular” when used by women, it was deemed “innovative, dialogic, reflexive, and experimental writing” instead (1995, p. 4). Therefore, the use of reflexive writing in FPAR is politicized as the repatriation of a writing tradition in action, consistent with FPAR’s concern for social justice.

FPAR has influenced PAR in important ways through challenging its limitations (Brydon-Miller & Maguire, 2009). According to Maguire (2001a), “one of many feminist influences on PAR is the notion that knowledge is always created in the context of human relationships” (Brydon-Miller & Maguire, 2009, p. 87-88). In this regard, Smith argues that “feminism has provided a more radical challenge to knowledge than Marxism because of its challenge to epistemology: not just the body of knowledge and worldview, but the science of how knowledge can be understood” (Smith, 2009, p. 43). FPAR has proposed that knowledge and social change depend on research relationships characterized by an ethic of “love, care, hope, and forgiveness” (Cahill, et al., 2010, p. 407; Denzin et al., 2008, p. 3; Maguire, 2001a as cited in Brydon-Miller & Maguire, 2009). Darder and Mirón (2006) elaborate on the principle of love as an especially important ingredient defined as the recognition of the interconnectivity and interdependence of all things and the endeavour for mutual enrichment (as cited in Denzin et al., 2008).

Feminist theory has also drawn attention to the failure of critical theory to empower the oppressed (Smith, 2012). FPAR is credited with responding to this shortcoming by encouraging deep systematic reflexivity about power dynamics within and outside of the research (Ponic, et al., 2010). For example, Patricia Hill Collins’

(1991) “matrix of domination”, which outlines the interrelated elements of oppression and privilege, is touted as a major contribution of FPAR (Brydon-Miller & Maguire, 2009, p. 86-87).

In conjunction with borderlands scholarship, FPAR has served to challenge some of the traditional criticisms of PAR, as well. For example, Fine and Torre (2004) reframe disjuncture and conflict in PAR research (which they term “choques”), as opportunities “to recognize and analyse ways micro-tensions in the research reflect macro-level policies and practices” (as cited in Torre & Ayala, 2009, p. 390), rather than shortcomings. Torre and Ayala (2009) challenge the notion that consensus is critical in PAR altogether. Smith extends this sentiment in the context of decolonization, arguing that struggle is important to emancipation and empowerment, and essential to PAR’s process of ‘conscientization’ (or ‘critical consciousness’) as impetus for action (2006, p. 201). For Smith (2006), struggle is “a theoretical tool for understanding agency and social change, for making sense of power relations and for interpreting the tension between academic views of political action and activist views of the academy” (p. 200).

FPAR is faced with many of the same challenges and criticisms as PAR research, as well as additional challenges. As with PAR, creating partnerships among participants despite their various interests and social positions remains a challenge (Ponic, et al., 2010). Additionally, FPAR has been criticized for focusing too heavily on resolving power imbalances, and overlooking how to effectively utilize them to empower disempowered peoples and groups (Ponic, et al., 2010). Moreover, White feminism is commonly criticized for attempting to homogenize women’s experiences (Canella & Manuelito, 2008; Maguire, 2006; Moreton-Robinson, 2000/2002; Smith, 2012). Finally, while both PAR and FPAR are applied to working with Indigenous communities (Kidd & Kral, 2005; Ponic et al.), they have not been designed specifically for this purpose. As such, they may fall short of accounting for the specific needs of Indigenous community based collaborative research.



### 3.5.3 Community Based Partnership Research (CBPR)

Community Based Partnership Research (CBPR) is a PAR approach designed specifically for Indigenous community-based projects (Barnhardt & Harrison, 1993; Castleden, et al., 2012; Koster, et al., 2012). Communities can be defined according to shared social, cultural, political, geographical/physical, and psychological experience and affiliation (Smith, 2012). However, CBPR often focuses on clans, nations, and pan-indigenous membership specifically (Smith, 2012). CBPR evolved out of the global Indigenous education movement that begun in the 1970s and experienced greater research uptake with the 1990s Indigenous sovereignty and political autonomy movement (Barnhardt & Harrison, 1993; Castleden, et al.).

The main contribution of CBPR to PAR research conducted with and for Indigenous communities has been Kirkness and Barnhardt's (1991) 4-R's, which include:

1. *respect* for local Indigenous knowledge, community protocols, and multiple perspectives;
2. *relevance* of research to local culture and community;
3. *reciprocity* in knowledge exchange as well as capacity building between and mutual benefits to academic and community research partners; and
4. *responsibility* of academic researchers to empower community research partners through the development of a formal agreement outlining the research relationship, engage them throughout the process, and disseminate research outcomes that are accessible and respectful for audiences (as cited in Archibald, Jovel, McCormick, Vedan, & Thira, 2006; Castleden, et al., 2012; Chávez, et al., 2004; Koster, et al., 2012).

Kirkness and Barnhardt's (1991) 4-R's focus on respectful processes that heal and educate, rather than outcomes that are otherwise typical in community-based research (as cited in Smith, 2012, p. 130). CBPR, like PAR, is highly contextual and dynamic, due to the derivative nature of knowledge (Koster, et al.). In this regard, it might also be considered a macro method.

### 3.6 Replenishing The River

The river, which represents the relationship between Indigenous and non-Indigenous peoples, is no longer pristine, embodying the principles of peace, friendship, respect, equality, dignity, and sharing enshrined in the Kaswénta. It has become polluted with forces of hegemonic colonial dominance and oppression that have transformed the river into one characterized by conflict, animosity, contempt, inequality, ignominy, and avarice.

My interpretation of the Kaswénta as a relational framework transforms the River into Community Based Partnership Research (CBPR), by replenishing it with the tributaries of Participatory Action Research (PAR), and the undercurrents of Feminist theory, including relational work based on an ethic of love and care and deep reflexivity. As such, it is restored to its original sentiment as enshrined in the Kaswénta. The replenishing of the river in this research project can be understood through the four R's of Community Based Partnership Research (CBPR): 1) respect, 2) relevance, 3) reciprocity, and 4) responsibility.

#### 3.6.1 Respect

In order to conduct research respectfully and safely with both Indigenous communities, I respected local Indigenous knowledges, community protocols, and multiple community perspectives. This involved the centralizing of relationships, based on an ethic of love, care, and morality, consistent with both feminist traditions and Critical Indigenous Pedagogies. It also involved my engagement in a cycle of sequential reflexivity/self-criticality and action. For me and other Allied Others, this involved ongoing critical reflection about and deconstruction of Whiteness/Settlement on my person, the research, and other White/Settler constructs related to the topic (Western law and consultation), specifically. For Indigenous community co-researchers, this involved both critical reflection and deconstruction of Whiteness/Settlement as well as Indigenization. These dual cycles of reflexivity/self-criticality and action were distinct

but made apparent during ongoing research conversations.

### 3.6.2 Relevance

In order to conduct research respectfully and safely with the C/TFN and NCPP, I ensured the research was relevant to the local culture and community. I identified Indigenous consultation as a major practical and social justice issue, based on prior research I conducted with Indigenous communities across Canada. This was corroborated and extended into the Australian context by a comprehensive literature review about Indigenous consultations and informal discussions with community, government, and industry experts in the field. Consultation was among the issues which emerged in my discussions with members of the Carcross/Tagish First Nation (C/TFN) following a conference I attended two years prior to starting my PhD. Mark Wedge, The Kaa Shaa du Heni (Chief) at the time, suggested we might work together in the future. In preliminary discussions with Point Pearce, community members similarly pointed to consultation as an issue of interest. I ensured this topic was relevant through submitting a proposal and presenting to the C/TFN's Executive Council and the NCPP community council, respectively. In collaboration with each community, the project was adjusted to accommodate their specific needs and interests.

I also had to ensure the research process was relevant to participating communities. This involved a consultation process with communities to learn about how to research respectfully with them. I based my initial approach on this relational framework, working with communities respectfully, deconstructing Whiteness, and working to encourage Indigenization of the process through Community Based Partnership Research (CBPR). I also asked both communities during my initial presentations about how they would like to work together. However, much of the details and nuance required for respectful research collaboration was uncovered through research conversations with co-researchers about consultation generally.

### 3.6.3 Reciprocity

In order to conduct research respectfully and safely with the C/TFN and NCPP, I ensured the reciprocal appropriation of knowledge exchange as well as capacity building between and mutual benefits to academic and community research partners. Knowledge exchange and capacity building was reciprocal in that we all learned from one another, other participants, the environment, the process, and the outcomes. Community co-researchers built capacity as researchers through engagement in the process and on the topic through the development of community protocols in relation to consultation. Several participants also gained Information Technology Communication Skills through the use of Skype, PowerPoint, and Lucid chart as well as through the development of their web portals and tools. I learned about respectful community research collaboration and consultations with both communities. The knowledge and capacity gained by the communities will contribute to their traditional community knowledge (regarding protocols) and administrative and consultation skills. The knowledge I gained from the process will help me to develop a strong dissertation that will contribute to the body of literature on Indigenous consultations, filling several gaps therein. Hopefully, this body of research will also contribute to more meaningful and just Indigenous consultation processes and outcomes. The capacity I have built will contribute to my skills as a researcher, especially in working with Indigenous communities.

Benefits were also reciprocal. Community co-researchers seemed to experience a process akin to “conscientization” through reflecting on Indigenous consultations. My process of ongoing critical reflexivity was equally but distinctly profound in this regard. This is consistent with CBPR’s propensity to produce outcomes related to human flourishing through healing and education (Kirkness & Barnhardt, 1991 as cited in Smith, 2012). However, there were also reciprocal practical and tangible outcomes, including the development of consultation protocols and online educational tools for both communities and production of this dissertation under joint copyright amongst the University of Wollongong, the C/TFN and the NCPP.

### 3.6.4 Responsibility

In order to conduct research respectfully and safely with both Indigenous communities, I assumed the responsibility to empower community research partners through the development of a formal agreement outlining the research relationship, engaging them throughout the process, and disseminating research outcomes that are accessible and respectful for audiences. On behalf of the UOW, I signed a Memorandum of Understanding (MOU) with the C/TFN, outlining the nature of our relationship, including their rights to Ownership, Control, Access, and Possession of the research through shared copyright with UOW and the NCPP (Appendix A). I signed a similar agreement with the NCPP, although it was much less formal (Appendix B). The contents of agreements were negotiated with each community, based on their respective needs and preferences.

Both communities were engaged throughout the process, from customizing the topic, determining the research process, engaging in research conversations, and conducting analysis and interpretation of results. Research was also disseminated collaboratively in an accessible fashion respectful for all audiences. The online educational tools have been designed, developed, and implemented in collaboration with both communities in an accessible and culturally appropriate fashion. A C/TFN Elder with decades of experience in consultation travelled to Point Pearce to collaboratively disseminate the results of the study and share information. In June 2014, when I return to the C/TFN, we will co-present on the work with Point Pearce.

## 3.7 Conclusion

The relational framework I employ applies my interpretation of the underlying sentiment of the Kaswénta to this project. Specifically, I have used metaphor to explain how Unsettling Pedagogy and Critical Indigenous Philosophy have been applied as distinct but equal decolonizing roles for non-Indigenous and Indigenous co-researchers,

respectively. As a non-Indigenous Allied Other, I capsized, reconstructed, and reoriented the European ship as myself, the research, and White/Settler constructs in society. I also helped to facilitate the arming, revitalizing, and reorienting of the birch bark canoe as community co-researchers, the research, and White constructs in society. Last I worked with communities to replenish the river as the relationship between non-Indigenous and Indigenous researchers through the implementation of Community Based Partnership Research, influenced by the outflow of Participatory Action Research (PAR) tributaries and feminist theory. It is hoped that the development of my interpretation of the Kaswénta as a relational framework will contribute to a larger movement in the renewal of this original treaty in research and beyond.

## Chapter 4

# The Aterihwihsón:sera Kaswénta As Relational Protocol (Methodology)

*Emotionless, passionless, abstract research is a goddam lie to other people. Humans—feeling, living, breathing, thinking humans—do research. When we try to cut ourselves off at the neck and pretend an objectivity that does not exist in the human world, we become dangerous, to ourselves and then to the people around us. (Wilson, 2008, p. 56)*

### 4.1 Introduction

As a relational framework, the Aterihwihsón:sera Kaswénta has guided my research relationships with the case study communities and research process, including cultural and relational protocol. While research methodologies are typically represented as chronological lists of systematic methods and justifications thereof, the process on which they rest can involve an organic, yet profoundly life-changing experience—spiritually, physically, emotionally, and intellectually (Wilson, 2008). Like respectful relationships, which must grow naturally over time and take shape without imposition, this framework is fluid, providing a foundation that is open to ongoing reinterpretation. In its ability to shape shift and remain forever and everywhere relevant, it has helped to build cross-cultural understanding among research participants. Specifically, it has served to help me to work in culturally responsive ways with the case study communities from my own cultural reference point as a non-Indigenous researcher.

The Kaswénta informed the approach taken to the research process underpinning

this thesis in the same way that a vision inspires a visionary to take action. The ‘vision’ associated with this thesis is akin to the Kaswénta that was brought into being by two separate lifeways navigating the river of life. In this study, the process may be considered as involving the weaving of a rich tapestry by drawing on the Canoe as critical Indigenous Philosophy, the European ship as Unsettling Pedagogy, and the river as Community Based Partnership Research. Like individual beads within beadwork, or dots within a dot painting, particular elements are important within their own context, but may take on greater relational significance within the final tapestry. And, like the Kaswénta, the weaving of the tapestry was effected to at once reflect, speak to, and bring together multiple worldviews.

In this chapter a full account is provided of how the research was conducted. A rationale for the use of a case study approach is provided as well as key elements of the communities and individuals involved. The research process, including data collection methods and materials, are also detailed as are the two stages of the process: 1) preparing (background/contextual research), and 2) working together (ethnographic fieldwork). Finally, the application of thematic content analysis to the data collected is discussed.

## 4.2 Writing Protocol

As discussed in the “Writing Matters” section of this thesis, I took a decolonizing and unsettling approach to the writing of this thesis. This was informed by the Kaswénta relational framework and in turn informed the research relational protocol (methodology). Specifically, auto-ethnographic writing and story work has been integrated throughout this thesis in order to share the process of self-reflexivity involved with community based partnership and participatory action research as well as unsettling pedagogy. This approach has also been taken to increase the accessibility of this thesis and as a gesture of emotional and spiritual connection to the reader.

For example, the “Acknowledgements” reflect a way of honouring all entities and the “Relative Importance” (prologue), “Consulting about Consulting (A Metanarrative)” and “Coming Home” (epilogue) allows me to position myself within the research consistent with the concept of ‘relatedness’ and many Indigenous traditions that have been



shared with me along this journey. Additionally, I have tried to honour oral traditions (as the Narungga, Tagish, and Tlingit peoples are all historically oral cultures) that have historically been marginalized within academia by balancing them alongside written accounts in the “literature and expert narrative review” section (Wilson, 2008). Moreover, the use of a “relational” rather than “theoretical” framework, and “research protocol” rather than “methodology” reflects an unsettling of my research approach and embracing of critical Indigenous methodologies, consistent with the Kaswénta relational framework. For more information see “Writing Matters”.

### 4.3 Case Study Approach

A case study approach was taken as a means to collect rich qualitative data in both countries (Creswell, 2003). The case studies include the Carcross/Tagish First Nation (C/TFN) in Yukon Canada and the Narungga Community of Point Pearce (NCP) in South Australia. The selection of a case from Canada and another from Australia was based partly on the lack of, and simultaneous need for, Australian-Canadian comparative literature on Indigenous consultation (Newman, 2009a). The validity of cross-cultural comparative studies is contested in legal anthropology, due to the diversity among and intricacies within Indigenous legal systems (Donovan, 2008). However, the Aterihwihsón:sera Kaswénta relational framework positions Western legal institutions and practices in Australia and Canada as the object of study, which creates a sound basis of comparison.

Focusing on only two case studies was consistent with the Kaswénta framework’s CBPR and Whiteness studies aspects. It allowed for more rigorous analysis by virtue of including only two communities and, thus, two predominant localized cultural paradigms consistent with Critical Indigenous Philosophy. It also allowed me to spend more time in participating communities (five months in C/TFN and two months in NCP) because the limited time I was afforded for fieldwork purposes was divisible only by two. This allowed me to collaborate more meaningfully with participating communities, including with Word Warriors, consistent with Critical Indigenous Philosophy and CBPR. The

focus on critical analysis of the impact of western legal frameworks and institutions (consultations shaped by common law systems), including its propensity to promote colonization, reflected the inclusion of Unsettling Pedagogy.

The two case study communities were selected based on existing relationships and purposeful sampling (Patton, 2002). In working with Indigenous communities in either country, particularly as a non-Indigenous researcher, it is critical to form meaningful relationships based on mutual trust and respect. Fostering such relationships requires circumstance, shared commitment, and time. I had formed a strong connection with Carcross/Tagish First Nation (C/TFN) a few years before undertaking this research, as discussed in the Relative Importance (*Prologue*). A colleague at the University of Wollongong, Dr Michelle Eady, had also formed a strong relationship with the Narungga Community of Point Pearce (NCP), which resulted in an invitation to work on projects of mutual interest and benefit, including this one. These were not the only communities with which I had formed relationships; however, they were selected on the basis that they also met the specific selection criteria for this project, which included: i) relevance to the topic (ongoing, anticipated, or past grievance with consultations and/or expertise and experience in consultations), ii) interest in the project and willingness to work together, and iii) preparedness to participate (equipped with computers, broadband, and support to make the project feasible). The following sections elaborate on the location and participants involved in the two case studies.

It should be noted that while I dedicated time and effort to building relationships with both communities, this thesis grew out of my life experience in Canada and it is through this lens that engagement with South Australian fieldwork and context is approached. As a result Canadian content is the strength of this thesis and there are necessary limitations in terms of how this thesis conveys an understanding of the South Australian context from a Canadian perspective.

## 4.4 Communities And Participants

### 4.3.1 Communities

The two communities featured as case studies in this report are: 1) the Point Pearce Narungga community, and 2) the Carcross/Tagish First Nation. Overviews of the communities, peoples, and histories are included below.

#### *The Point Pearce Narungga community.*

We acknowledge this Land as the Traditional Lands of the Narungga People and that we respect and support the Spiritual, Physical, Economical, Mental and Emotional relationship with their Country. We also acknowledge the Narungga People as the custodians of the Yorke Peninsula region and that the inherent Cultural and Spiritual beliefs continue to sustain the living Narungga People today (PPAC, 2013).

Point Pearce is an Indigenous community located nearby the Spencer Gulf on South Australia's Yorke Peninsula, approximately 115 km from Adelaide (Government of South Australia, n.d.) (Figure 7). In 2006, the population was 148 residents ((“Point Pearce Demographics (SA) Local Stats”, n.d.), although local residents estimate only 50 community members currently live in the community, with the remainder primarily living in surrounding suburbs (such as Moonta, Port Victoria, Maitland, and Kadina) or Adelaide. According to the most recent data available, for 2006, employment (24%), income (\$203/week), and cost of house rentals (\$35/week) are low (Anonymous Participant, February 8, 2013; “Point Pearce Demographics (SA) Local Stats”, n.d.). During my fieldwork, many residents had been living in temporary housing units (trailers) while their homes were being rebuilt for several months.

One of the most rigorous written records of Narungga history is that of Skye Krichauff (2008), who notes that compared with other Indigenous peoples, the Narungga have been understudied. Therefore, the records are sparse. Additionally, it was not the objective of this project to delve too deeply into history. Instead, I relied on accounts participants shared freely, which tended to focus on the more recent history of the

community from about 1940 onwards.

There are several Narungga creation stories. However, I have identified two that are shared openly. First, Krichauff (2008) writes about the creation of the geography in Narungga territory (Bookayana).

A Narungga Creation Story describes low-lying, swampy country covered with numerous lagoons. Disagreements amongst Ancestral Beings belonging to the bird, animal and reptile families caused great concern to leaders of the willy-wagtail, emu and kangaroo families. After a night of prophetic dreams, a giant kangaroo bone was found which proved to be magic. When the wise and respected kangaroo pointed the bone at the swampy land, the earth opened up and the sea gradually flooded the low land. This is how the two Peninsulas (i.e., Yorke and Eyre) and (what we now call) Spencer Gulf were formed... The events described in this Creation Story are consistent with rising sea levels and the drowning of land scientists estimate occurred between 15000 and 8000 years ago... (pp. 12-15).

Second, The Website for Point Pearce Aboriginal School (the local elementary school k-3) contains a webpage on dreaming with a story about a rock nearby Point Pearce, which has been shared with me through the Oral Histories of several community members as well (I have also been to see this rock).

Buthera was a big strong man on a journey through his country to the southern part of Yorke Peninsula.

On the way he camped and met a stranger who said he was Mudjitju, the leader of the bat people.

Buthera was angry at Mudjitju coming into his land without permission. They fought and Buthera cut Mudjitju in two, which is why the bat has short legs today, and the folds where he was cut can still be seen on his body.

Buthera continued along his way until he came to Gardiemutka (called Curramulka today, meaning Emu Water Holes) where a group were camped by the water holes. They had been told of the fight by the willy wagtail, (who the Narrunga and many other people believe to be a messenger and bearer of news).

Buthera was annoyed that the people knew of his fight with Mudjitju and caused a great bushfire to encircle them. The people tried to escape into the waterholes but they were all burnt. The wind rose, turning them into birds - magpies, shags, and seagulls. Today we can see how their bodies were burnt black by the fire and smeared with the grey and white ashes.

Buthera continued on his journey until he met Ngarna. Ngarna was a little man, Ngarna was Mudjitju, and Mudjitju was a bat. The two men had an argument and fought. In the fight Ngarna was wounded by

Buthera, but Ngarna was clever and quick-footed and ran away. Buthera was at Guguthie and he threw his waddy (club) across the bay at Ngarna, who hid behind a rock. The waddy missed Ngarna and landed with tremendous force, breaking in two.

The club head became the large rock known as Buthera's Rock which lies at Moongurie on the western side of Bookooyana (Point Pearce peninsula). Blood from the wounds can be seen in the sand nearby.

The handle lies in pieces on the other side not far from Yudrie, and the stones which formed it can be seen there still.

Ngarna became a large rock which can be seen on the point named after him. Buthera's Rock reminds us of Buthera's great strength and his fight with Ngarna. (Government of South Australia, n.d.)

For many thousands of years prior to the arrival of European whalers, surveyors, and pastoralists, Narungga people occupied Point Pearce and the remainder of what is now referred to in English as South Australia's Yorke Peninsula (Krichauff, 2008; "Point Pearce - SA memory past and present for the future", n.d.; Narungga Community College & Wanganeen, 1987). Bookayana, the Narungga traditional territory, spans from what is now referred to as Cape Spencer in the South to Port Broughton and Port Wakefield's neighbouring Hummocks in the North (Narungga Community College & Wanganeen, 1987). Sub groups included the Koornarra (Gunara) in the north, Winderah (Winderah) in the east, Dilpa (Dpa) in the south, and the Waree (Wari) in the west (Narungga Community College & Wanganeen, 1987). The Narungga believed Bookayana was created by Ancestral beings and were, therefore, spiritually connected with the Land, "the land was theirs and they were of the land" (Narungga Community College & Wanganeen, 1987, p. 1). They lived in harmony with the Land and Water, hunting, fishing, and gathering as they moved among their many campsites along the Land base (Narungga Community College & Wanganeen, 1987).

Narungga are traditionally a clan/totem-based culture, their "four 'clan' or 'totem' groups [called Paru, included:]... the Carrie (Emu), Wourie (Red Kangaroo), Wilthu (Shark) and Wiltu (Eaglehawk), whose territorial divisions were north, south, east and west" (Krichauff, 2008, p. 11). Paru provide belonging to and spiritual connection with totems and territory and are inherited through one's parents (Krichauff, 2008). Narungga traditionally believed the soul travelled to the direction of one's Paru after death, where it

continues to exist (“Point Pearce - SA memory past and present for the future”, n.d.; Narungga Community College & Wanganeen, 1987). Additionally, individuals belonged to sub-totems called Kuyia, which were interpreted through mothers’ while children were in utero connecting the unborn child to places and animals (“Point Pearce - SA memory past and present for the future”, n.d.; Narungga Community College & Wanganeen, 1987).

The Narungga Culture was vibrant and traditions were strong, including beliefs, ceremony, ritual, and custom. Laws were reinforced through corroborees (ceremonious celebrations and gatherings) and creation stories and were shared in song and dance (Krichauff, 2008). Storytelling was used to explain the environment (Point Pearce - SA memory past and present for the future”, n.d.; Narungga Community College and Wanganeen, 1987). Cultural customs included arranged marriages in childhood and rites of passage into marriage ((“Point Pearce - SA memory past and present for the future”, n.d.; Narungga Community College & Wanganeen, 1987). Taboos were honoured. Men did not look their mothers-in-laws’ in the eyes, brothers and first cousins did not speak directly with one another, and the names of the deceased were never uttered ((“Point Pearce - SA memory past and present for the future”, n.d.; Narungga Community College & Wanganeen, 1987).

Professor Lester-Irabinna Rigney, who is originally from Point Pearce, has shared the following *first fires* story about contact with visitors, which has been passed down in his family.

The Narungga First fire narrative of the Gooreta (Shark) dreaming is unique as it tells of the foreigners' arrival and subsequent 'contact'. The story talks of a meeting that was to be held by all the states of the Narungga Nation (Yorke Peninsula) at the head of Gulf St Vincent. A group of Narungga peoples caught a small fish and wrapped it in bark with its fins exposed. The fish was released in order that other groups around the Peninsula would catch the fish, indicating a grand meeting after the full moon of all Narungga. Several weeks later the fish returned swimming in and around a giant school. The children rushed into the water with screams of joy to catch the abundant fish. Soon mothers and fathers waded in knee deep to join the welcoming party. Screams of joy turned to screams of terror when the little fish was no longer small but huge. The fish had changed colour from brown to white with razor sharp teeth. The small fish had turned into a large white pointer shark. The shark roared the Narungga word 'Bucha'

(deadly/ lethal). This story is a harrowing First fire prophecy that told our people to expect white danger from the sea. The genesis for this story could have been in response to any of a number of 'contact' observations and/or collisions, including sealers or subsequent expeditions by Colonel Light (aboard *Rapid*), Flinders (aboard *Investigator*), Baudin (aboard *Le Geographe*) or the crew of HMS *Buffalo*. (2002, pp. xi)

While most written historical accounts about the Narungga begin in the 1830s, Krichauff (2008) provides a more comprehensive illustration of Settler-Narungga history. Between 1802 and 1836 several small groups of European men arrived in Bookayana, who explored and staked claim to Bookayana Land and exploited its resources (Krichauff, 2008). In the early 19<sup>th</sup> Century, the British and French governments sponsored scientific discovery voyages, including the *Investigator* commanded by Matthew Flinders) and *Le Geographe* commanded by Nicolas Baudin (Krichauff, 2008). Additionally, European sealers and whalers frequented the waters and sometimes shores, although less meticulous records were kept, as they tended to be illiterate (Krichauff, 2008; "Point Pearce - SA memory past and present for the future", n.d.; Narungga Community College & Wanganeen, 1987).

In 1836, England was given sovereign authority to establish South Australia through the Letters Patent, which included provisions for harmonious relations between Indigenous and non-Indigenous peoples in South Australia through the recognition and protection of Indigenous rights and interests in traditional country (Bignall, Rigney, & Hattam, 2014). However, the South Australian Company ignored these provision and, ancestral lands in South Australia were stolen and sold without consent; the Indigenous inhabitants were widely dispersed from their Country and communities; and thus their rights of occupation and enjoyment were completely usurped (Bignall, Rigney, & Hattam, 2014, p. 4).

This led to the erosion of Indigenous and Settler relations (Bignall, Rigney, & Hattam, 2014). Pastoral expansion ensued throughout the 1840's, significantly impacting local Indigenous peoples (Krichauff, 2008; "Point Pearce - SA memory past and present for the future", n.d.; Narungga Community College & Wanganeen, 1987).

Between 1836 and 1846, European surveyors and adventurers arrived. During this

time period, the Narungga reportedly became more confrontational (Krichauff, 2008; “Point Pearce - SA memory past and present for the future”, n.d.; Narungga Community College & Wanganeen, 1987). Krichauff (2008) interprets this as an indication that the Narungga grew more confident with their ability to defend themselves, as they became familiarized with these different types of strangers and the weapons they carried. Other sources suggest conflict emerged between the Settlers and Narungga peoples due to competition over limited Land and Water resources (“Point Pearce - SA memory past and present for the future”, n.d.; Narungga Community College & Wanganeen, 1987). However, it is also possible the newcomers’ intentions became known through negative experiences, as they infringed on Narungga law and protocol (fundamentally by trespassing). Importantly, at this time, Narungga had relative control over visitors to Bookayana, as land rights and ‘ownership’ in Bookayana were undisputed and visitors came in small numbers (“Point Pearce - SA memory past and present for the future”, n.d.; Narungga Community College & Wanganeen, 1987). Therefore, European accounts of ‘unprovoked’ aggression or hostility toward them on the part of Narungga during this time period fall short of understanding that Europeans were trespassing and failing to reciprocate Narungga laws and protocols governing relationships (“Point Pearce - SA memory past and present for the future”, n.d.; Narungga Community College & Wanganeen, 1987).

By the 1850’s, White Settlers had usurped the Land, which led to culture loss and depopulation (from approximately 500 in 1847 to under 100 in 1860) of the local Narungga (“Point Pearce - SA memory past and present for the future”, n.d., p. 1). In 1859, copper discovery in the region led to the development of townships and the less than 100 remaining Narungga peoples settled nearby these mining communities (“Point Pearce - SA memory past and present for the future”, n.d.; Narungga Community College & Wanganeen, 1987). Surviving Narungga peoples were marginalized within the new pastoral and mining social order of their homeland (Narungga Community College & Wanganeen, 1987). European Settlers failed to understand or respect Narungga Land use, imposing their less ‘environmentally harmonious’ culture without attempting to incorporate aspects of Narungga culture (Narungga Community College & Wanganeen, 1987, p. 21). According to the Narungga Community College and Wanganeen report



(1987), conflict between these two groups remained commonplace, with several instances of White Settlers murdering Narungga peoples recorded and others left unreported. Police provided Narungga peoples with food rations as a means of control and subjugation (Narungga Community College & Wanganeen, 1987). However, the ration system created debilitating dependencies that further devastated traditional Narungga lifestyle (Narungga Community College & Wanganeen, 1987).

In 1868, the South Australian government established an Indigenous mission at Point Pearce in an attempt to ‘civilize’ Indigenous peoples living nearby mining townships, who were regarded as a nuisance to Settler residents therein (“Point Pearce - SA memory past and present for the future”, n.d.). Despite the millions of prosperous acres in South Australia, the mission included only approximately 600 acres of virtually ‘uncultivable land’ located 35 miles south of Wallaroo in a place formerly known as Bookooyana (“Point Pearce - SA memory past and present for the future”, n.d.; Narungga Community College & Wanganeen, 1987). That year, the Narungga and other Indigenous peoples from the Adelaide and Murray Plains groups were forcibly settled on the mission (Narungga Community College & Wanganeen, 1987).

During this time, Indigenous peoples on the mission were referred to and treated as ‘inmates’, their days regimented in accordance with strict Euro-Christian values (Narungga Community College & Wanganeen, 1987). A (non-Indigenous) superintendent oversaw the mission, strictly enforcing rules regarding what Indigenous ‘inmates’ would do throughout the day with the sounding of a bell, including when they would rise, have dinner, and attend church (Narungga Community College & Wanganeen, 1987). While at first glance the community might have seemed more functional under this system, it proved paternalistic (Narungga Community College & Wanganeen, 1987). Sanitary habits were overlooked, alcohol was prohibited, families required written permission to own livestock, Narungga cultural traditions (such as mobility and Narungga law) were undermined and discouraged, and Indigenous children were demeaned and assumed incompetent in school (Narungga Community College & Wanganeen, 1987). Insubordination was punishable by removal of the offender from the mission (Narungga Community College & Wanganeen, 1987). By the time the

*Aborigines Act*<sup>20</sup> was tabled, Indigenous people wanted self-determination (Australian Human Rights Commission, n.d.; Narungga Community College & Wanganeen, 1987).

In 1874, the harsh conditions of the mission led to further depopulation of Narungga from 70 to 28 residents (“Point Pearce - SA memory past and present for the future”, n.d.). In 1889 and 1894, the tribal makeup of the community was further diversified, when Indigenous peoples from the Poonindie Mission on Eyre Peninsula and other language groups were relocated to Point Pearce (Narungga Community College & Wanganeen, 1987, p. 1). As a result, Narungga survivors experienced substantial culture loss. In addition to depopulation, imposition of significant lifestyle change, and detribalization, many of those who did not move to the mission refused to pass their knowledge on to those at the mission (“Point Pearce - SA memory past and present for the future”, n.d.). When Mark Wedge visited the community, as a C/TFN community ambassador and performed a smudging ceremony at the Point Pearce Aboriginal Corporation meeting, it was evident that Narungga community members were aware and felt sadness about this culture loss. Several members made comments to this effect. Through this discussion, I learned that the community had been detribalized and many members were not ancestrally Narungga. However, they identified as such because of their connection with the community, people, and land base. As Greg Cajete of the Santa Clara Pueblo Nation (2000) stated in Aikenhead & Michell (2011),

All human development is predicated on our interaction with the soil, the air, the climate, the plants, and the animals of the places in which we live. The inner archetypes in a place formed the spiritually based ecological mind-set required to establish and maintain a correct and sustainable relationship with place...but people make a place as much as a place makes them. Native people interacted with the places in which they lived for such a long time that their landscapes became reflections of their very souls (p. 73)

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<sup>20</sup> The “[k]ey provisions” of the Act include “Aboriginals Department to provide for the ‘custody, maintenance and education of the children of aboriginals’ and to ‘exercise a general supervision and care over all matters affecting the well-being of aboriginals’. Chief Protector is the legal guardian of ‘every aboriginal and half-caste child, notwithstanding that any such child has a parent or other relative living’ until the age of 21 years, except while the child is a ‘State child’ within the meaning of the State Children Act 1895.” (Australian Human Rights Commission, n.d.).

While this paternalistic approach was justified through protectionist rhetoric, which positioned it as well intentioned, its impacts proved damaging. Among the most damaging effects of the protectionist era was the spatial segregation, through forced relocations and settlement (akin to Apartheid in South Africa), and ‘stolen generations’ of Narungga (among other Indigenous) children taken from their families and communities to attend mission schools focused on ‘White washing’ (making them more like White children) (Narungga Community College & Wanganeen, 1987). Like the Canadian residential school experience, Australia’s stolen generations represent a cultural genocide. While much focus is placed on the poor living conditions and high incidence of physical and sexual abuse, the genocidal policy underlying these schools—separating child from parent and community as a means to remove their culture—is often overlooked. As one Narungga resident of Point Pearce recounts, “The Superintendent he had a rule, he took the kids, children, away...had ‘em up here in the home, in the Salvation Army home in Adelaide and I wanted ‘em home. I wanted ‘em home for Christmas. He wouldn’t let them come home for Christmas” (Narungga Community College & Wanganeen, 1987, p. 53). Another local Narungga person poignantly summarizes Point Pearce’s colonial history:

Virtually within fifty years of European occupation, the Narungga people as a group had been destroyed. Within fifty years, Europeans had destroyed what existed in harmony with the environment for thousand of years. Dispossessed, depopulated and detribalized, the Narungga people were destroyed...prisoners in their own land (Narungga Community College & Wanganeen, 1987, p. 1).

By 1910, many Narungga at the mission considered it their home, and began fighting for their rights to own the Land and work for themselves (“Point Pearce - SA memory past and present for the future”, n.d.). In 1915, the State Government assumed control over the mission and it was renamed “Point Pearce Aboriginal Station”. After World War II, the government permitted Indigenous farmers to earn money for their work, although at a tenth of the rate of their non-Indigenous counterparts (“Point Pearce - SA memory past and present for the future”, n.d.). In the 1930s and 1940s, many people in Point Pearce worked as farmhands, domestics, or in the armed services (“Point Pearce - SA memory past and present for the future”, n.d.). In the 1950s, many residents were

exempted under the *Aborigines Protection Act* in order to pursue employment and schooling outside of Point Pearce, relinquishing certain rights and requiring them to apply for permission to enter the mission ( “Point Pearce - SA memory past and present for the future”, n.d.).

Curiously, several community Elders seemed to be nostalgic about this time period, reflecting on it with fondness and even an overt longing for the past. They shared many fond memories of the mission period with me, describing it as a time when there was a greater sense of community, economy, and respect. When I referred to the accounts provided in the *Narungga Community College and Wanganeen* (1987) report, these Elders verified these accounts were reflective of the experience, but explained the community was in a better situation than it is today.

In 1966, the Point Pearce Reserve Lands were transferred and entrusted to the Aboriginal Lands Trust (Narungga Community College & Wanganeen, 1987). In 1972, the Indigenous people of Point Pearce gained control of their Land; the Aboriginal Lands Trust Act resulted in the transfer of 5,777 hectares of Land to the Point Pearce Community Council ( “Point Pearce - SA memory past and present for the future”, n.d.). In 1975, the People of Point Pearce reclaimed self-management with the establishment of a community council ( “Point Pearce - SA memory past and present for the future”, n.d.). While community members widely regarded self-determination as a step in the right direction, there was also recognition that capacity challenges among members created barriers ( “Point Pearce - SA memory past and present for the future”, n.d.). The community has since experienced both major successes, including the development of business ventures and Point Pearce Aboriginal Corporation (PPAC), as well as challenges, such as three liquidations due to mismanagement of funds (Anonymous Participants, March 25, 2013).

In 1999, the South Australian Government implemented a state-wide Indigenous Land Use Agreement (ILUA) negotiation process, between 2002 and 2006 and that resulted in templates for the negotiation of land use agreements among Indigenous land claim parties under the *Native Title Act* in place of legislative extinguishment or litigation (Agreements, Treaties and Negotiated Settlements Project, 2011; Langton, 2004; Local Government Association of South Australia, n.d.). In 2004, the Narungga ILUA was

signed by the Yorke Peninsula District, Barunga West, Copper Coast and Wakefield Regional Councils to govern native title matters involving the Narungga Nation and the South Australian Government (Local Government Association of South Australia, n.d.; Finlaysons Lawyers, 2004). Langton (2004) has described the current South Australian context as process oriented and compared it to the Canadian treaty-making model,

In some ways the process of negotiating land claims in South Australia resembles “treaty making” of Canada because ...[it involves]...“targets outcomes that are broader than negotiations conducted locally, claim by claim” but...unlike Canadian treaties,...[it] is not a single settlement or agreement that reconciles the conflicting authorities and perceptions of rights and interests among native title claimants and government (p. 203).

Currently, PPAC is engaging the community in several education and training initiatives, sustainable development projects, and business ventures to build capacity and strengthen the local economy (Anonymous Participants, March 25, 2013). However, socio-economic, capacity, and other challenges, many of which stem from colonial history, are prevalent in the community (Anonymous Participants, March 25, 2013).

*The Carcross/Tagish First Nation.*

We who are Tagish and we who are Tlingit, our heritage has grown roots into the earth since the olden times. Therefore we are part of the earth and the water. We know our Creator entrusted us with the responsibility of looking after the land into perpetuity, and the water, and whatever is on our land, and what is beneath our land. So those coming after us, we will give them that responsibility into perpetuity. Our elders have assigned us the task of showing respect to things. Therefore, we will look after our land as they have told us to do, as did our elders, because we were the first to come to this land that is now called Canada.

We will be the bosses of our land. We will watch over our land as we have agreed upon, and as we ourselves manage things according to our traditions. We will bequeath it to those coming after us into perpetuity. We will work with people to strengthen our heritage, to give a firm foundation to our peoples lives, and to manage our land well.

We will work with all peoples to take good care of our land, and all the resources of this land, as we have agreed on. We will be our own masters. We who are the Tagish, and we who are the Tlingit, will

protect our land, so that the things will be according to what has been agreed on, so that they will live by it.

According to what we have agreed on, we will reform the way we work with the government. We will work together with mutual respect, and act truthfully [toward each other]. We will all work together, those who own the land, and those who use the land. We will manage together, the land and the water and what is on the land. Then everything will be prepared for those coming after us.

As we have agreed on, so we will act. We will work as our elders instruct us, and improve the lot of those coming after us. We will use our land with other nations. Moreover, we will look after our land well, so that our descendants can see how good it is, and in this way too, we will respect our land from which we were born. (CTFN, 2012)

The Carcross/Tagish First Nation (C/TFN) community is located in Tagish/Tlingit country, 74 km from Whitehorse, Yukon Territory, Canada, and 110 km north of Skagway, Alaska (White Pass & Yukon Route, Carcross/Tagish First Nation, and Yukon Government, 2005; Yukon Government, n.d.) (Figure 8).

Carcross is a self-governing<sup>21</sup> (C/TFN) First Nations community, located on both Tagish and Tlingit country in what is now known as Yukon, Canada. C/TFN's traditional territory is about 10,768 square hectares of coastal mountains, highlands, lowlands, and dessert (C/TFN, n.d., p. 43). The Tagish were the original inhabitants and Tlingit traders began occupying the area around 200 to 300 years ago (Government of Canada, 2004). In 2004, the Government of Canada estimated there were 569 C/TFN citizens, two thirds of who were living outside of the community (one third were living elsewhere in Yukon, and third were living elsewhere in the world).

Like the Narungga, the Tagish and Tlingit are clan-based peoples. There are two moieties—Wolf (Gooch) and Crow (Yeitl)—each of which includes a number of clans (Carcross/Tagish First Nation, n.d.). Wolf moiety includes: “Daklaweidi (Killerwhale) and Yen Yedi (Wolf)” clan (Carcross/Tagish First Nation, n.d.). Crow moiety includes: “Deisheetaan (Beaver), Ganaxtedi (Raven), Kookhittaan (Crow), [and] Ishkahittan (Frog)” clan (Carcross/Tagish First Nation, n.d.). Tagish and Tlingit peoples are matrilineal, which means moieties and clans are passed down through the mother's line. Certain clans are regarded as custodians of particular areas of the Tagish/Tlingit Land

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<sup>21</sup> C/TFN government includes an elected Chief (Kaa Shaa du Heni) and appointed council, as well as a clan system.

(C/TFN, n.d.). Traditional law and ceremony was (and continues to be) essential to their way of life (Carcross/Tagish First Nation, n.d.). Like the Narungga, the Tagish/Tlingit of Carcross are spiritually connected with the Land,

We, as our ancestors have for centuries before us, see earth as our mother. This belief is not a romantic or sentimental concept, but a vital part of lives. All of the creations of Mother Nature plants, birds, fish, animals, insects, all things as well as the water, air and land are our relations. They are a part of our extended family. We believe that we are shaped and guided by being part of the air, land, water, plants, and animals. We depend on them for survival. Ultimately, Mother Nature is our greatest teacher. She shows us how all things are connected and interdependent. She enforces rules needed to keep the balance in all things connected within the 'web of life'. Rules such as the relationship with prey must be kept harmonious and in balance for both to survive. The energy of the universe must be understood and respected. Our responsibilities must not only be acknowledged, but also diligently honoured (C/TFN, n.d. p. 53).

The fundamental virtues upon which traditional Tagish/Tlingit law is based have been passed down through storytelling, and include: respect, selflessness, honour, knowledge, compassion, courage, integrity, and honesty (C/TFN, n.d.). Additionally, humour, responsibility, and resourcefulness, as well as loyalty and devotion to one's relations were all highly valued in Tagish and Tlingit cultures (C/TFN, n.d., p. 54).

C/TFN history begins with Crow creating the Earth and 'Game Mother' delivering all of its animals in Carcross (C/TFN, n.d., p. 120). Contrary to archaeological records (which suggest Indigenous peoples arrived in North America 40,000 years ago and ancestors of current First Nations' 12,000 years ago), C/TFN history holds that four Tlingit women founded the Tlingit Nation in North America 60,000 years ago when they swam underneath a cavernous glacier to arrive in what is today Southeastern Alaska (C/TFN, n.d., p. 120). For thousands of years thereafter, and prior to the establishment of Carcross as a settled community, it was a hunting place during seasonal caribou migrations (Government of Canada, 2004). Therefore, Carcross was referred to as 'Caribou Crossing' during this time (Yukon Government, n.d.). It was also regarded as a special place in which many animal species were born in accordance with the "Game Mother" legend (Government of Canada, 2004).

Several historical trends have since shaped the history of the C/TFN, including

the fur trade, Yukon Gold rush, settlement of Carcross mission, and *Umbrella Final Agreement*,<sup>22</sup> as well as the subsequent implementation of C/TFN self-government. The establishment of North America's fur trade in 1741 led to an influx of European (predominantly French and English) Settlers to the region, who arrived in waves over the next several decades (C/TFN, n.d., p. 125). The industry and Settlers had a tremendous impact upon the First Nations across North America and Carcross was no exception. In the late 18<sup>th</sup> Century the fur trade brought the Tagish and Tlingit together (C/TFN, n.d., p. 125). The Taku Tlingit began travelling inland in the Springs and Summers to act as 'middle men' in the trade when overhunting to meet American and Russian traders' demands led to the decline of sea otter pelts (C/TFN, n.d.; Yukon Government, n.d.). As a result, Tlingit integrated with Tagish through trade and marriage and many Tagish people adopted aspects of Tlingit culture (Yukon Government, n.d.).

In the first half of the 19<sup>th</sup> Century, conflict with European fur traders and other First Nations, the decreased market value of fur, and a Small Pox epidemic devastated the Tagish and Tlingit peoples (C/TFN, n.d.). In the late 19<sup>th</sup> Century, disease epidemics persisted, the 1884 *Indian Act* potlatch ban led to the imprisonment of many Tagish and Tlingit peoples, and the 1897-1898 Yukon gold rush led to more than 30,000 gold prospectors "from all over the world...trampling through C/TFN traditional territory, "abusing its resources, and generally having little respect for what was here prior to them coming" (C/TFN, n.d., p. 139). In 1898, four Tagish men were charged with murder of a prospector near March Lake, and three were sentenced to death (C/TFN, n.d.).

That same year, the White Pass Railway was constructed for the Klondike gold rush and Carcross was established as a settled community (Government of Canada, 2004; C/TFN, n.d., pp. 134, 139). Prospectors in search of gold settled in and nearby and travelled through what is now Carcross, which became a distribution centre for local mines until the 1960s (Yukon Government, n.d., p. 13). Between about 1892 and 1969, First Nations children and youth from across the Yukon attended an Anglican mission/residential school in Carcross, Chooutla Residential School (although the first

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<sup>22</sup> The Umbrella Final Agreement "is a political or policy document between the Government of Canada, Government of Yukon and Yukon First Nations as represented by the Council of Yukon First Nations (CYFN)". Carcross/Tagish First Nation's Final and Self-Government Agreement came into effect under this Act in 2006. (Yukon Government, 2012)



building burned down in 1939 and was later rebuilt) (Anglican Church of Canada, 2008/2011; C/TFN, n.d.; Government of Canada, 2004). The narratives of those who attended these schools are consistent with those of other residential school survivors across Canada, who suffered culture loss and abuse, the intergenerational effects of which are ongoing.

In 1993, the Council of Yukon Indians and Governments of Yukon and Canada signed the *Umbrella Final Agreement*, which outlines the combined total settlement Land (41,595 square kilometers of which over half include mineral, oil and gas ownership) and compensation (\$242.6 million, based on 1989 dollars) with which Yukon First Nations are entitled under common law (Ratification Committee for the Carcross/Tagish First Nation Land Claim Agreement, April 2005, p. 1). A decade later, in 2004, these same stakeholders initialed the *C/TFN Final Agreement* and *Self-Government Agreement* (C/TFN, 2004), which were ratified in 2006 (Yukon Government, 2012).

Today, Carcross places increasing emphasis on tourism, but mainly acts as a service centre for the Klondike Highway (Yukon Government, n.d.). Carcross has several C/TFN government buildings, a service station, and general store, gift shops, a café, bakery, hotel, highway maintenance garage, RCMP detachment, curling rink, and K-9 school (Yukon Government, n.d.). The C/TFN Tagish and Tlingit peoples have distinct histories and cultures, but share some significant aspects of both and this binds them together (C/TFN, n.d.). They remain matrilineal (kinship is based on the female lineage) peoples, who embrace a clan based self-governance system (Anonymous Participant, February 3, 2013). Traditional law is the foundation of Tagish and Tlingit culture (C/TFN, n.d.). Traditional law consists of a system of integrated and wholistic virtues, which govern behaviour (C/TFN, n.d.). While virtues remain constant, traditional laws evolve over time (C/TFN, n.d.). Songs and storytelling are used to transfer beliefs, culture, values, laws and traditions; bring generations together; and encourage decision-making and problem solving (C/TFN, n.d.). Thus, they can be didactic, pedagogical, and even lawmaking (C/TFN, n.d.). Storytelling is used to convey laws in a way that is open to the interpretation of the teller and listener and, thus, can be customized to suit the individual and situation (C/TFN, n.d.).

### 4.3.2 Participants

Six categories of participants, some of which overlap,<sup>23</sup> took part in this research project, including:

1. *Expert interviewees*, which include Australian and Canadian individuals with substantial experience (10 years or more) and expertise in either consultations (‘consultation specialists’) or e-learning (‘E-learning specialists’), who were interviewed in the background/contextual research stage to supplement the literature and inform interview guides and online tools.
  - a. *Consultation specialists*, which include Australian and Canadian individuals involved in consultations (e.g. negotiators and mediators; Indigenous relations officials; lawyers, law academics, adjudicators, and tribunal representatives; and government officials specializing in consultations). I drew upon my network of contacts from the Council on Corporate Aboriginal Relations (as previous chair) to recruit Consultation Specialists.
  - b. *E-learning specialists*, which include Australian, Canadian, and American individuals working in an e-learning environment (e.g. e-learning teachers, course coordinators, and regional management officers). I drew upon my contacts, as well as my previous supervisors’ contacts, in the field to recruit e-learning specialists.

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<sup>23</sup> These categories are not mutually exclusive. For example, some expert interviewees are also community, government and non-government participants, both community ambassadors were also community participants, and some community participants were also governmental organizations and non-government participants.

2. *Community Ambassadors*, which include recognized leaders of each case study community (C/TFN and NCPP) with experience in consultations, who acted as active project collaborator and advocates.
  - a. *C/TFN Community Ambassador* is Mark Wedge. He was formerly Kaa Shaa du Heni (Chief) for two consecutive four-year terms (8 years) and is currently an active community Elder and advisor. He has over fifteen years of experience in consultation, including in co-authoring a book about peacemaking circle resolution processes. He has been the key C/TFN community contact/project collaborator.
  - b. *Point Pearce Community Ambassador* is George Walker. He was the Chairperson of the Point Pearce Aboriginal Corporation (PPAC) (which is the organization and decision-making body representing Point Pearce) for the majority of this project. He has many years of experience in consultation and is the NCPP contact/project collaborator. (In 2014 he stepped down from his position as Chairperson of PPAC, and the community has appointed a new Chairperson in his place.)
3. *Community member participants*, which include members of the C/TFN community in Yukon Territory, Canada and members of the NCPP in South Australia. Specifically, local: council members, political leaders, government officials, principals and school administrators, negotiators and consultation officers, and Elders were engaged.
4. *Non-government organization participants*, which include representatives of non-government organizations, who are involved with consultations within participating communities (C/TFN or NCPP) (such as executives and advisors in Indigenous relations, community relations, and negotiations in Canada and

Australia).

5. *Government organization participants*, which include representatives of relevant federal, provincial, territorial, and state departments, agencies, and ministries, who are involved with consultations within participating communities (C/TFN or NCPP).
6. *Informal project contributors*, which include individuals who do not fit within the other categories listed above, but who became involved with the project organically and contributed to the project informally. For example, my fiancé often accompanied me to the community and participated in research conversations upon special invite by participants (this was especially common with male participants, as I observed that male Narungga participants preferred to speak with another male and Narungga female participants preferred to speak with another female). Moreover, other researchers played significant roles in shaping the project, including academic supervisors, both past and present, and academics who have worked with participating communities. It would be remiss not to adequately acknowledge the contributions of these individuals as participants in this project, given the inclusiveness of the relational approach.

Selection of participants was also based on purposeful sampling (Patton, 2002). Purposeful sampling was used to select information rich cases, as opposed to an empirical generalization (Patton, 2002). The “insights and in-depth understanding” information rich cases lend are crucial to understanding Aboriginal consultations, particularly in a highly nuanced, comparative legal anthropology context (Patton, 2002, p. 273). Moreover, empirical generalizations would be inappropriate in the Indigenous consultation context, since each case varies considerably. The aforementioned selection criteria for the communities applied to individual participants as well.

Expert interviewees were primarily recruited via email, using a template approved

by the University of Wollongong's Human Research Ethics Committee (HREC), and follow-up telephone calls. Community ambassadors were recruited via less formal phone conversations because of existing personal relationships (direct and indirect), and informal follow up emails. Formal involvement of communities was facilitated through the signing of an agreement with Point Pearce Aboriginal Council's (PPAC) board of directors, and a Memorandum of Understanding with the C/TFN's Executive Council (Appendices B and A respectively). Community ambassadors helped to recruit community, government, and non-government participants in-person via word of mouth and telephone. The recruitment emails approved by the HREC were sometimes used with C/TFN participants. However, at the advice of George Walker, I recruited participants through HREC-approved flyers (Appendix C) because of the lack of in-home access to the Internet. As the projects progressed in both communities, community participants began recommending and even facilitating further research conversations and consultations with other participants. Moreover, I recruited some participants during the consultation held in Point Pearce using my flyer and verbally explaining the project.

Consistent with Community Based Partnership Research, the research team is community-centric and inclusive of participants. While traditional PhD research teams consist of the PhD candidate and one or more academic supervisors, this project's team includes the communities as full and equal partners. Each community's interests were represented by a community ambassador and assigned project collaborators (in the case of the C/TFN this included several C/TFN government officials to whom I reported). Community participation also required a lengthy and deep consultation process, which focused on relationship building and honoured community protocols. These consultations resulted in many changes being made initially to the project concept and design as well as implementation. Examples are provided throughout this chapter. Perhaps the most pertinent example is the MOU signed by the University of Wollongong's (UOW) former Dean of Law and the C/TFN's Kaa Shaa du Heni (Chief) and Executive Council members. This MOU outlines the terms of reference for the project, including that the UOW shares copyright of the dissertation with C/TFN and PPAC (Appendix A). This is consistent with Indigenous-driven research ethical guidelines in Canada and Australia, such as OCAP (Ownership, Control, Access and Possession) and "Our Culture Our

Future”, designed to protect Indigenous intellectual property (Janke, 1998; National Aboriginal Health Organization, 2005).

Other participants, such as governmental and non-governmental organization participants, were also included throughout the process. For example, they were consulted on the development of the online tools. However, I primarily targeted members of participating communities in developing a collaborative research team.

#### 4.3.3 Research Procedure (Data Collection and Materials)

Ensuring the research project plan was ethical was a precursor to beginning the research procedure. I drew on four key texts as guidelines to ensuring that my project was consistent with an ethical approach to working with both participating Indigenous communities. I used the Government of Australia’s (2006) *Keeping Research on Track: A Guide for Aboriginal and Torres Strait Islander Peoples about Health Research Ethics* and *Our Culture Our Future* (Janke, 1998) to mitigate ethical issues in relation to Aboriginal participants in Australia. I used the National Aboriginal Health Organization’s (2005) *Ownership, Control, Access, and Possession or Self-Determination Applied to Research: A Critical Analysis of Contemporary First Nations Research and Some Options for First Nations Communities* and the Aboriginal Research Ethics Initiative (AREI) of the Interagency Advisory Panel on Research Ethics (PRE) Panel on research *Ethics*’ (2008) *Issues and Options for Revisions to the Tri-Council Policy Statement on Ethical Conduct of Research Involving Humans (TCPS): Section 6: Research Involving Aboriginal Peoples* to mitigate ethical issues in relation to Aboriginal participants in Canada.<sup>24</sup> (Appendix D)

The process of obtaining ethics approval from the University of Wollongong’s (UOW) Human Research Ethics Committee (HREC) was also precursor to the research procedure. UOW’s HREC includes two leading Indigenous scholars, Aunty Barbara Nicholson (Doctor of Laws) and Professor Kathy Clapham, whose specific expertise is

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<sup>24</sup> This thesis was written prior to the 2012 release of the Australian Institute of Aboriginal and Torres Strait Islander Studies’ (AIATSIS) *Guidelines for Ethical Research in Australian Indigenous Studies*, but is consistent with its principles as well. (See: [http://www.aiatsis.gov.au/\\_files/research/GERAIS.pdf](http://www.aiatsis.gov.au/_files/research/GERAIS.pdf))

research involving Indigenous participants. The HREC scrutinized the research proposal for this project, drawing on the expertise of these two scholars, to ensure that the proposed research approach, procedure, and methods were appropriate for researching with Indigenous participants.

The research procedure involved two categories, which each include different data collection methods and materials: 1) preparing (background/contextual research), and 2) working together (ethnographic fieldwork). As Figure 12 demonstrates, these stages were not chronological. Rather, they overlapped and interconnected. The literature review and expert interviews influenced the interview guides for research conversations and consultations with community, governmental, and non-governmental organization participants in C/TFN and NCPP, as well as the C/TFN online tool. Research conversations and consultations influenced the online tools produced within each community. Moreover, the C/TFN online tool influenced PPAC's online tool.

Consistent with PAR research, this process was collaborative and iterative. As Figure 13 demonstrates, the research team alternated between stages of consultation and action (E.g. interviewing and developing the online tool) with reflexivity (E.g. discussing and thinking about interview questions as well as the design and contents of the online tools). As the diagram demonstrates, the Kaswénta propels this process into motion. Like interconnected gears, once set in motion, these interconnected communities mutually perpetuate this motion. Together, Figures 15 and 16 should be used to contextualize the descriptions of the three research stages, which follow.

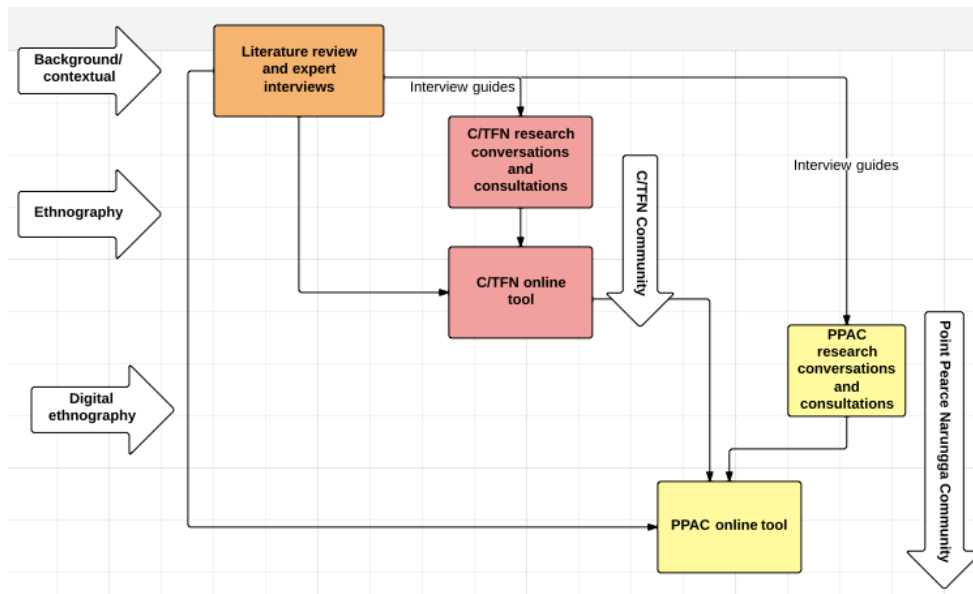


Figure 12. Research Process as Interrelated Stages

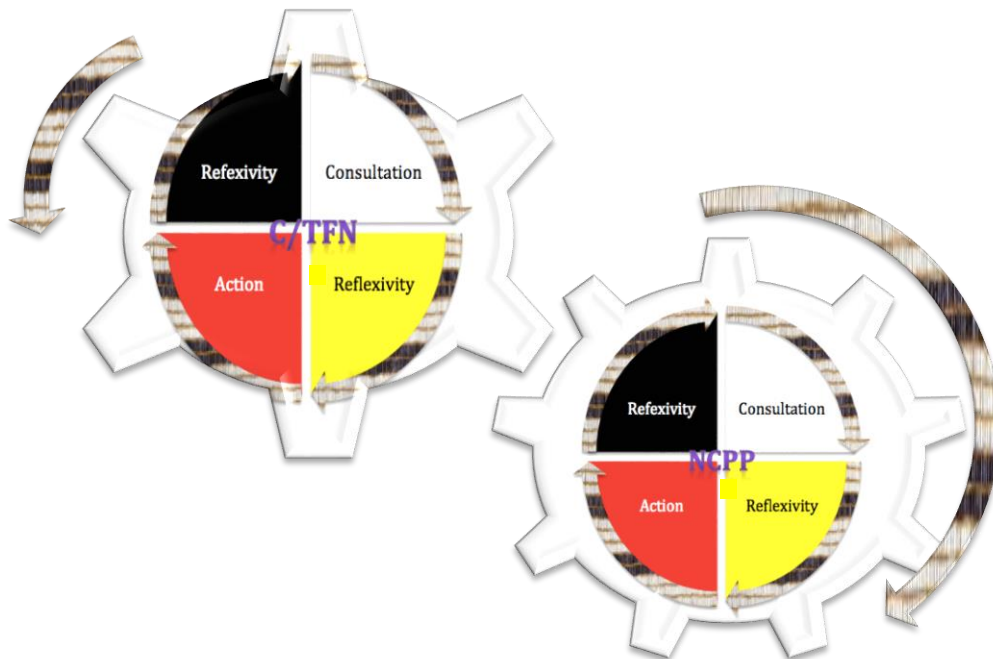


Figure 13. Research Process as Collaborative and Iterative Cycle. Adapted from Decolonize North America, by R. McGuirk, 2012, retrieved from [http://decolonizenorthamerica.org/?page\\_id=103](http://decolonizenorthamerica.org/?page_id=103)



*1. Preparing (background/contextual research):*

Preparing (background and contextual research) included literature review and expert interviews focussed on the background and evolution of consultations, consultation and e-learning. The University of Wollongong's student library databases were utilized to search for relevant literature. Targeted keyword searches mainly yielded critical and positivist theoretical texts as well as a few empirical studies from academic peer reviewed journals. Policy documents also emerged. While *Chapter 2* refers to seventy documents, far more were reviewed in the process. Expert interviews were conducted to augment the literature review. In total, twenty-two expert interviews were conducted, both online (20) and in-person (2), with participants with substantial experience (10 years or more) and/or expertise in Indigenous consultations (14) or e-learning (8). Based on the selection criteria for participants (extensive experience of 10 years or more in the field), they were regarded as 'experts' in their fields (consultation or e-learning) and, thus, their narratives were treated as expert statements equally valid to those provided in academic literature.

Taken together, these methods scoped and positioned this thesis within the broader Indigenous consultation and e-learning discourse. Scoping the discourse included highlighting literature gaps, which were made visible through comparative analysis with expert interview narratives. These narratives augmented the literature review by introducing voices and perspectives that are underrepresented in the literature and, in connection, filling important gaps in the literature. The inclusion and valuing of non-traditional expertise in the study was important to offsetting inherent power imbalances that have historically excluded Indigenous voices among others in academia.

Most authors of the literature reviewed were academics, some of whom had limited experience in consultation and/or e-learning. Conversely, the consultation and e-learning experts interviewed were a diverse group of individuals with expertise derived from extensive experience (at least ten years), often as practitioners. Consultation experts interviewed included both Indigenous and non-Indigenous, Australian and Canadian: government, non-government, and Indigenous community representatives with extensive experience with consultations. E-learning experts included both Indigenous and non-

Indigenous, Australian and Canadian: e-learning facilitators, instructors, and program designers, some of which also worked as academics. The perspectives they provided helped not only to fill literature gaps, but also to elaborate on and nuance existing discourse.

As mentioned in the *Chapter 2*, literature on e-learning is also sparse in relation to Indigenous peoples specifically and altogether absent in relation to consultations. Literature on consultation is sparse, despite being upheld as a priority for reconciling Indigenous with state interests in Canada and Australia (Australian Human Rights Commission, 2011b; Department of Aboriginal Affairs and Northern Development Canada, 2011). Existing pockets of literature based on empirical studies tend to be too narrowly focused on its tangible aspects (such as environmental assessments, impacts and benefits agreements, etc.), or specific industries within geographic regions (i.e. the Quebec or Queensland forestry industry). One might speculate that this is partly due to the presence of confidential information involved in consultations. Moreover, the piecemeal nature of industry-specific and geographically-specific literature limits benchmarking, thus, inhibits synthesis of general findings about Indigenous consultations.

Overall, the theoretical literature on consultations seems to lack the pragmatism necessary for application. The perspectives of stakeholders on the ground, including Indigenous community members and representatives of government and other organizations, tend to be absent. Moreover, policy documents often consist of a series of general guidelines without indication of how they apply in practice. Specific subject-matter information gaps that the expert interview narratives were designed to fill included the merits of best practices in consultation (largely crown and corporate advocacy documents), substantive aspects of consultations, education consultations, and insights on the definition of ‘consultation’ (an ambiguous term in the literature).

As argued by Smith (2012) and Wilson (2008), the inclusion of (expert interview) narratives helped to produce a more fulsome and diverse record of insights than solely those gathered from the literature. E-learning experts interviews provided information based on their experiences working with Indigenous peoples specifically and informed insights on how e-learning could be used to improve consultations. Consultation experts

provided insights on consultations across industries and geographical regions in Australia and Canada. Moreover, the confidential nature of the discussions allowed them to be more forthright in sharing information often excluded from academic journals and other texts. Their on-the-ground experience allowed them to bolster the largely theoretical information gathered from literature with practical accounts. Therefore, they were able to provide insights on how theory and policy applied in practice. This included information that was absent or limited in the literature reviewed, such as the merits and best practices of consultation, substantive aspects of consultations, education consultations, and insights on the definition of ‘consultation’. These narratives were analysed via thematic content analysis, which involved organizing data into categories in a word document by themes and sub-themes as they evolved. Some themes were determined by item questions and other emerged in the transcribed responses.

The findings were used to inform the literature and expert narrative review presented in *Chapter 2*. Additionally, the analysis of this review was used to inform the development of the semi structured interview guides (for representatives of communities, government, and non-government organization, as well as universities), and online tools (including their content). Experts interviewed highlighted some of the areas of enquiry for further introspection as well as what may be some of the gaps. Expert interview narratives provided nuance and language important to developing questions that would generate the best responses. For example, one of the challenges with consultations related with their degree of meaningfulness or, conversely, tokenism. In relation to meaningful consultation, the literature yielded language about ‘degree of influence’, ‘decision-making power’, ‘free and prior consent’, and ‘veto’. While this language was present in expert interview narratives, colloquial terms were also used that proved to better resonate with some participating community members. This included language around ‘talking to community members first, before making decisions’, ‘really listening’ to what community members were saying, and making ‘actual changes’ as a result.

Two semi-structured interview guides were used to guide expert interviews, a(n): 1) consultation interview guide, and 2) e-learning interview guide (See Appendices E and F). The consultation interview guide was designed for interviewing experts in Indigenous consultations and contains 21 open-ended questions related to: personal experience with

consultations; perceptions of consultations (challenges, best practices, etc.); and e-learning and consultations (perceived efficacy of e-learning in improving consultations and ITC skill levels). Four supplement interview guides were used to interview participating community members, lawyers, and law specialists, government representatives, and non-government organizations representatives with experience and/or expertise in Indigenous consultations (See Appendices G - K). The e-learning interview guide was designed for interviewing experts in Indigenous consultations and contains 20 open-ended questions related to personal experience with e-learning; perceptions of e-learning (challenges, best practices, etc.); and e-learning and consultations (perceived efficacy of e-learning in improving consultations and ITC skill levels). Online expert interviews were conducted on synchronous audio-video enabled computer programs (OOVOO and Skype). Expert interviews were audio-recorded using an iPhone 4S Voice Memos application. Audio files were saved on my personal password-protected laptop computer.

The literature and expert narrative review also informed the development of the online tools for participating communities. In particular, consultation experts informed the content of the online tools, e-learning experts informed the format, and the literature informed both. An overview of the thematic content analysis results was shared with each community to help inform the development of their online consultation tools. The findings were shared with the C/TFN through a formal presentation to the executive council and with the NCPP through presentation of the C/TFN's online tool. For example, the C/TFN's online tool contains a "Consultation Dos and Don'ts" section, which was derived from a facilitated discussion with the C/TFN's executive council about the results of the literature and expert narrative analysis in relation to what organizations should 'do' and 'not do' when consulting with them. This webpage of the C/TFN's online tool was shared to the NCPP and informed the development of a similar webpage component of the NCPP's online tool.

## 2. *Working together (ethnographic fieldwork):*

Consistent with the Kaswénta Relational Framework, spending time and forming relationships with both participating communities was the cornerstone of this project. As aforementioned in *Chapter 1*, ethnographic fieldwork was conducted in the C/TFN community in February 2010 as well as between March and July 2012 and in NCPP in October 2011 as well as between February and March 2013. An ethnographic fieldwork approach was a natural extension of my background in Anthropology and, specifically, some of my previous work with Inuit communities in the Canadian sub-Arctic in the springs and summers of 2004-2006.

I used a critical ethnography approach (Denzin, 2003) that overtly criticizes and rejects colonial approaches to ethnography, which have used epistemological racism (including social Darwinism) to oppress Indigenous cultures and knowledge (Smith, 1999; Battiste & Youngblood Henderson, 2000). Consistent with the Kaswénta Relational Framework, Denzin (2003) asserts that critical ethnography draws on participatory action research, critical feminist discourse, and Indigenous research and “implements a commitment to participation and performance with, not for, community members” (p., 272).

Specifically, the Kaswénta Relational Framework informed a relational ethnographic fieldwork approach that focuses on the relationships among actors and entities, in this case those involved in consultations, as its field of research (Desmond, 2014). This approach serves to better cohere with relational and holistic cultural frameworks of many Indigenous communities (Battiste & Youngblood Henderson, 2000), such as those embraced by the C/TFN and NCPP. As an extension of critical ethnography, I also used auto-ethnography (or performative ethnography) to critically reflect throughout the research process, including in the writing of this thesis, on my positionality in relation to community members and other participants and to nuance the research findings accordingly (Denzin, 2003).

In addition to helping build strong relationships based on trust, spending time in communities helped to contextualize cultural and ethno-historical nuance essential to understanding the research topic (Martin, 2008). Like Settler Canadian and Allied Other

Paulette Regan, my “own deepest learning has always come when I was in unfamiliar territory culturally, intellectually, and emotionally” (Regan, 2010, p. 18). Moreover, Martin (2008) emphasizes the imperative of spending time in communities to Indigenous and Indigenist research,

Going to country to be amongst these Entities...[People as well as Waterways, Climate, Plants, Animals, Skies and Land] is a non-negotiable criterion for Indigenist research because it provides a clearer understanding of and stronger relatedness to the study site(s). (p. 138).

While traditionally, social scientists have sometimes attempted to legitimize the systematic nature of their work to promote its more scientific qualities, I have learned that an organic humanistic approach is more suitable in working with Indigenous communities as a non-Indigenous outsider (Sisco, 2009a). This is largely because traditional social science research has served to objectify and dehumanize, subjugate and oppress, and colonize and otherwise harm Indigenous communities around the world (Aikenhead & Michell, 2011; Martin, 2008; Smith, 2012; Wilson, 2008). As a result, Indigenous Word Warriors and non-Indigenous academic Allies alike promote a more humanistic approach that makes researchers accountable for the human relationships they develop, consistent with the Kaswénta relational framework applied in this study.

I have been forthright about the organic and relational nature of my acquaintance with both participating communities. (As discussed in the *Relative Importance (Prologue)*, I met former Kaa Shaa du Heni (Chief) of the C/TFN, Mark Wedge, at a First Nations Governance Conference a year before I started my PhD, and my initial primary supervisor for my PhD, Dr. Michelle Eady, introduced me to the Chairperson of the Point Pearce Aboriginal Community (PPAC), George Walker, who she had conducted her PhD work with). Nevertheless, my engagement with them thereafter was more deliberate. In both instances I sought the proper channels to make contact and enquire about the process of seeking approval to work together.

With C/TFN, this included emailing Mark Wedge, my key contact, who redirected me to Skype with then Director of Capacity Building. I took the Director's advice and submitted a formal letter and proposal to the current Kaa Shaa du Heni of C/TFN, Danny Cresswell, which underwent a few rounds of revisions before it was

accepted. Upon arrival in the community, I presented to the C/TFN's Executive Council about the project, and we negotiated the drafting of a Memorandum of Understanding with the University of Wollongong, stating that the intellectual property of the project would be owned, controlled, accessed, and possessed by both communities and the University of Wollongong (UOW) and that the copyright of the resulting dissertation would be shared among the communities and UOW (Appendix A). With NCPP, this included introductory telephone conversations with my former primary supervisor and PPAC's chairperson to seek permission to visit the community in-person and present to them about the project. Once granted permission, I presented to PPAC's board of directors about the project and they signed a form (Appendix B).

With respect to ethnographic fieldwork materials, a journal was kept to record personal thoughts and reflections. PowerPoint presentations were developed to provide updates and start dialogue with the executive council about the project. Specific materials used will be outlined by methods used in ethnographic fieldwork below.

#### *Research conversations and consultations.*

Research conversations and consultations included interviews (with only one participant) and discussion groups (with more than one participant). I describe these as research conversations and consultations because these terms more accurately describe the nature of the engagement. The term 'research conversation' refers to interviews and discussion groups characterized by reciprocal (two-way), informal, and humanistic dialogue (Sisco, 2009). In my Master's research, which proposed a methodology for non-Inuit to research with Inuit communities, I defined this term in the following way:

A research conversation is different from an interview because it takes place between two human beings instead of interviewer and interviewee... power relations in a research conversation are equalized to the greatest degree possible... a research conversation allows research participants to provide input not only in response to the questions asked but related to the overall project including research tools, findings and how the information might be shared or used. It begins when you begin, and continues throughout the research process and beyond (Sisco, 2009, p. 87)

The term ‘research consultation’ refers to research conversations and collaboration with participants on the development of their community’s online consultation tool specifically. Consistent with PAR research, this involved a cycle of consultation with participants to reach decisions collaboratively about the online tools’ development (Figure 13). The terms “interview” and “discussion group” are used only to distinguish between research conversations and consultations that took place between myself and one other participant, or more than one other participant, respectively.

In total, 42 participants took part in research conversations and consultations (interviews and discussion groups). This includes more than 42 (21 with C/TFN and 21 with Point Pearce) semi-structured in-person interviews, as many of these conversations and consultations were ongoing (occurring more than once) with participants. Additionally, six discussion groups (3 with C/TFN and 3 with NCPP) with these participants and other informal participants who were members of the communities’ governing bodies (the C/TFN’s executive council and the NCPP’s Point Pearce Aboriginal Corporation’s board of directors) were conducted at critical junctures throughout the life of the project (e.g. project design, e-learning intervention, interpretation of results, etc.) (Denzin & Lincoln, 2000). Discussion groups with governing bodies tended to pair interactive activities with discussion groups and accounted for the involvement of approximately fourteen additional informal participants.

The focus of the research conversations on consultation protocol provided me with the advantage of learning about how to respectfully consult with participating communities, as I was engaged in the process. For example, taking cues from the protocols that were described to me by consultation experts and community participants, I generally took the following steps with participants: 1) identifying research participants through my main community contact; 2) contacting them, explaining my project, and discussing how they would like to be consulted with; 3) building a relationship with them through repeated contact and discussion; and 3) meaningfully consulting by providing them with full and accurate information, sufficient time to consider the information, and encouraging them to influence the outcome (decisions were reached collaboratively).

I remained focused on research objectives during research conversations, including learning about consultation protocol with the community and to what degree



current consultations are effective and collaboratively developing a tool. However, conversations and consultations were often relatively informal, unstructured, and sometimes spontaneous. This approach was taken and promoted by some Word Warriors in both communities who positioned themselves (or were positioned by the community) as project collaborators to varying degrees. For example, in both communities interviews were informally transformed into discussion groups, when other community members passing by the site of our research conversations and consultations were invited by participants to join in. Sometimes community project collaborators co-led and facilitated these discussions, even developing their own questions loosely based on the ones I had asked.

This was useful because it allowed for the incorporation of localized Indigenous paradigms into the research process, as is integral to Critical Indigenous philosophy (Turner, 2006). For example, research conversations sometimes took place while engaging in activities out on the Land in both communities, reflecting the centrality of nature to Indigenous ways of knowing (Koster, et al., 2012). During these conversations, the Land would sometimes serve as the source of information and the community participant as the facilitator of my interaction with the Land (Appendix L). Therefore, in such instances, the Land itself was a research instrument.

Sometimes the questions participants asked also reflected cultural paradigms. In working with Mark and other C/TFN participants, questions were often framed within the medicine wheel. The four quadrants--1) intellectual, 2) spiritual, 3) physical, and 4) emotional--were broken down or fleshed out to elucidate a wholistic response (Figure 14). It was sometimes culturally appropriate for me to listen to stories before asking questions. This was particularly the case when talking with Elders in both communities. The participants and I drew diagrams to articulate ideas as well, including tables, flow charts, and organization charts. This collaborative approach with local Word Warriors in both communities not only Indigenized the research process but also Indigenized the outcomes. Local Tlingit and Tagish First Nation participants in Carcross and Narungga participants in Point Pearce seemed more comfortable engaging in research conversations and consultations within frameworks that were consistent with their respective cultural worldviews. This led to the collection of data that conveyed these localized cultural

perspectives more accurately as contextualized within their respective worldviews (to be covered in the findings chapter).



*Figure 14.* The Medicine Wheel. Adapted from Breastfeeding Medicine Wheel, by Healthy Choices for Healthy Babies, (n.d.). Retrieved from [http://www.slmhc.on.ca/iframe/medicine\\_wheel.htm](http://www.slmhc.on.ca/iframe/medicine_wheel.htm).

This informal collaborative approach also led to the incorporation of more interactive activities, in place of traditional interviews and discussion groups, by preference of group members. For example, interactive flow chart activities were conducted in both communities to help determine consultations protocols. Flow chart collaborative activity templates were composed of pieces of large (24 X 11 inch) grid paper with three columns written at the top representing different types of consultations and sticky notes randomly arranged along the right hand side and labelled with common steps in consultation processes. Blank sticky notes and pens were also provided, and participants were instructed to arrange sticky notes (removing or adding additional notes as needed) to represent the community protocol for the three types of consultations (Appendix M). In Point Pearce, Aunties (community Elders) met with me in the cultural centre where they volunteered using photographs, newspaper clippings, and old documents to augment storytelling about the community's history and culture(s).

Six semi-structured discussion group/interview guides were used to guide

research conversations with participants. This included C/TFN and Point Pearce: 1) community member discussion group/interview guide; 2) non-governmental organization discussion group/interview guide; and 3) government interview guide (See Appendices N-S). Questions related to participants' personal experience with local consultations; perceptions of local consultations (challenges, best practices, etc.); and e-learning and local consultations (perceived efficacy of e-learning in improving consultations and ITC skill levels). These materials served only as informal guides and were sometimes disregarded entirely. Other times, they were seemingly disregarded until the end of a research conversation, when the participant would relate the contents of the discussion (often stories) back to the questions.

Lucidchart computer application was used to generate draft wireframes for the website and flowcharts used in the drafting of the consultation tool. Participants were added as collaborators and were shown the wireframes during consultations; input was often incorporated directly during consultations. Lucidchart was used to generate and share iterations of the website and tool's development and to facilitate the gathering of input and feedback from community members, thus, facilitating collaboration (Appendix T). Once draft websites and consultation tools were developed, they were also used as research materials to facilitate research consultations about their development and implementation. Other materials used to articulate diagrams and flow charts included pens, grid paper, and sticky notes. Materials were also generated through research conversations and consultations with participants, including the aforementioned tables, flow charts, and organization charts.

As aforementioned, the Land in and nearby the participating communities was also sometimes used as a research instrument in research conversations when community members facilitated didactic interactions with it during collaborative outdoor activities. Last, other resources shared by participants were sometimes used as research materials during research conversations and consultations. These included notes taken from the post-Mabo consultations that took place across Canada in which one participant was involved, Aboriginal exemption papers of a participant's mother which 'exempted' both her and her children of Aboriginal status and made it necessary for them to obtain written permission to enter the community, and a book of stories collected into ethno-history

written by community members who attended the local TAFE (College of Technical and Further Education).

*Participant observation in consultations.*

Another important aspect of ethnographic fieldwork in both communities was participant observation in consultations. Specifically, I conducted participant observation within Carcross, Yukon during a consultation held in the community council office by the Yukon Government's Department of Natural Resources about residential and commercial property development/construction plans. I conducted participant observation in Point Pearce, South Australia during a consultation held in the community town hall by the South Australian Government's Department of Aboriginal Affairs about changes to the *Australian Lands Trust Act*. During the consultations, I assumed the role of full participant, reviewing information provided, asking questions, and discussing aspects of the proposed development project. Additionally, I observed and took notes about the participation of others present and photographed the consultation at Carcross (Appendix U). Research conversations with participants also took place, which helped to elucidate their perspectives on the consultation.

*Community ambassador exchange.*

Another key component of the ethnographic fieldwork in the C/TFN and NCPP communities was a community ambassador exchange. This was intended to involve one leader from each participating community travelling to the other community along with me to discuss community consultation issues, and the project, as well as to present on the findings and outcomes of the work done with their respective communities. The criteria for the selection of community ambassadors were: 1) community recognition as leader (whether formal or informal); 2) knowledge and experience in consultation; and 3) active project collaborator and advocate. As aforementioned, Mark Wedge was the community

ambassador of the C/TFN and George Walker was the community ambassador of the NCPP for the majority of the project.

Community ambassador Mark Wedge travelled from Carcross, Yukon to Point Pearce, South Australia from February 6 to February 16, 2013. During this time, he stayed with my fiancé and I in a neighboring town. We spent the first few days attending informal meetings with key NCPP project collaborators and exploring the local Land. The following week, we co-presented at the monthly PPAC meeting about the project and what we had done to date together with the C/TFN community, George Walker introduced us to several key community contacts for future research conversations and consultations, and we also attended a community barbeque, where we were formally welcomed to the Bookayana Lands.

Community ambassador George Walker stepped down from his position as Chairperson of PPAC in 2014. The community decided that they would prefer to put the funding for a community ambassador exchange towards iPads and training instead, as this was a greater need and prerequisite to building online tools with the community. In late 2014, I provided the community with funding for iPads and training to use them. The Principal of the local school coordinated the project under PPAC's supervision. These iPads are currently housed at the local school, under the advice of the former Chairperson, for security purposes and are available for use throughout the day. I am also in discussions with the Principal of Point Pearce Aboriginal School about bringing the two communities together through video-conference using the new iPads and working with the new Chairperson about the PPAC mock-up website.

In October 2014, I travelled to Whitehorse to present the findings of the research project to the C/TFNM community. Unfortunately, the Executive Council meeting was cancelled at the last minute, so I delivered a recording of my presentation (on USB) with my voiceover to the Capacity Building Director to present at the rescheduled meeting. The Council is determining whether they will pass a law to mandate use of the portal by outside organizations wishing to consult with the C/TFN.

Incorporating this community ambassador exchange into the methodology was important to the Kaswénta relational framework's Community Based Partnership Research's (CBPR) collaborative spirit. Meaningful collaboration with each community

required not only working with project collaborators and other participants within each community, but also bringing the communities together in collaboration with one another. However, amending this methodology was even more important, consistent with the flexibility and respect for meeting community needs required of Community Based Partnership Research (CBPR).

This method invited and foregrounded localized Indigenous perspectives and approaches into the research process, including ceremony. For example, upon Mark Wedge's arrival at our accommodation in Balgowan, he performed a variety of a smudge—a common North American First Nations ceremony—in which he burned sacred medicines and fanned them throughout the house and over us with an Eagle feather. As he did this, he thanked my fiancé and I for accommodating him during his stay and blessed the space in the Tlingit language, his mother tongue. He also performed a variety of this ceremony at the PPAC meeting and while on the Land viewing ancient Indigenous art at Yourambulla caves in South Australia's Flinders Range to honour the ancestors. Similarly, PPAC's administrative officer performed a welcome to country for us at the community barbeque. A ceremonial gift exchange also took place between C/TFN and NCPP; Mark brought a ceremonial paddle made by a community artist and offered it as a gift to George Walker on behalf of the C/TFN community (Appendix U).

Community ambassadors also played important roles in mentoring me in conduct and protocol within and while visiting one another's communities. For example, Mark spent his first few days in the community becoming acquainted with the Land before he spent significant time with community members. We went for hikes where he spent time observing, touching, and asking questions about various aspects of the Land and seascape, as well as the plants and animals. As he spent time carefully getting to know Narungga country near Point Pearce, I learned this was an important aspect of getting to know the community because from both localized perspectives, country/Land and people are interconnected—one cannot exist without the other. This caused me to reflect upon my own conduct while in Point Pearce and the need to take more time to get to know and respect the country in order to build a meaningful spiritual, emotional, physical, and intellectual bond with the community. His insights were not only useful as I developed my process of working with the community, but also in gaining a deeper appreciation for

country. This new perspective was integral to contextualizing participants' stories about the consultation.

I also observed the way in which Mark and George interacted with one another, and with their own communities. I also observed the way they interacted with their own communities, the way Mark interacted with NCPP, and will be observing the way the new community ambassador interacts with C/TFN in June 2014. This has helped me to understand protocol generally and as a visitor. Both community ambassadors introduced me to community members and setup research conversations and consultations, facilitating the discussion in a way that was culturally appropriate, respectful, and made participants comfortable. For example, explanations of the project in colloquial terms, paired with visuals of the websites and requests for stories, were often helpful in opening discussions. Informal storytelling on the part of the research team was used to explain the project. This was followed by a few general questions, which participants often responded to through storytelling. Humour also became an important aspect of discussions, especially when they were serious and when participants became emotionally moved by their stories. I emulated their styles with other participants, listening intently, but checking periodically to ensure my interpretation was accurate. In many of these contexts it was appropriate to accommodate this storytelling approach, then follow up with specific questions from the interview guide. Other times, participants preferred a more formal interview design, wherein the interview guide was followed.

Community ambassadors also provided me with teachings through storytelling and informal discussion. During the first few days of Mark's visit, and in the evenings after returning from the community, he shared stories based on his experience from which pertinent teachings could be derived. For example, Mark encouraged me to ensure that the Indigenous paradigms were reflected in all aspects of the research project, through the use of the medicine wheel. However, while I recognized the imperative of foregrounding Indigenous paradigms, I expressed discomfort with applying them as a non-Indigenous person. Specifically, I was concerned with being perceived as appropriating Indigenous intellectual property and colonizing it. In response, Mark shared a story about his experience in applying conflict resolution circles to work with both Indigenous and non-Indigenous youth at risk. During a course of consultations with First

Nations communities in Canada about the development of the circle process, he was met with some concerns about using this Indigenous method among non-Indigenous peoples. Mark's response was "No one owns the circle". From his perspective, it was always meant to be inclusive. As a result of this work, organizations like ROCA (See <http://rocainc.org> for more information) have used sharing circles and conflict resolution circles to prevent/intervene youth at risk from engaging in gang violence and other dangerous activities. He explained that while facilitating circles, he was explicit about the fact that they reflected his interpretation of the process. In this way, he was able to avoid misrepresenting cultural processes. In response to Mark's story, I became more confident with using the medicine wheel and other Indigenous paradigms in the research process. I understood that I had a responsibility to include these paradigms, but also to be explicit about whose interpretation they reflected.

Similarly, George often shared narratives with me informally over a 'cuppa' about the community and some of its challenges and strengths in relation to consultation. For example, on his first occasion meeting with Mark he shared a story about a recurrent dream he experienced and the interpretation an Elder provided. This information served to indirectly position himself as a knowledge keeper and custodian for certain country, which was important context for both Mark and myself.

#### *The development of the online tools.*

The online tools have been developed collaboratively with participating communities during the ethnographic fieldwork process to help outside organizations navigate through the process of consulting meaningfully with the communities in accordance with protocol. Their development has been informed through the literature and expert narratives, research conversations and consultations, participant-observation of consultations, and community ambassador narratives.

The C/TFN product is an asynchronous consultation portal, which includes a website of resources and a synchronous interactive tool that embeds a flow chart in a simplistic virtual representation of a series of questions. The tool leads users to a next step in the consultation process, based on their responses. It also provides links to



resources to achieve the next step and records user progress through the process for others to view. Due to the size and complexity of the C/TFN's government, the research team decided to focus on one area of consultation. In collaboration with the community, education was selected because of the propensity for this area to be overlooked, compared with other areas, such as Land and resources.

In response to the C/TFN's requests, the website was designed to "look and feel" like their current community website, so that it would appear seamlessly connected. Moreover, I worked with community members to make the tool culturally appropriate and accessible to all. This meant incorporating their preferred consultation style on the homepage by conveying a circle of videos with the community's consultation leaders (the C/TFN government's Kaa Shaa du Heni, implementation officer, and several Elders), and making the icon an Eagle's feather. This reflected the community's traditional circle style of consulting in which participants sit in a circle and a democratic and inclusive dialogue is facilitated by passing the feather around the circle, so that each person speaks in turn when they hold the feather. A medicine wheel tool was also included in the web portal and a photograph of a traditional Tlingit/Tagish button blanket was incorporated as a background on several webpages of the consultation tool.

I used Lucidchart software to articulate the design of the online tool through wireframes and flowcharts. Some participants were invited as administrators who could edit the wireframes and flowcharts. However, most were shown drafts and offered the opportunity for input, verbally, through drawings or by other means (such as the grid and sticky note method to inform the "steps of consultation"). The process of developing the consultation portal was collaborative and iterative. I worked with participants on an ongoing basis to develop the drafts on Lucidchart and presented to the executive council periodically with mock-ups to receive feedback for revisions. I worked with a computer programmer who developed several draft iterations of the web portal based on the wireframes and flowcharts provided (Appendix S). The pilot product was finalized before I departed the community in July 2012. The web portal was originally published at [www.ashleysisco.com/ctfn](http://www.ashleysisco.com/ctfn) and the tool at [www.ashleysisco.com/ctfn-tool](http://www.ashleysisco.com/ctfn-tool). However, this website will be linked with the C/TFN's website <http://www.ctfn.ca>.

The NCPP product is a website for their community governance body—Point

Pearce Aboriginal Corporation (PPAC). As the community's corporate body, PPAC acts as Point Pearce's de facto decision-making council or government. The website includes information about PPAC and its history, the Narungga peoples, and Point Pearce. It also includes webpages that link with other organizations and communities that work with PPAC and outlines the "do's and don'ts" of consulting with PPAC. Last, it includes a webpage with a flowchart diagram illustrating the steps of consulting with the community and providing relevant contact information. While much simpler than the product developed for the C/TFN, the PPAC website addresses an important need for the community to improve communications, especially regarding how to consult with them. While community and PPAC members suggested the development of this website would be useful, other organizations also recommended it. For example, administrators of Point Pearce Aboriginal School mentioned they received many phone calls and emails for PPAC and that the school had become a central communications body for the community. Representatives of other government and non-government bodies that work regularly with the community also mentioned the difficulty they experienced making contact with PPAC and finding information about how to connect.

The PPAC website was designed to reflect Narungga culture. In accordance with the Aboriginal flag in Australia the colours red, yellow, and black were chosen to represent the sun, people, and earth, respectively. The header backdrop features a logo designed by a local community artist conveying a butterfish with a spear. The Point Pearce Welcome to Country text is included on the home page to signify the way in which visitors are welcomed to Narungga space.

Like the development of the C/TFN web portal, the process of developing the PPAC website has been both collaborative and iterative. However, unlike working with C/TFN, the concept of the online tool was not developed until near the end of the fieldwork. As such, the C/TFN website was used during early research conversations and conversations to illustrate what the tool might look like. As the end of the fieldwork approached, a mock-up of the PPAC website was developed and shared during research conversations and consultation for feedback. A free online website development software, Wix.com, was used to develop the website. Working with NCPP members, I derived information from PPAC members, printed resources, a text compilation of local

historical narratives, and other websites. Research conversations and consultations informed the development of the consultation flowchart diagram. Iterations of the PPAC website are being reviewed and revised by the PPAC Chairperson and a consultant. The development of the website has been delayed due to the discontinuation of an administrative assistant position, which has left PPAC understaffed and in need of additional community support in collaborating. Moreover, administrative changes to PPAC, including the resignation of Chairperson (and community ambassador) George Walker, have impacted the contact and consultation information this website will convey. We continue to work towards completing the website.

*Digital/virtual ethnography.*

Digital/virtual ethnography includes many of the same tenets of classic ethnography (such as assuming an insider/outsider status) applied to a digital environment (Creswell, 2003). For this project, digital ethnography included implementation and monitoring of online tools via online participant-observation over the life of the pilot project in both communities. I piloted the C/TFN website from July 2012 to May 2013, sending out rounds of emails to key contacts with the C/TFN, Government of Yukon, and non-government organizations who might use the tool and requesting feedback on the basis of which three rounds of revisions were made. I measured the web portal's activity using Google Analytics' metrics, such as visits, page views, unique visitors, and geographic location of visitors. The metrics showed some activity, only following communications about the website. The research team, including C/TFN community members, surmise that participation will improve once attached to the C/TFN website and upon the passing of a C/TFN government resolution making the tool mandatory to use for consultation. Unfortunately, this occurred following the pilot period. The PPAC website will be piloted once complete for a period of six months, during which time I will send out rounds of emails to key contacts with PPAC, NCPP, the Government of South Australia, and non-governmental organizations who might use the tool and request feedback on the basis of which revisions will be made. I will use Google

Analytics' metrics to measure the tool's popularity and work with the community to make revisions and marketing efforts accordingly.

## 4.4 Conclusion

This chapter explains how individual methods were carefully selected, purposefully placed, and woven together in collaboration with participating communities into a methodological tapestry. Within this tapestry, individual methods take on new significance, reflecting the virtues of my interpretation of the Haudenosaunee Aterihwihsón:sera Kaswénta. The community case study approach taken is consistent with the community-centric aspect of both CBPR and Critical Indigenous Philosophy. The methodology is broken down into two stages: 1) preparing (background/contextual research), and 2) working together (ethnographic fieldwork).

Background/contextual research balanced literature review with expert interviewee narratives, to value other knowledge systems, address gaps in literature, and foreground voices that have been marginalised or silenced. Ethnographic research was the cornerstone of this methodology. Spending time in both participating communities conducting ethnographic fieldwork helped me to build trust and relationships with community members essential to the research and to contextualize cultural and ethno-historical nuance essential to understanding the research topic.

A community ambassador exchange also helped to facilitate meaningful collaboration with the research team and among communities by introducing community members and other contacts, mentoring me in community protocol, and provided me with teachings through storytelling and informal discussion. Participant observation at community consultations helped to illustrate some of the challenges and best practices participants referred to in discussions. Ethnographic fieldwork was aimed not only at collecting data to answer research questions, but also at developing online tools in collaboration with participating communities to help outside organizations navigate through the consultation process respectfully. Digital ethnography involved the monitoring of these tools over time and working with communities to develop iterations

during pilot periods. Figures 12 and 13 explain the interconnections among different methods and communities as well as the ongoing cycle of consultation, action, and reflexivity that underpinned the process.

## Chapter 5

### Findings

*In an Indigenous ontology there are multiple realities, as in the constructivist research paradigm. The difference is that, rather than the truth being something that is “out there” or external, reality is in the relationship that one has with the truth. Thus an object or thing is not as important as one’s relationship to it (Wilson, 2008, p. 73)*

#### 5.1 Introduction

The purpose of this chapter is to report on the findings of this research project, drawing primarily on research conversations and participant-observation as well as data from literature and interviews with consultation and e-learning experts. One of the key findings of this research has been that all consultations are unique to the socio-political, economic, and cultural context of and historical relationships amongst those involved, geo-political and legal context of the region in which the consultation occurs, and scope and scale of the issue. Yet, there are common themes related to consultations that pervade these contextual differences.

First, this chapter draws largely on the historical overviews of the Carcross/Tagish First Nation (C/TFN) and Narungga Community of Point Pearce (NCP) in *Chapter 4*, providing a brief comparative analysis of the C/TFN and NCP communities to contextualize and nuance the findings for the reader. Second, it discusses features and processes, challenges, and leading practices common to consultations with the two case study communities. Third, it discusses whether online education tools support

consultation processes compatible with Indigenous legal traditions in the NCPP and C/TFN, and whether such tools can facilitate more meaningful, equitable, and effective consultations. Fourth, it discusses how the process of working with the C/TFN and NCPP on this research project helped to build capacity about community consultation protocol within and between communities and among organizations.

## 5.2 Comparative Analysis of C/TFN and NCPP

Carcross/Tagish First Nation (C/TFN) and Narungga Community of Point Pearce (NCPP) share similarities but also differ in significant ways, which shed light on how their experiences with and views about consultations differ. Socio-culturally, the Narungga and Tagish/Tlingit are both matrilineal clan based societies, who share a deep spiritual connection with the land. As Wilson (2008) contends, Indigenous peoples from Canada and Australia generally share sufficient similarities for sound comparison. However, Narungga and Tagish/Tlingit cultures also reflect the unique Land bases and Entities (Cosmos, Waterways, Animals, Plant life, Peoples, etc.) with which they are inextricably linked. In this regard, they are as far apart socio-culturally as they are physically (geographically, they are located the world apart). Moreover, while both communities have experienced profound culture loss, the C/TFN appears to be further along in its cultural revitalization efforts. As one expert interviewee explained, communities that are just now “reinventing themselves” may lack knowledge about and consensus on what constitutes their laws and legal traditions, including pertaining to consultation (Anonymous, personal communication, May 19, 2012).

Socio-historically, they share common experiences as Indigenous peoples who have struggled against the oppressive forces of colonization. A historical overview of colonial encounters with these communities lends important insight into current colonial relations, as Metallic and Monture Agnus (2002) contend, “The embedded characteristics of colonial relations ensure...its power to self perpetuate” (as cited in Salter, 2009, p. 227). Both groups were affected by the arrival of Europeans who dispossessed them of their lands, resources, children, cultures, and languages. In both cases, European Settlers

acted as agents of patriarchal white sovereignty, based on the Doctrine of Discovery and Terra Nullius (Moreton-Robinson, 2007; Moreton-Robinson, 2011)

Europeans initially arrived in both communities to exploit the land and its resources. For the purpose of this brief comparison, I have noted four phases of European arrival and Settlement that the Narungga and Tagish/Tlingit peoples share: 1) exploration and trade, 2) settlement and conflict, 3) overt assimilation and resistance, and 4) community control and covert assimilation. Exploration and trade occurred much earlier for the Tagish/Tlingit, with the arrival of explorers in Turtle Island in the late 15<sup>th</sup> Century and the fur trade established in the late 18<sup>th</sup> Century in Tagish/Tlingit territory (C/TFN, n.d.). In comparison, the first recorded instance of European contact with the Narungga was in 1802 (Krichauff, 2008). During this time period, the fur trade was highly influential to European relations with the Tagish/Tlingit (C/TFN, n.d.).

European relations with the Narungga were also based on overlapping interests (or European encroachment on Narungga territory), but the Narungga were not engaged as trade partners in the same way. While some trading took place, the records suggest the Europeans who travelled to Bookayana Waters to harvest Whales and Seals generally did so without observing appropriate protocol, such as acquiring permission to trespass and providing gifts in exchange for the use of resources (Krichauff, 2008). While conflict and disease (Small Pox) devastated the Tagish and Tlingit during this time period, trade partnerships, friendships, and intermarriages underpinned an ongoing relationship with European Settlers (C/TFN, n.d.). As a result, this period appears to have been more tentative and tumultuous for the Narungga and early Settlers to Narungga territory. At the same time, the Narungga appear to have been less greatly affected by the arrival of Europeans, whereas, the fur trade significantly and permanently shaped the Tagish and Tlingit ways of life (C/TFN, n.d.; Yukon Government, n.d.).

The settlement and conflict period is not distinguished by the first instance of European settlement, but the influx of a critical mass of European Settlers to these regions in a permanent capacity. For the Tagish/Tlingit, this begun in the late 18<sup>th</sup> Century with the fur trade and reached a crescendo with the Yukon Gold rush (1879-1898) (C/TFN, n.d.). For the Narungga, this began in 1836 and continued through the 1840s with the arrival of agriculturalists, who usurped Narungga land in the 1850s



(Krichauff, 2008; “Point Pearce - SA memory past and present for the future”, n.d.; Narungga Community College & Wanganeen, 1987). In 1859, a second wave of European Settlement occurred with the discovery of copper in the region (Krichauff, 2008; “Point Pearce - SA memory past and present for the future”, n.d.; Narungga Community College & Wanganeen, 1987). In both communities, disease epidemics led to many deaths and conflict became pronounced to the extent of Settlers and Indigenous peoples murdering one another (C/TFN, n.d.; Krichauff, 2008). The C/TFN describe this period as one in which “people from all over the world are trampling through CTFN traditional territory, abusing it’s resources, and generally having little respect for what was here prior to them coming” (C/TFN, n.d., p. 139). It is probable that the Narungga felt similarly about the arrival of Europeans, although they were much smaller in numbers.

Overlapping with the end of the settlement and conflict period is the overt assimilation and resistance period in which the colonial governments of Canada and Australia made explicit efforts to absorb Indigenous peoples into the new colonial order. From the purview of Tagish, Tlingit, and Narungga peoples, this was a period of intensive cultural genocide. For the Tagish and Tlingit, this began with the establishment and subsequent amendment of the Indian Act in 1876 and continued through the subsequent 1884 amendments to the Act, which banned Potlatches, leading to the imprisonment of many Tagish and Tlingit peoples (C/TFN, n.d.). It reached its precipice with the residential school policy regime. This started in 1892 with the establishment of Chooutla Residential School and with the passing of federal government legislation two years later in 1894, which made it mandatory for Indigenous children to attend these schools (Anglican Church of Canada, 2008/2011; C/TFN, n.d.; Government of Canada, 2004). It continued until 1969 when the local residential school closed (Anglican Church of Canada, 2008/2011; C/TFN, n.d.; Government of Canada, 2004).

For the Narungga, Point Pearce was established as a mission in 1868 and both Narungga and other groups were moved there, although some Narungga chose to move away from the community (“Point Pearce - SA memory past and present for the future”, n.d.). The Narungga began fighting for control of the mission in 1910 and won control five years later in 1915 when it was renamed Point Pearce Aboriginal Station (“Point

Pearce - SA memory past and present for the future”, n.d.). This period concluded in 1969 when the Point Pearce Reserve Lands were transferred and entrusted to the Aboriginal Lands Trust (Narungga Community College & Wanganeen, 1987). Importantly, the narratives about this time period are mixed among NCPP community members, some of who remember this time fondly.

The community control and covert assimilation period is characterized by the increased self-determination within both communities, which is juxtaposed with more covert forms of assimilation. In Canada, scores of modern land claims were settled, constitutional rights for Indigenous peoples were established in 1982, and the Duty to Consult was conceptualized in 1990 (*R. v. Sparrow*) (Edmond, 2007; Manley-Casimir, 2011; Natcher, 2001; Newman, 2009a; Sossin, 2010). Three years later, in 1993, the C/TFN as a member of the Council of Yukon Indians, signed the *Umbrella Final Agreement* along with the Governments of Yukon and Canada and in 2006 they became beneficiaries of this land claim and self-governing when they ratified the *C/TFN Final Agreement* and *Self Government Agreement*, respectively (C/TFN, n.d.).

As aforementioned, there are no historic treaties, constitutional rights, nor a Duty to Consult in Australia. However, some NCPP community members were involved with the consultations regarding Native Title, which followed the 1992 landmark *Mabo v Queensland* decision (Behrendt & Kelly, 2008; Havemann, 1999; Lloyd, et al., 2005; McRae et al., 2009; Meyers & Mugambwa, 1993; Newman, 2009a) and led up to the establishment of the *Native Title Act* in 1993 (Behrendt & Kelly, 2008; Newman, 2009a). Moreover, following the 1966 transfer of control of Point Pearce back to the community, in 1972, the Narungga gained control of their land when it was transferred back to them through the Aboriginal Lands Trust Act (“Point Pearce - SA memory past and present for the future”, n.d.). Three years later, in 1975, the community reclaimed self-management through the establishment of the Point Pearce Aboriginal Corporation (PPAC) (“Point Pearce - SA memory past and present for the future”, n.d.). However, according to Rigney and Hemming (2008), the post-Mabo period in particular was characterized by a “reactionary movement against Indigenous culture” (p. 759), in which Indigenous peoples were coerced to assimilate Indigenous traditional knowledge and ways of knowing into localized knowledge compatible with sustainable development.

For both communities, this period has been fraught with struggle in reclaiming and revitalizing control within a colonial context that is inherently predisposed to assimilate. Both communities have shared narratives of the lack of meaningful consultation. For the C/TFN, this has been largely within the realm of land claim negotiations and implementation. For the Narungga, there has been an altogether lack of consultation in many instances. For example, one Elder told me about a photographer who travelled to Point Pearce several decades ago, took pictures of the community without permission and went on to sell these pictures for personal profit without informing the community or attempting to offer royalties of any kind. Moreover, in the late 1990s, a prize winning Author and a filmmaker who adapted real events from Point Pearce into a fiction novel and movie would undergo harsh criticism by the community for the lack of consultation (Ellingsen, 2002). Ida Wanganeen who was a family friend of a young man whose murder was portrayed in both the novel and film stated that the local Narunggar Language was "appropriated without permission"...and...the "traditional practice" of first seeking approval from the family" was ignored (Ellingsen, 2002). These recent events have likely reinforced earlier negative experiences with consultations.

Socio-economically, the C/TFN is better positioned than the NCPP at the moment. While one might speculate many reasons for this, the most obvious would appear to be that the C/TFN has settled their land claim and is self-governing. This has led to job and wealth creation for the community. In contrast, the NCPP is only now negotiating the settlement of a land claim for the remainder of their territory and is self-managed through PPAC, a small community corporation focused on economic development. Moreover, local economic development opportunities seem to be narrower in the Bookayana, although the community has proven enterprising.

Overall, it would seem both communities have historically tentative and tumultuous relations with European Settlers. Yet, C/TFN has had a longer time period to develop a greater number of deeper relationships (such as intermarriages and friendships) through trade as well. Moreover, it seems that Settlers engaged the C/TFN to a greater degree in the colonial project, whereas, the Narungga were often not consulted at all. The Narungga now appear to be in an earlier stage of community revitalization compared with the C/TFN. Point Pearce's self-management system is grossly underfunded and they

are in the early stages of capacity building. In contrast, the C/TFN has developed a sophisticated and self-government that has built (and continues to build) internal capacity and is comparatively well supported. As a result, the C/TFN is better positioned to consult with outside agencies on more equal footing.

### 5.3 Consultation Features and Processes, Challenges, and Leading Practices

#### 5.3.1 Main features

Despite the significant differences between the C/TFN and NCPP, the findings from research conversations and participant-observation reveal consultations in these communities share common features, elements of process, and views on leading practice in consultation. These findings support and nuance the literature and expert narratives in *Chapter 2*.

##### *Types.*

At the most basic level, the findings suggest that consultations can be divided into three types. These include 1) ‘big C consultations’, 2) ‘little C consultations, and 3) communications. ‘Big C’ consultations include those involving major decisions affecting Indigenous rights (in Canada these are those triggering the DTC through s.35 of the constitution) (Anonymous, personal communications, June 12, 2012 and July 16, 2012). For example, ‘big C’ consultations occur when treaties and other legislation are developed, amended or implemented, as well as when major project ideas are developed or changed (e.g. resource development or curriculum modifications) (Anonymous, personal communication, June 12, 2012). Although there is no legal doctrine in Australia equivalent to the DTC, ‘big C’ consultations tend to be similar in Australia and are sometimes triggered through statutory laws and Native Title Agreements. Particularly

with self-governing Indigenous communities such as C/TFN, consultations are instigated both ways—communities can consult with the crown or the crown can consult with communities (Anonymous, personal communication, June 12, 2012). While the Yukon Government consults with the C/TFN over the development and changes to Acts affecting C/TFN rights, the C/TFN also routinely consults with the Yukon Government when C/TFN legislation affects the Yukon Government's legislation (anonymous, personal communication, June 12, 2012; July 16, 2012).

'Little 'c' consultations' include those requiring consultation outside of the community over issues that do not affect Indigenous rights. Little c consultations occur when relatively minor matters that do not affect Indigenous rights occur with outside organizations or communities. For example, the C/TFN consults with the First Nations Education Council (FNEC) regularly on shared issues with other First Nations, often as a precursor to entering consultations with the Yukon Government. PPAC consults with various partners, including the local Point Pearce Aboriginal School and Technical and Further Education (TAFE).

Communications are consultations internal to the community usually regarding minor issues (not affecting Indigenous rights). For example, both NCPP and C/TFN routinely consult their local schools and health centres. They include information about 'big C' and 'little c' consultations as a means to gain community input. The literature did not appear to make these same distinctions among types of consultation. Instead, literature tended to focus on either 'big C consultations' (particularly in the Canadian context), or 'Little C' consultations and communications together. While the C/TFN seemed to have established these categories, the NCPP seemed to make less of a formal distinction among these types of consultations, developing these categories through the research process.

#### *Locations.*

Consultation location is important because it affects relationship building (Anonymous, personal communication, July 16, 2013). While the literature and expert interviews did not discuss consultation locations, the interview data from this project

lends some insight. Specifically, the findings showed that communications tend to be located within the communities, perhaps because convenience for the ‘consultee’ appears to most influence consultation location in both communities (Anonymous, personal communication, July 16, 2012). Australian and Canadian governments appear to make efforts to hold consultations within the Indigenous communities with which they consult where possible. However, consultations involving multiple communities, as well as with the crown—which tend to be ‘big C’ and ‘little c’ consultations—are often held in urban centres that are central and neutral. Alternating locations by preference of consultation parties can create neutrality (Anonymous, personal communication, July 16, 2012). Avoiding locations that might trigger negative associations and trauma is also critical to setting a neutral tone that fosters relationship building (Anonymous, personal communication, July 16, 2012). For example, one C/TFN participant stressed the importance of avoiding school and office buildings, which can trigger negative associations and even post-traumatic stress among residential school survivors (Anonymous, personal communication, July 16, 2012).

As a self-governing community, C/TFN is often a consulter when passing legislation affecting the Yukon Government. In these instances, C/TFN often caters to the Yukon Government and consults in government buildings in Whitehorse. While the South Australian government often travels to Point Pearce to consult with NCPP, participants reported that NCPP is expected to travel to Adelaide to consult with the Minister.

### *Participants.*

The scope and scale of consultation determine who attends (Anonymous, personal communication, July 16, 2012). Both PPAC and C/TFN expect high-level (preferably Ministerial) government participation for ‘big C’ consultations. Particularly for C/TFN, as a self-governing community, this is viewed as reflecting a matching of levels (government-to-government). However, both C/TFN and NCPP participants noted that the crown is seldom accommodating in this regard (Anonymous, personal communication, May 14, 2012; May 24, 2012; Fidler & Hitch, 2007; Lem & Reiner,

2011; Natcher, 2001; Newman, 2009a; Robinson, 2007). Moreover, one C/TFN participant remarked that the Yukon Government has tended to “send someone [with limited decision-making authority] to warm the seat” and that these representatives seldom participate meaningfully (Anonymous, personal communication, July 16, 2012). As a result, consultations have been largely tokenistic because input is not being directly related to decision makers, and they have been oppressive because the crown’s failure to match levels undermines communities’ self-governing authority and nationhood (Anonymous, personal communication, May 14, 2012; May 24, 2012; July 16, 2012).

The C/TFN prefer to consult with the federal government, with which they signed their Land claims and self-government agreements and formed a long-standing relationship (Anonymous, personal communication, July 16, 2012). This may not be unique to the C/TFN, as one expert explained that some First Nations in Canada do not recognize provinces and territories with which they have not signed agreements (Anonymous, personal communication, May 24, 2012). Since devolution in 2003, the C/TFN was reportedly left feeling abandoned by the federal government and frustrated with the feat of “starting over” in building a relationship with the Yukon Government who has, according to some participants, not recognized or respected C/TFN self-government (Anonymous, Personal communication, June 12, 2012; June 16, 2012).

At the same time, participants argued that “everyday people” should also be included in the consultation. While both C/TFN and PPAC provide separate forums for community consultation as a part of ‘big C’ and sometimes ‘little c’ consultations, several participants from both communities suggested these mechanisms are faulty, as the information seldom sufficiently reaches the community. The leadership in both communities recognizes this as a communications problem. However, several participants mentioned community divisions and conflict as additional barriers to community engagement in consultations (this will be discussed more fulsomely further on in this chapter in sections 5.3.2 *Consultation Processes* and 5.3.3 *Consultation Challenges*). One C/TFN participant spoke to the value of involving those “on the ground” who do the work because they have an influence over how that work is done and tend to lead relationship building, although this is often overlooked (Anonymous, personal communication, June 13, 2012). She argued “even though [consultations] may

not happen at a higher level they're still worthwhile because you don't always need higher ups 'buy in' to affect change (Anonymous, personal communication, June 13, 2012).

Another C/TFN participant argued that consultations should include and even begin with whoever is most directly affected by the matter. Yet another participant argued that representatives working in various subject matter areas related to the consultation matter should be present. For example, for a consultation involving an education matter, representatives of child welfare, education, Land claims, and policy should all be present (Anonymous, personal communication, July 16, 2012). One NCPP participant also stressed the importance of involving traditional people in consultations, although he said this rarely happens and is challenging because there are so few Elders left in the community (Anonymous, personal communication, March 15, 2013). While participant views on who should be involved with consultations varied, there was unanimous agreement that lawyers should not be 'at the table' because they set a tone that inhibits organic relationship and trust building (Anonymous, personal communications, March 15, 2012; July 16, 2012). This supports the accounts of expert interviewees who stated that lawyers intimidate communities and, thus, they inhibit relationship building by setting a litigious tone (Anonymous, personal communications, May 14, 2012; May 15, 2012; May 19, 2012; May 23, 2012).

Participants generally said that the equitable representation of regions, First Nations, clans, traditional people, and Elders is important (Anonymous, personal communication, July 16, 2012). This supports the literature and expert narratives, which state that meaningful consultations engage all community subgroups (hunters, entrepreneurs, Elders, youth, women, men, traditional people, leaders, clans, etc.) in decision-making processes (Amy Desjarlais, 2012; Anonymous, personal communications, May 14, 2012; May 19, 2012; May 23, 2012). While the C/TFN practices a clan-based governance system that provides equal opportunities for clan input, NCPP follows a colonial governance system modelled after the Australian government by which it was imposed. The imposition of this type of 'democratic' colonial model in Indigenous communities has been criticized for its susceptibility to nepotism in the context of small, clan-based communities. For example, PPAC currently represents one



extended family (Anonymous, personal communication, April 9, 2013). Therefore, other voices in the community may not be well represented in consultations. This is particularly significant because organizations consulting with communities rely on councils to represent community voice. From one NCPP participant's purview, "good work has to be [achieved] through good governance" and community leadership must engage with the communities they serve effectively before they can hope to engage with outside organizations in meaningful consultations, because meaningful consultations require sufficient community engagement (a mechanism for which the local governance system has most responsibility) (Anonymous, personal communication, April 9, 2013).

However, the data from this study suggest that, in consultations with these communities, representation is seldom equitable in this regard. For example, during my fieldwork in Point Pearce the South Australian government's Department of Aboriginal Affairs consulted with the community in the process of a broader consultation with all Indigenous communities across South Australia. The focus was on changes to the *Aboriginal Land Trust Act*, which informs the nature of consultations between the state government and Indigenous communities in South Australia over Land matters. The main change to this legislation was the reduction of Aboriginal Land Trust reference members by nearly half.

During the consultation, community members expressed concern regarding the lack of equitable regional representation that would result from these changes, as there would be fewer seats than regions and, thus, some regions would not be represented. In undermining the importance of regional representation, the state government is requiring members of the reference group to represent entirely different regions than those, which they are from. The implication of this lack of regional representation on the reference group is that concerns and aspirations of entire regions, and the communities located therein, may be overlooked in the decision-making process. Curiously, representatives of the consulting team, when interviewed, stated that regional representation on the reference group is critical to meaningful consultation (Anonymous, personal communication, April 10, 2012). Therefore, there seems to be a disconnect between what the practitioners know and what the decision makers do in terms of legislative changes affecting the consultation process.

According to C/TFN participants, Indigenous representation has historically been lacking, particularly in ‘small c’ consultations. A Yukon Government representative involved in consultations stated, “other community meetings are dominated by non-First Nations” (Anonymous, personal communication, June 12, 2012). For example, one C/TFN participant explained that there are only two First Nations people on the school committee and that, as a result, school committee meetings tend to be “overpowered by non-First Nations teachers and staff” (Anonymous, personal communication, June 13, 2012). Moreover, a non-First Nations participant who is associated with the C/TFN suggested there is sometimes a lack of equitable clan representation in protocol for decision-making (Anonymous, personal communication, June 13, 2012). While Indigenous representation did not appear to be an issue for NCPP, family representation did emerge as a challenge in this regard.

Both C/TFN and NCPP mentioned that Elders and experienced people are especially underrepresented in consultations and that this is detrimental because Elders carry the cultural knowledge, which traditionally guides decision-making processes (Anonymous, personal communications, May 17, 2012; April 9, 2013). This supports one expert interviewee who stated that Elders, who are most educated on culture, are least well represented in consultations, as “[it’s] mostly young people who are not as engaged with culture and community but educated in White world who sit on boards...[and] in becoming educated community members also lose their connectedness with the community and become colonized” (Anonymous, personal communication, May 17, 2012).

For NCPP, a lack of Elder representation might be partly due to the fact that there are few ‘old people’ left in the community, as many have passed on prematurely or moved away (Anonymous, personal communication, April 10, 2012). One C/TFN participant said Elders are watching the community struggle and are frustrated with not being able to fulfil their traditional role in assisting the community to overcome these challenges through traditional consultation practices (Anonymous, personal communication, May 17, 2012). This same participant said that the lack of veteran experience at the table is perpetuated by a lack of mentoring from experienced to younger

and more inexperienced members (Anonymous, personal communication, May 17, 2012).

Moreover, several participants from both communities mentioned that sometimes less outspoken participants are not heard as equals during consultations. This is particularly disconcerting because as one C/TFN Elder stated, “leadership is quiet” (Anonymous, personal communication, March 15, 2012; July 11, 2012, March 19, 2013; April 10, 2013). Participants suggested that this could be achieved through facilitators reaching out to less vocal participants one-on-one during breaks, holding individual meetings, and embracing a roundtable design wherein each participant is given an opportunity to respond to a question and share concerns and ideas (Anonymous, personal communication, March 15, 2012; July 11, 2012, March 19, 2013; April 10, 2013). This roundtable design is traditional to the C/TFN people for decision-making and dispute resolution processes. Specifically, it involves seating participants in a circle and guiding the discussion with an Eagle’s feather, which signifies respect among other virtues (Anonymous, personal communication, July 11, 2012). The feather is passed counter clockwise to each person consecutively in the circle, and the person holding the feather is afforded the opportunity to speak uninterrupted and free from judgment (Anonymous, personal communication, July 11, 2012).

### 5.3.2 Consultation Processes

NCPP and C/TFN provided a common narrative on what the consultation process entails. The most significant discrepancy that emerged in this regard was between those who distinguished between distinct and general processes for Indigenous consultations. While most participants seemed to make a distinction, one said that consultations with Indigenous groups are “Not different from any other legislative change process aside from Welcome to Country and history...context...and the fact that in some instances an interpreter is required” (Anonymous, personal communication, April 10, 2013). This differs from Wyatt et al.’s (2010) study, which found that non-distinct processes for Indigenous people often tend to be finite, offer less time for comments, and make funding

for assistance and resources for capacity development less readily available (Wyatt et al., 2010). Conversely, some distinct processes are jointly developed with Indigenous communities and/or lead to distinct-continuous agreements that align with communities' broader goals (Wyatt et al., 2010).

Aside from this divergence, there was relative consensus among participants in terms of the process, the steps of which loosely corroborate with those outlined by expert interviews. Participants seemed to agree on the general order of these major steps. However, their opinions about the order of some of the sub-steps varied. I have ordered these based on relative consensus among research participants, expert interviews and the literature as well as participant observation:

1. ask permission to come to country;
2. research the community;
3. identify main community contact and chaperone;
4. follow local consultation request/notification protocol;
5. develop consultation guidelines, expectations and design in collaboration with the community;
6. promote ongoing communication with the community about the consultation;
7. implement consultation (protocol);
8. measure effectiveness of implementation;
9. execute actions/accommodate; and
10. continuously report back to and work with the community.

Each step is nuanced in relation to the data collected for this project below.

*1. Ask permission to come to country.*

The request for permission to come to the community, or “welcome to country” (as it is more commonly termed in Australia), is a very significant gesture for both C/TFN and NCPP. As one NCPP participant stated, “I come to your house and I knock

on your door” (Anonymous, personal communication, March 19, 2012). This sentiment has been echoed in academia through the writings of numerous Indigenous scholars, including in Karen Lillian Martin’s landmark text *Please Knock Before you Enter* (2006). Moreover, it represents a recognition and respect for Indigenous sovereignty. Understanding the nature of these nation-to-nation relationships is for some communities a precursor to developing the type of relationship necessary to engaging in meaningful consultation.

## *2. Research the community.*

Participants also stressed that ‘doing your homework/research’ and learning about the community is critical to ‘knowing your audience’ sufficiently to consult (Anonymous, personal communication, April 10, 2013). In particular, learning about the local history (especially pertaining to colonization and consultation) and culture (especially pertaining to consultation protocol) is an important precursor to meaningful consultation (Anonymous, personal communication, March 22, 2013; April 10, 2013). Participants complained that those who seek consultation with community members seldom sufficiently research the communities with which they consult and consequently are often poorly prepared for consultations. This lack of effort to learn about the community and the failure to follow community protocols that sometimes emerges through such research has left communities feeling disrespected and frustrated. Such lack of preparedness raises concern that the consultation is tokenistic and can result in a great deal of time wasted on the part of communities in explaining protocol and community context. Moreover, such information is generally extremely valuable in understanding how to best consult with communities.

## *3. Identify main community contact and chaperone.*

Learning “who is in the community and seeking respect” can be instrumental to the next step of consultation which is identifying a main community contact and chaperone (Anonymous, personal communication, March 15, 2012, June 12, 2012;

March 19, 2013). This main contact should be someone with a good understanding or foothold in local politics without being overly invested. They should be well positioned to help the proponent who is consulting with the community to navigate through the consultation process and explain nuance. Additionally, this main contact should act as a chaperone, introducing the proponent to important contacts. As one NCPP participant stated, it is important to “have someone to chaperone you around so community accepts you” (Anonymous, personal communication, March 15, 2012). In this way, the main contact can introduce the proponent to various community contacts at multiple levels who should be included in the consultation.

Ideally a relationship with this key contact precedes the consultation. However, in consultations over resource development, this is seldom the case. As such, developing a relationship of trust with the key contact should be a focus because it is often prerequisite to his/her willingness to vouch for one’s character by acting as a chaperone. Other community members are likely to trust the chaperone and therefore place their faith in the good intent of the person who seeks to consult with them.

#### *4. Follow local consultation request/notification protocol.*

Research and consultation with the community contact should reveal the local consultation request/notification process. Both NCPP and C/TFN require consultants to first contact the community leaders (C/TFN’s Kaa Shaa du Heni, and PPAC’s Chairperson) by telephone to create a dialogue and with a formal letter to ensure transparency and accountability (Anonymous, personal communications, June 12, 2012, July 16, 2012, March 15, 2013). In these correspondences, consultants must introduce themselves properly (including their roles and the organizations they represent), as well as state the purpose and other details of the proposed project or activity. Introductions take on a special significance in C/TFN and NCPP, as well as many other Indigenous communities, as markers of relational context and accountability. In both C/TFN and NCPP, it is important to introduce oneself personally (by family name, clan, and ancestral homeland) and professionally (by organizational affiliation and role).

Community leaders then present the proposed consultation to their respective councils (C/TFN's Executive Council and PPAC's membership), and either approve the consultation, respond with questions and/or changes, or request the consulter to present to the councils directly (Anonymous, personal communications, June 12, 2012, July 16, 2012; March 23, 2013). For more substantive consultations involving other groups, other councils may be drawn into this process. NCPP and C/TFN participants stated that these protocols are rarely followed. As one NCPP participant stated, people "...just walk in and do what they want...they turn up, do their thing, and go away... with no notice" (Anonymous, personal communication, March 15, 2013). Although, it should be noted that neither community had an official community consultation protocol in place prior to this project.

*5. Develop consultation guidelines, expectations, and design in collaboration with the community.*

According to NCPP and C/TFN, one of the most critical but often overlooked aspects of consulting is "consulting about consulting" (Anonymous, personal communications, July 16, 2012). While general community guidelines may be helpful to consulters, it is always best to explicitly ask communities how they would like to be consulted with, as each case is unique. This is almost equally important as a gesture of respect, as it is for pragmatism in setting expectations and informing practice. In this regard, this step might be understood as twofold: 1) asking about the consultation process (as a gesture of respect), and 2) learning about the consultation process (to understand which steps to follow in practice). Equally, it is important for the community to learn the proponent's preferred rules of engagement. Experts and interviewees agree that both can be achieved through the negotiation of a consultation protocol agreement early in the process (Anonymous, personal communications, May 14, 2012; May 15, 2012; May 31, 2012; June 12, 2012, March 19, 2013; April 10, 2013).

A consultation protocol agreement should inform the practical aspects of the consultation, including the consultation's purpose and intended outcomes, scope and scale, specific steps, and timeframes (Anonymous, personal communications, June 12,

2012, March 19, 2013; April 10, 2013). Purpose and intended outcomes will inform the scope and scale of consultation required, and the community and consulter can negotiate steps, which will inform timeframes. Flexibility, honesty, transparency, consistency, and respect for “all cultures at the table” are important principles for this step in the process (Anonymous, personal communications, June 12, 2012, May 17, 2012, March 19, 2013; April 10, 2013). This is a proactive way to ensure shared expectations are developed and achieved.

*6. Promote ongoing communication with the community about the consultation.*

Ongoing communication during consultations is critical to both C/TFN and NCPP. Such communication can serve multiple purposes in this context. Pre-briefing documents can ensure consultees have full and accurate information about the matter in advance of consultations. One NCPP participant mentioned that receiving handouts during the consultation did not provide him with sufficient time to review the information, consider his questions and concerns, and consult with the community to gain additional insight in advance of the consultation (Anonymous, personal communication, March 15, 2013). Providing information in advance makes consultations more efficient and transparent and creates accountability among consulters. Post-meeting briefings and working/action plans also create accountability among stakeholders to follow through with consultation expectations, steps, and timelines (Anonymous, personal communications, June 12, 2012; March 15, 2013).

Documentation can also be used to manage expectations and clarify the decision-making process. A government of Yukon participant explained that it is common practice for his department to communicate back to the community via post-briefing about what they heard from the community to ensure they have not misinterpreted or missed anything that should be considered in the decision-making process (Anonymous, personal communication, June 12, 2012). This participant described this step as providing the community with “one last kick at the can” (Anonymous, personal communication, June 12, 2012). He explained that if there were nothing else to be incorporated, this would be followed by communication to indicate ‘close off’ of community gatherings



(Anonymous, personal communication, June 12, 2012). Last, once the government has made a decision, this would be communicated back to the community along with a justification and explanation of how this decision incorporates their views, desires, and concerns (Anonymous, personal communication, June 12, 2012). One NCPP member who was involved with consultations leading up to and following the landmark *Mabo decision*, suggested that reporting should be frequent, perhaps weekly, and that there should always be a final report (Anonymous, personal communication, March 15, 2013). Other participants commented on the importance of ensuring communications follow community protocols to relationship building (Anonymous, personal communication, April 10, 2013).

#### *7. Implement consultation (protocol).*

Meaningful consultation is implemented in accordance with the protocol agreement developed in collaboration with the community, which includes the guidelines, expectations, and design. Although it can be time-consuming, both C/TFN and NCPP participants emphasized the importance of learning and following community consultation protocols and processes (June 12, 2012, July 16, 2012; April 9, 2013). However, this can be challenging, as one C/TFN participant explained “there is a large margin of error, and it’s difficult to get it right” (Anonymous, personal communication, July 16, 2012). Research participants supported expert contentions that community protocols are often ambiguous because all consultations are unique, thus, there is no one-size fits all approach (Anonymous, personal communications, May 14, 2012; May 18, 2012; May 25, 2012; May 31, 2012; June 18, 2012). Adding to the ambiguity, participants explained that communities tend to localize generic protocols and much of this localization relates to a cultural context that may not be accessible to outsiders (Anonymous, personal communication, July 16, 2012). Moreover, a lack of community knowledge and consensus on protocol means these “invisible hoops” that consulters must “jump through” are sometimes unknown to community members as well and, therefore, “no one seems to know what community protocol is” (Anonymous, personal communication, June 13, 2012). Participant observation corroborated there was a need to

develop a common vision for this protocol in both communities. Ambiguity has proven particularly challenging for those outsiders who do not feel they have support in navigating through this process (Anonymous, personal communication, March 22, 2012).

Some protocol has already been covered, such as asking permission to come in to country and introducing oneself personally as well as professionally. Additionally, there are many aspects of C/TFN and NCPP protocol that relate with cultural, political, and other context. For C/TFN, clans play a central role in consultation protocol. Their self-government model is clan-based, including clan-based departments, and committees (Anonymous, personal communication, June 13, 2012). In this regard, clan consultation is guaranteed by the governance structure and system (Anonymous, personal communication, June 13, 2012). However, the clan consultation process is time-consuming; it requires clan representatives to consult with their respective clans and share the input they obtain with the councils and committees in which they participate (Anonymous, personal communication, June 13, 2012). Clan politics are seldom shared with outsiders because interference is so highly discouraged. Consequently, outsiders seldom understand the time required for this aspect of consultation and, therefore, often impose timelines that do not account for clan consultation. (Anonymous, personal communications, July 13, 2012; May 17, 2012).

Similar clan politics occur in informal ways within NCPP. Kin groups called ‘mobs’ play an important role in the consultation process, although this is not always apparent to outsiders (Anonymous, personal communication, March 15, 2013). Moreover, the community of Point Pearce has been divided into two main kinship groups (although all community members are related in some way), which have been engaged in conflict with one another for three decades (Anonymous, personal communication, March 15, 2013). Understanding these local politics is critical to meaningfully consulting with the community. It is important that consultants engage with both groups in ways that do not coerce them into gathering in the same place or cause further conflict (Anonymous, personal communication, March 15, 2013). Understanding the history behind this conflict also helps to nuance the narratives that community members provide.

The significance of the Land and its inextricable link to all things, including humankind, is another theme common to consulting with both communities. Several

C/TFN and NCPP participants described themselves as “Land-based peoples”, who require a “Land-based people process” for consulting (Anonymous, personal communications, March 15, 2012, July 13, 2012, March 15, 2013; March 19, 2013). From their purview, any matter that one might consult about would inevitably relate to Land (resource development, children, Elders, education, etc.) and require an understanding of the inseparability of people with Land in particular (Anonymous, personal communications, March 15, 2012, July 13, 2012, March 15, 2013; March 19, 2013). As one C/TFN Elder explained, “We are part of the Water and the Land” (Anonymous, personal communication, March 15, 2012). Many participants suggested that consultations should be held “out on the Land” because this can be more comfortable for some community members, helping everyone to get “back in touch with the Land” and helping consulters to appreciate this worldview (Anonymous, personal communication, March 15, 2012). According to some participants, Land-based consultation also makes good business sense. One participant commented that the “best business is done sitting around camp fires and sharing meals” (Anonymous, personal communication, July 13, 2012). Another shared a consultation success story in which all parties went camping together to get to know one another as human beings (Anonymous, personal communication, March 15, 2012). This created a relational accountability to one another that transformed the nature of the consultation into a more positive conversation (Anonymous, personal communication, March 15, 2012).

Other cultural values that were important to the way in which the C/TFN was consulted include ensuring a wholistic approach reflective of the medicine wheel components (spiritual, mental, physical and emotional) and based upon their virtues (which are also the foundation of their legislation) (Anonymous, personal communications, March 15, 2012; July 16, 2012). Last, their traditional dispute resolution process, which involves sitting in a circle and passing an Eagle’s feather around counter clockwise to provide each person with an equal opportunity to talk in turn, was recommended as a model for consultations (Anonymous, personal communications, March 15, 2012, July 16, 2012; July 18, 2012). This model was developed to encourage more democratic, transparent dialogue through providing everyone with an equal opportunity to provide input in a virtuous environment

(represented by the Eagle feather) (Anonymous, personal communication, May 17, 2012).

Local oral histories suggest that ‘corroborees’ governed by strict cultural practices took place in Indigenous groups within the Bookayana (Narungga region) traditionally (Anonymous, personal communications, March 15, 2013; March 21, 2013). Yet, when asked about the significance of cultural traditions in the consultation process, several NCPP participants noted most of these traditions have been lost through the ‘detrribalization’ and assimilation with Euro-Christianity that characterized the resettlement and transformation of the community into a mission (Anonymous, personal communications, March 15, 2013). As a result, while most community members identify as Narungga, many are ancestrally from other Indigenous groups, and those who are Narungga tend to be disconnected from their traditions due to this history of colonization (Anonymous, personal communications, March 15, 2013).

However, some traditions remain or are otherwise resurfacing. For example, the Point Pearce Welcome to Country statement, which is intended to provide visitors with a clear introduction to Point Pearce Narungga territory, makes reference to the wholistic nature of their peoples:

We acknowledge this land as the Traditional Lands of the Narungga People and that we respect and support the Spiritual, Physical, Economical, Mental and Emotional relationship with their country. We also acknowledge the Narungga People as the custodians of the Yorke Peninsula region and that the inherent Cultural and Spiritual beliefs continue to sustain the living Narungga People today (Point Pearce Aboriginal Corporation, n.d.).

Moreover, in discussions with NCPP participants about C/TFN dispute resolution circles, many expressed a preference for this kind of approach. As one NCPP participant stated, “you’ve got to have the right environment first... a rectangle table is like a box so you feel boxed in and a circle is more open...it lets everyone participate equally” (Anonymous, personal communication, March 15, 2013). However, participant observation while in Point Pearce revealed that many cultural protocols remain strong, especially those pertaining to age and gender. In particular, younger generations appear to respect Elders and show preferential treatment and respect for their wisdom. In the consultation context, this translates into Elders playing a critical role in decision-making.

Despite this observation, some Elders mentioned that the youth do not always demonstrate respect for older people (Anonymous, personal communication, March 22, 2013). This raises a question around whether this observation reflects a common behaviour of youth seeking autonomy (which they outgrow) or an indication of the depreciation of the role of Elders.

Gender also remains important to protocol. As a female, I noted that it was sometimes advantageous to bring my male partner along with me to sit in on research conversations with local men, because it would change the dynamic of the conversation such that greater sharing seemed to take place. One NCPP participant explained that traditionally, as remains the case in many Northern Indigenous communities, certain stories could only be shared and heard by either men or women (Anonymous, personal communication, March 22, 2013).

Both C/TFN and NCPP participants stated that consultations seldom incorporate culturally appropriate practices and community legal traditions (Anonymous, personal communications, July 16, 2012; March 15, 2013). C/TFN participants perceived the lack of local cultural and traditional influence over consultations as a result of the imposition of a Western colonial process; whereas, NCPP participants viewed this as a result of their culture loss.

#### *8. Measure effectiveness of implementation.*

Both NCPP and C/TFN participants suggested that the consultation should be evaluated against objectives, which should be outlined in advance (perhaps in an agenda) (Anonymous, personal communications, July 16, 2012; March 15, 2013). Other participants suggested that evaluation should be ongoing and embedded throughout the consultation process. Specifically, one C/TFN participant suggested that consulters should work with their government departments to ensure they are on track with the consultation and that their progress is aligned with community expectations (Anonymous, personal communication, June 13, 2012). Another participant suggested that reviews should be formalized at predetermined critical junctures in the process (Anonymous,

personal communication, July 16, 2012). Curiously the consultation experts interviewed did not raise evaluation.

*9. Execute actions/accommodate.*

Surprisingly, the execution of actions and accommodation was not a common theme in research conversations although it was a major focus for expert interviews. One Yukon Government representative stated that they avoid the word “accommodation” (Anonymous, personal communications, June 12, 2012). In contrast, expert interviewees spoke at length about accommodation in the context of Impacts and Benefits Agreements (IBAs), which are designed to minimize the impacts and maximize the benefits of development for Indigenous communities. Confined narrowly within this Western legal context, the discussion was limited primarily to accommodating via financial compensation (such as royalties and revenue sharing) and joint business ventures; employment quotas; business procurement ‘set asides’ (or subcontracts to local Indigenous owned businesses); and support for cultural retention.

*10. Continuously report back to and work with the community.*

Last, community members emphasized the importance of continuously reporting to and working with the community. This sentiment of an ongoing relationship is one that is much harder to grasp outside of Indigenous communities. However, expert interviewees with extensive experience consulting with communities seemed to understand the critical importance of the ongoing nature of such relationships.

While these guidelines merit consideration, there is no ‘one-size fits all’ formula for consultation in practice. Each case is specific and requires particular consultation about the process. In this regard, the nuance involved with each step is critical. Perhaps most significant, these guidelines are not measures of meaningful consultation. Rather, it is the way in which they are conducted that determines their meaningfulness.

### 5.3.3 Consultation Challenges

Research conversations with community participants revealed many challenges with consultations in both communities. First and foremost, the findings reveal there is an overall lack of consultation in both communities. Second, consultation tends to be ambiguous, which sometimes contributes to a lack of consultation. Third, even when guidelines are created, there are many breakdowns in the process. Fourth, the challenges identified in the literature review and expert interviews hold true for these communities, that is, consultations are perceived as tokenistic because they are couched in a Western law system that is oppressive of Indigenous peoples and that has been ineffective in reconciling stakeholder interests. Fifth, as a result of the aforementioned issues, community engagement remains a challenge in consultations.

#### *Lack of consultation.*

First and foremost, the overall lack of consultation in both communities represents the most significant challenge (Anonymous, personal communication, March 15, 2013). Curiously in Point Pearce, where no equivalent to the DTC exists, consultation does not seem to be less frequent or rigorous. Without this accountability mechanism in place, the crown continues to consult except where legislative changes are concerned. This is probably more a function of the lack of recognized self-governance than this legal doctrine. While Canada's DTC seems to have helped the C/TFN to the extent that the crown consults over issues potentially affecting their Land and/or legislative rights, the narrow interpretation of this doctrine might also be seen as a hindrance. In particular, case law has come to pigeonhole the triggers for the DTC in relation to issues potentially affecting Land (claims and resource development) and/or legislative rights, as opposed to those related to education and well-being. As a result, the crown has sometimes failed to consult where necessary.

*Ambiguity and regulation.*

Where consultation does occur it seems to be ambiguous. I learned early in this research process that ‘consultation’ is not a universal term for exchanges that occur between government (or third party delegates) and Indigenous communities over shared interests. In fact, in my literature review, key search terms for “Aboriginal consultation” and “Indigenous consultation” proved far less fruitful in yielding Australian compared with Canadian literature. As a Settler Canadian with years of experience working in the field of Aboriginal relations, the term ‘consultation’ has become naturalized. I have come to take for granted the uniqueness of the Canadian DTC in relation to countries like Australia that do not have an equivalent legal doctrine in place. Instead, search terms such as “Aboriginal development projects” and “Aboriginal dialogues” proved more useful in the Australian context in this regard.

One Canadian consultation expert participant noted that consultation is often defined in negative terms, including in this project, to imply the impetus is a potential infringement of Indigenous rights, rather than an opportunity for mutually beneficial collaboration as is increasingly the case (Anonymous, personal communication, May 19, 2012). He attributed this to the influence of the DTC in transforming consultations from processes involving human relationships to legal and business transactions (Anonymous, personal communication, May 19, 2012). Another Canadian consultation expert participant stated that the term ‘consultation’ is problematic because it implies a temporary and shallow relationship, limited to the stringent timelines and subject to the political agendas of agents thereof (Anonymous, personal communication, February 4, 2013). He argued that it connotes something that one group (‘consulters’ who are typically government or third party delegates thereof) does to another group (‘consultees’ who are typically Indigenous communities). In this regard, the term empowers consulters by positioning them as agents with the power to impact others and disempowers consultees by positioning them as agentless subjects who lack the power to influence the outcome of this exchange (Anonymous, personal communication, February 4, 2013). On the contrary, the data from participant research conversations showed that both communities act as consulters when: 1) declaring a grievance over activities that have



been conducted by an outside entity that have negatively impacted the community; and 2) seeking partnership or support for a business idea from an outside organization. The C/TFN also instigates consultations with the Yukon Government when changes are made to C/TFN's legislation that may affect other legislation (Anonymous, personal communication, July 16, 2012). Consequently, this participant suggests that the term 'dialogue' might be more appropriate, as it connotes a 'two-way', democratic exchange in which both sides are empowered to engage with one another on an ongoing basis as Human Beings (Anonymous, personal communication, February 4, 2013).

In contrast, several Australian participants expressed a preference for the term 'consultation' above other terms like 'dialogue'. From their purviews, 'consultation' implies a more official and regulated legal process than terms like 'engagement' and 'dialogue'. The vagueness of these terms is perceived as leaving such processes open to the interpretations of government and third party consulters, which too often conveniently align with their agendas and disadvantage Indigenous peoples (Anonymous, personal communications, March 15, 2013; April 10, 2013). The Canadian courts have attempted to provide even greater regulations through requiring that consultations are 'meaningful' (Anonymous, personal communication, May 19, 2012). However, 'meaningful consultation', like the DTC, has also been vaguely defined to evolve through case law and in recognition that all consultations are unique (Anonymous, personal communication, May 19, 2012). As a result, this has led to even greater ambiguity in some regards (Anonymous, personal communication, May 19, 2012).

Moreover, ambiguity has also emerged in Indigenous consultations when Indigenous communities have not gone through the process of developing consultation protocols. For example, as aforementioned, both NCPP and C/TFN stated that they were not being consulted in accordance with community protocol. However, both communities lacked consensus about their respective consultation protocols and only developed official templates out of the process of engaging in this project. Moreover, while the development of community consultation protocols can empower communities in consultations, it also adds to the existing complexity. One crown representative participant involved in consultations stated that the multitude of community consultation protocols that are emerging across Canada represents a major challenge for people in his

position who must continuously adapt the government's process to fit with sometimes-incompatible processes (Anonymous, personal communication, June 12, 2012). This participant alluded to government pressure to undermine such processes in order to push development forward and remain globally competitive with multinational resource development companies (Anonymous, personal communication, June 12, 2012).

*Process breakdowns.*

Sometimes, the consultation process is clear—consultation guidelines are developed in collaboration with the community, including mutual understandings of cultural paradigms, as they impact the proposed project. However, the data collected for this project revealed that even in these somewhat rare instances, breakdowns in the process are commonplace. Miscommunication is reportedly very commonplace with C/TFN and NCPP consultations (Anonymous, personal communications, June 12, 2012; March 15, 2013). When asked about where miscommunication tends to occur in the consultation process, one participant retorted, “Where isn’t there communication breakdown?” (Anonymous, personal communications, June 12, 2012; March 15, 2013).

Moreover, community-level politics often interfere with consultations in that they can determine who participates on councils, who engages generally, and, consequently, what perspectives are heard (Anonymous, personal communications, June 12, 2012; March 15, 2013). Conflict and divisiveness, nepotism, favouritism, and conflict of interest within both communities reportedly represent major barriers to meaningful consultations (Anonymous, personal communications, May 17, 2012, June 12, 2012, March 15, 2013; April 10, 2013). These issues can detract from the subject of consultations when “Most of information is not for [the government], but each other...we know the subtext we hear on the surface and not what they meant” (Anonymous, personal communication, June 12, 2012). This subtext sometimes pertains to the broader dynamics or issues the subject of consultation has come to symbolize, such as power imbalances between communities and crown governments (Anonymous, personal communication, June 12, 2012), but has also resulted in a neo-colonial type of oppression in which “communities turn on one another because they cannot ‘beat up’ on government”

(Anonymous, personal communication, April 9, 2013). Furthermore, consultations have sometimes interfered with local politics because they can perpetuate existing power imbalances when nepotism, favouritism, and conflict of interest play a role (Anonymous, personal communication, June 13, 2012).

Leadership turnover within community and government, lack of communications back to the community following meetings, and a lack of policy coordination in government were also mentioned by both NCPP and C/TFN as breakdowns in the process (Anonymous, personal communication, June 13, 2012). The C/TFN experienced a larger breakdown in their processes when devolution occurred because they had developed strong relationships with the federal government and had to “start over” with the Yukon Government (Anonymous, personal communication, June 13, 2012). NCPP experienced a similar process breakdown when the Aboriginal Lands Act came into play (Anonymous, personal communications, March 15, 2013).

*Tokenistic, colonizing, oppressive, and ineffective.*

An analysis of data from the research conversations and through participant-observation reiterated the main challenges outlined in the literature review and expert interview chapter of this thesis. There was a relative consensus amongst participants from both C/TFN and NCPP as well as government representative participants that the communities lacked influence over decisions, which often seem to be made ad hoc to consultations. This supports the literature based on studies of consultations with Indigenous groups in Quebec, Canada and Victoria, Australia (Kingsley, et al., 2009; Lloyd, et al., 2005; Wyatt, et al., 2010). These studies showed that Indigenous community members felt that consultations took place as afterthoughts; they lacked influence over consultations and, therefore, viewed consultations as tokenistic (Hemming & Rigney, 2010; Kingsley, et al., 2009; Lloyd, et al., 2005; Wyatt, et al., 2010).

In addition, participant-observation in both communities revealed that consultation practices could be colonizing. Specifically, the definition of consultation provided by the C/TFN participants was well aligned with the DTC legal framework as it

has evolved through case law (i.e. “big C” and “little C” consultation) (Anonymous, personal communications, July 16, 2012). In this regard, even as a self-governing community, C/TFN is limited to negotiating rights within a colonial legal framework that is inherently incompatible with many tenets of Indigenous legal traditions and worldviews. As stated in the literature review, Canada’s and Australia’s colonial legal framework is based on many Western ideologies, such as the “indivisible sovereign” and “liberal-capitalism”, and ‘patriarchal white sovereignty’, which conflict with many Indigenous value systems (Havemann 1999; Moreton-Robinson, 2011; Salter, 2009, p. 11). Specifically, indivisible sovereignty undermines Indigenous legal traditions by virtue of negating legal pluralism and liberal-capitalism undermines collectivism and the spiritual value of Land by virtue of treating it as a commodity (Havemann, 1999; Janke, 1999). When asked about the degree to which the community’s legal traditions were integrated into consultation processes, there appeared to be relative consensus amongst C/TFN participants that they typically did not play a major role except in regards to their legislation, which is based upon Tagish/Tlingit virtues. At the same time, through inquiry these participants expressed an interest in better integrating some of their legal traditions.

NCPP participants defined consultations more vaguely as meetings with government, perhaps because there is no legal equivalent to the DTC. Participants also explained that Narungga legal traditions are involved in consultations because their colonial history (including forced resettlement, detribalization and mission schooling) has disconnected most community members from these traditions. This supports Langton’s (2004) contention that the Native Title Agreement has not supported the inclusion of customary law in such processes. Ironically, consultations were designed to provide Indigenous communities with alternative avenues to resolve disputes with government and other organizations outside of the colonial court system and yet often they mimic the very institutions from which they have sought autonomy. In this regard, some consultations have become an instrument of oppression of Indigenous peoples, imposing colonial institutions at an arms length and under the guise of an alternative process.

Consistent with the literature and expert narrative review (Anonymous, personal communications, May 15, 2012; May 19, 2012; May 23, 2012; May 24, 2012; May 25, 2012; Behrendt & Kelly, 2008; Berg, 2011; Bignall, Rigney, and Hattam, 2014; Fasoli

& Farmer, 2012; Hemming, Rigney, & Pearce 2007; Janke, 1998; Kingsley, et al., 2009; Langton, 2004; Lloyd, et al.; Moreton-Robinson, 2007; Newman, 2009a; Rigney, 2008; Wyatt, et al., 2010), the findings of this study also suggest that consultations are also oppressive because of capacity and knowledge issues that result in power differentials, which tend to disadvantage Indigenous communities. Many C/TFN and NCPP participants referred to funding shortages, and, consequently, material and human resources shortages as well as knowledge shortages in the community, as capacity challenges when compared with the crown and industry proponents with whom they consult (Anonymous, personal communications, July 16, 2012).

Both C/TFN and NCPP participants stated that they lacked equipment to engage in consultations compared with their government counterparts. Prior to this project, PPAC did not have a website. Outsiders would typically phone the school to reach the council. C/TFN had a website but no online protocol for consultation to communicate out to potential community consulters. Both communities were limited in their ICT resources, although NCPP is especially lacking in this regard. In terms of broadband Internet connectivity, C/TFN is generally well connected, whereas, NCPP is generally much less well connected.

Moreover, research conversations revealed that C/TFN and NCPP members often lack funding to travel to consultations that are outside of the communities. They also frequently lack funds for staffing which leads to human resource shortages in addition to staff 'burn out' (Anonymous, personal communications, June 12, 2012, June 13, 2012, June 18, 2012, July 16, 2012; March 22, 2013). This supports the work of Kingsley et al (2009), which found that under-resourcing causes employee 'burn out' among more active individuals in Indigenous communities during consultations. One expert interviewee explained that many Indigenous communities seldom have ample budget to provide consultation participants with honorariums for their time. This has led to instances in which 'sit-down fees' have been requested in which communities only agree to consult for a fee to be paid by the consulters (Anonymous, personal communication, March 19, 2012). This same participant stated that communities often use 'sit down fees' as a screening mechanism to "filtering out" those who are not as serious or who may not be able or willing to adequately accommodate the community as well (Anonymous,

personal communication, March 19, 2012). In contrast, government and third party delegates in consultation amongst which ‘sit-down fees’ are touted as unethical business practice are almost always paid for their time.

Perhaps most significantly, interviewees shared their views about knowledge shortages that disadvantage Indigenous communities in consultations. One expert interviewee participant suggested that an “intimidation factor” exists within some Indigenous community governments due to lack of capacity (Anonymous, personal communication, May 19, 2012). Participant research conversations suggest that this “intimidation factor” might be justified, revealing that a lack of knowledge about law and legislation, the content of the consultation, and appropriate expectations in business negotiations has disadvantaged both communities in consultations (Anonymous, personal communications, June 12, 2012; April 9, 2013). Specifically, participants stated that a lack of community knowledge about agreements and legal processes has led to more rights based discussions that disadvantage communities by convoluting the consultation process and detracting from the power vested within other legislation (Anonymous, personal communications, May 15, 2012, June 12, 2012; April 9, 2013).

Community members are also often disadvantaged compared with the industry experts with which they tend to consult who have a more in depth knowledge of the topic at hand (Anonymous, personal communications, May 15, 2012, June 12, 2012; April 9, 2013). Without this knowledge, community members are not always able to assess the information provided, determine which questions to ask, or understand the terminology used (Anonymous, personal communications, June 13, 2012, March 15, 2013; April 10, 2013). Moreover, as mentioned by the consultation experts interviewed, communities do not always have reasonable expectations entering into consultations and negotiations (Anonymous, personal communication, April 9, 2013). While government and third party delegate representative participants alluded to expectations that were too high, community representative participants, including consultants working on their behalf, stated that community expectations are sometimes too low (Anonymous, personal communication, April 9, 2013). Participants stated that capacity building efforts were minimal and informal and pointed to the need for targeted capacity building within the communities, including knowledge transfer (Anonymous, personal communications, June

12, 2012; March 15, 2013). Knowledge transfer was raised as a priority because both communities are understaffed, particularly NCPP, and invested in only a few leaders (Anonymous, personal communications, June 12, 2012; March 15, 2013).

A lack of knowledge among government and third party delegates and community consultation participants leads to power differentials that disadvantage Indigenous communities in consultations. Specifically, participants stated that government and third party delegates often lack cultural, community protocol and legislative knowledge (Anonymous, personal communications, July 16, 2012, March 15, 2013; March 22, 2013). NCPP participants noted that cultural awareness training had been provided by the community to the South Australian government at one stage, but participants from both communities held that there was a need for greater training in this regard. Moreover, participants from both communities stated that there was a lack of awareness about community consultation protocols, including process, context, and key contacts (Anonymous, personal communications, July 11, 2012; March 15, 2013). However, they noted government and other organizations had demonstrated a marked growing interest over the past few years in learning community consultation protocol (Anonymous, personal communications, July 11, 2012; March 15, 2013). Moreover, one C/TFN participant stated that the community had worked with a lawyer who was unfamiliar with the concept of “spirit and intent”, which is integral within the Canadian Indigenous Land claims context (Anonymous, personal communication, July 16, 2012).

Last, community participants generally expressed dissatisfaction with previous consultation processes and outcome and litigation had been pursued as a result of such dissatisfaction (Anonymous, personal communications, June 12, 2012, July 16, 2012, February 4, 2013; March 15, 2013). From the communities’ perspectives, consultations have not been as effective as they could be in reconciling stakeholder interests. While this supports the majority of literature reviewed (Chartrand, et al., 2008; Failing et al., 2008; Natcher, 2001; Newman, 2009a; Ochman, 2008), expert interviewees provided a more varied and case-specific perspective holding that many consultations have been effective in resulting in impacts and benefit agreements and joint venture partnerships outside of the court system (Anonymous, personal communications, May 23, 2012; May 25, 2012; May 31, 2012). However, this discrepancy could be due to the fact that many of the

experts interviewed are leading practitioners in the field who are more proficient in avoiding litigation. Moreover, as experts pointed out, avoiding litigation is not necessarily the best marker of consultation effectiveness (Anonymous, personal communication, May 15, 2012; May 25, 2012; May 31, 2012).

*Lack of community engagement.*

The findings of research conversations support literature and expert interview data, revealing a general lack of community engagement in consultations which has led to the under representation of Aboriginal leaders and certain groups, such as traditional peoples, women, youth, Elders, and certain families (Anonymous, personal communications, May 17, 2012; June 12, 2012; March 15, 2013; Lloyd, et al., 2005; Pearce & Rigney, 2007; Pearson, 2011; Pearson, 2009). Moreover, participants noted that even when community members attend, many do not voluntarily engage in discussions (Anonymous, personal communications, June 13, 2012; March 22, 2012; March 15, 2013).

Participants attribute the lack of community engagement in consultations to a number of factors. One participant noted the lack of dissemination of information about the consultation, including door-to-door if necessary (Anonymous, personal communication, March 15, 2013). Others mentioned the lack of incentives to attend, such as giveaways, as well as the inaccessibility of consultation location and funding to travel to such consultations, as many members of both C/TFN and NCPP live outside of the community (Anonymous, personal communications, June 12, 2012, June 13, 2012; July 16, 2012). Moreover, conflict among families and groups, a lack of interactivity of presentations and discussions, and ‘consultation fatigue’ were listed as contributing factors to the lack of community engagement in consultation (Anonymous, personal communications, June 12, 2012, June 13, 2012; July 16, 2012). Consultation fatigue was noted to be particularly prevalent: 1) among community members working specifically in this area, and 2) in consultations that persist for a long period of time (Anonymous, personal communications, June 12, 2012, June 13, 2012; July 16, 2012).



### 5.3.4 Consultation Leading Practices

When asked about leading practices in consultation, participants reiterated the guiding principles provided by expert interviews:

1. balance interests and rights;
2. initiated early;
3. relationship-based;
4. conducted according to a collaboratively established protocol agreement;
5. inclusive of community sub-groups;
6. culturally relevant;
7. capacity building;
8. facilitative of two-way, honest dialogue;
9. considerate of cumulative impacts.
10. flexible in providing ample time for community members to consult through their various networks;
11. conducive to unity of thought and collaborative decision-making; and
12. outcome-oriented, mutually beneficial and reasonably accommodating.

*The Kaswénta: a framework for relationship-based consultation.*

Rich data from the case study research conversations and participant observation informed a more nuanced understanding of these principles and how they relate with one another. The data from research conversations revealed that developing strong, positive, human relationships is the most critical factor in facilitating meaningful consultation (Anonymous, personal communications, March 15, 2012). Case study participant narratives, literature and expert narratives that corroborate consultations are foremost relationship-based. Moreover, they support the Kaswénta framework's assertion that strong, positive relationships between Indigenous and non-Indigenous peoples are

characterized by three interconnected principles: 1) equality; 2) distinction and self-determination; and 3) harmonious, and interdependent co-existence (Doxtater, 2011; Lyons, 1986; Muller, 2007; Stevenson, 2006; Turner, 2006; Williams, 2005).

### 1. Equality

The Kaswénta holds that Indigenous and non-Indigenous people should be equals. Canada's and Australia's colonial histories and ongoing colonization has oppressed Indigenous peoples in many ways, including socio-economically, socio-culturally, and psycho-historically. Consequently, Indigenous peoples in both countries have often been disadvantaged by capacity and power differentials with the crown and crown delegates with whom they consult (Anonymous, personal communications, May 15, 2012; May 19, 2012; May 23, 2012; May 24, 2012; May 25, 2012; June 12, 2012, June 13, 2012, June 18, 2012, July 16, 2012; March 22, 2013; Behrendt & Kelly, 2008; Berg, 2011; Bignall, Rigney, and Hattam, 2014; Fasoli & Farmer, 2012; Hemming, Rigney, & Pearce 2007; Janke, 1998; Kingsley, et al., 2009; Langton, 2004; Lloyd, et al.; Moreton-Robinson, 2007; Newman, 2009a Rigney, 2008; Wyatt, et al., 2010). Meaningful consultations ensure Indigenous communities have equal capacity to engage in the process as well as equal influence over the outcome through mutually beneficial and reasonably accommodating outcomes that address both community and proponent concerns and interests (Anonymous, personal communications, May 14, 2012; May 31, 2012; June 12, 2012; June 18, 2012; Doelle & Sinclair, 2005; Failing et al., 2008). Outcome orientation is important to achieving mutually beneficial results as opposed to solely focusing on process (Anonymous, personal communications, June 12, 2012).

Building understanding of other parties in consultation emerged as a common theme in research conversations with case study participants. One participant provided an example of how explicit cultural differences can impact on consultations stating "It's hard when non-First Nations walk into a smudge room or when First Nations walk into a board room" (Anonymous, personal communication, June 12, 2012). He went on to state, as aforementioned, that much of the consultation dialogue is more discretely informed by culture and politics (Anonymous, personal communication, June 12, 2012). Subtext

related to community or crown politics can convolute discussions for other parties who are not privy to the information required to contextualize and understand this subtext (Anonymous, personal communication, June 12, 2012). Participant interviews and discussion groups suggest that community protocols are not well understood by the crown governments with which they consult and vice versa. Mutual capacity building provides one way to build this shared understanding of protocol and to ensure all parties are consulting on an equal footing (Anonymous, personal communications, May 14, 2012; May 15, 2012; May 19, 2012; May 23, 2012; May 24, 2012; May 25, 2012).

The principle of equality also applies at the community level. Community sub groups (hunters, entrepreneurs, Elders, youth, women, men, traditional people, leaders, clans, etc.) should be included in the decision-making process, but seldom are according to case study research conversations, expert narratives, and literature (Desjarlais, 2012; Anonymous, personal communications, May 14, 2012; May 19, 2012; May 23, 2012).

## 2. Distinction and self-determination

The Kaswénta's two purple rows symbolize two vessels travelling down the river of life, one a birch bark canoe in which First Nations peoples travel and the other a ship in which the Europeans travel, each with their own values, customs, and laws (Doxtater, 2011; Lyons, 1986; Muller, 2007; Stevenson, 2006; Williams, 2005). The Kaswénta framework also holds that, while equal, First Nations and non-First Nations should remain distinct (in their own vessels) and self-determining peoples without interference over one another's lifestyles and affairs (Borrows & Turpel as cited in Williams, 2005, pp. 43-44). In this regard, equality should not be confused with sameness. Providing the same amount of resources to a community and a proponent where power differentials are pre-existing will only maintain this disparity. Likewise, allowing for mutually determined protocol agreements within a Western framework undermines the importance of the distinct cultures, histories, and perspectives of Indigenous peoples as well as their right to self-determination.

However, Indigenous self-determination is limited within consultations because they tend to be influenced by Western legal ideologies (such as the 'indivisible

sovereign’, ‘liberal-capitalism’, and ‘patriarchal white sovereignty’), with which many Indigenous legal traditions and worldviews are incompatible (Havemann 1999; Janke, 1999; Moreton-Robinson, 2007; Salter, 2009, p. 11). Expert narratives and case study research conversations corroborate that Indigenous laws and legal traditions tend to be absent from consultations, while Indigenous community consultation protocols and culturally relevant communication protocols and frameworks are marginalized. Moreover, crown and community parties were viewed by one another as bringing ‘insular’ perspectives into consultation that are not conducive to developing mutual understanding and unity of thought. Participants noted that division is more often commonplace at the consultation table, reportedly characterized by the use of divisive language (“us and them talk”) as well as a propensity for crown representatives to avoid meeting in communities that resulted (Anonymous, personal communications, June 12, 2012; March 15, 2013). This interpretation of distinction is not conducive to cooperation.

Behrendt and Kelly (2008) argue that grounding Alternative Dispute Resolution processes in Indigenous cultural values can encourage Indigenous self-determination. Culturally appropriate communication protocols (such as gentle handshakes or averting eye contact) (Anonymous, personal communications, March 15, 2012, July 16, 2012; April 9, 2013), and relevant, localized Indigenous cultural frameworks (such as local interpretations of the medicine wheel and circle roundtable), are important in this regard (Lloyd, et al., 2005; March 15, 2012, May 17, 2012; May 19, 2012). Meaningful consultations ensure that culturally appropriate communication occurs and that parties’ laws, legal traditions, and consultation protocols are honoured. These outcomes can be achieved through a collaboratively established protocol agreement (Anonymous, personal communications, May 14, 2012; May 15, 2012; May 31, 2012).

Curiously, participants did not focus as greatly on balancing rights with interests, as did the experts interviewed and the literature. However, within the Kaswénta framework, rights based discussions take on new meaning. From the purview of Indigenous self-determination, Indigenous rights are inherent and not defined within the Western courts. At the same time, consultations provide an opportunity, perhaps more explicitly in Canada, to advance Indigenous rights to promote greater self-determination. Moreover, expert narratives suggest that interest-based negotiations are more conducive

to meaningful consultations (Anonymous, personal communications, May 19, 2012; May 31, 2012). Kelly and O’Faircheallaigh (Australian Human Rights Commission, n.d.) seem to propose a suitable solution, arguing that companies should approach agreement-making with Indigenous communities consistent with Indigenous rights or exceeding legislative requirements where necessary to recognize such rights.

### 3. Harmonious and interdependent co-existence

The Kaswénta holds that the relationship between First Nations and non-First Nations peoples should co-exist harmoniously, interdependently and in peace, friendship, and respect (Borrows & Turpel as cited in Williams, 2005, pp. 43-44; Doxtater, 2011; Lyons, 1986; Muller, 2007; Stevenson, 2006; Turner, 2006; Williams, 2005). According to case study participants, harmonious and interdependent co-existence in consultations depends on recognition of our human interdependence, mutual respect, and trustworthiness/good faith, as well as relating in a humanistic and emotionally competent manner.

While one expert asserted that relationship building first requires mutual respect (Anonymous, personal communication, May 25, 2012), the participants interviewed from the two case studies posit that recognition of the interdependence of human relationships, particularly in the context of the consultation, precedes mutual respect. Many participants alluded to the importance of understanding the necessity of collaboration among Indigenous communities and other organizations with statements such as:

- “We’re not alone in this world” (Anonymous, personal communication, June 29, 2012);
- “we all need each other” (Anonymous, personal communications, July 112, 2012);
- “without [relationships]...you can’t accomplish anything in life whether consulting government-to-government, with First Nations government or staff (Anonymous, personal communications, May 17, 2012); and
- relationships solve everything (Anonymous, personal communication, June 12, 2012).

Nevertheless, participants supported the aforementioned expert's assertion that mutual respect is necessary to meaningful dialogue (Anonymous, personal communication, May 25, 2012), which can be attained by valuing the other party's perspective (even when one disagrees) and aiming for mutually beneficial outcomes (Anonymous, personal communications, May 17, 2012; June 18, 2012). Third, once mutual respect is achieved and a dialogue has begun, a process of trust building ensues, which reinforces mutual respect and becomes the foundation of a meaningful relationship. However, one expert explained that proving one's trustworthiness or good faith could be challenging against the backdrop of Canada's and Australia's colonial histories and prior consultation-related injustices (Anonymous, personal communications, May 19, 2012).

Trust building can be time consuming and often involves regular, face-to-face, human interaction (Anonymous, personal communications, May 19, 2012). This includes partaking in social community events, including potlatches, pow wows, ceremonies, women's and men's groups, baby showers and funerals (Anonymous, personal communications, June 13, 2012, July 16, 2012, March 19, 2013; March 22, 2013). These types of interactions seemed to differentiate business from human relationships. One participant stated, "Once people can talk to you informally they can learn the grassroots here" (Anonymous, personal communication, July 16, 2012). Other participants shared how a pre-consultation camping excursion amongst the Yukon government and the C/TFN helped them to get to know one another as individuals, which created relational accountability amongst one another at the consultation table and removed pretence as well as ulterior motives related to consuler agendas (Anonymous, personal communications, June 13, 2012, July 16, 2012, March 15, 2012). This, reportedly, shifted the dynamic from a 'win-lose' to 'win-win' objective in which parties worked together to reach more mutually beneficial ends (Anonymous, personal communications, June 13, 2012, July 16, 2012, March 15, 2012). Participants described relating in a humanistic manner as acting trustworthily and in good faith as well as with honour and respect. Participants also suggested that those involved with consultations first introduce themselves, based on their personal rather than professional qualities and associations, to

establish the intention of this type of relationship (Anonymous, personal communications, July 16, 2012).

The research also revealed that relating in an emotionally competent manner is important to fostering meaningful consultations. Participants from both communities made reference to this theme. However, C/TFN participants seemed better equipped with the terminology to discuss emotional competence because a former chief had provided many community members with emotional competency training in recognition that a lack thereof had led to challenges in consultation (Anonymous, personal communications, March 15, 2012, June 12, 2012; July 16, 2012). Beyond effectively managing emotions, emotional competence in consultations involves putting forth a positive, solutions-based attitude that draws on commonalities to develop unity of thought and is grounded in a genuine desire for mutual benefit (Anonymous, personal communications, June 13, 2012).

However, it seems that emotional competency has often been lacking in consultations involving C/TFN and NCPP. One participant stated that outsiders are “afraid of [the C/TFN’s]...undercurrent of fight” (Anonymous, personal communications, June 12, 2012). In reference to emotional competency, another community member explained there is a need to ensure the “gears flow to keep energy positive” during consultations because it is “easy for people to be negative and focus on problems” (Anonymous, personal communications, July 13, 2012). She elaborated that it is “difficult to switch the tape and build on successes, taking a solution-based approach because it is cathartic to bitch and complain” (Anonymous, personal communications, July 13, 2012).

Participants reported that a preoccupation with previous grievances has led those involved in consultations to formulate negative preconceptions about others at the table and to “paint every consultation with the same [negative] brush” (Anonymous, personal communications, June 12, 2012; July 13, 2012). As one participant put it, “we might consult with the community five-thousand times per year and people will still focus on the three times it went wrong” (Anonymous, personal communications, June 12, 2012). According to participants, this has been manifested in a mutual distrust between C/TFN and the Yukon Government, and between NCPP and the South Australian government

(Anonymous, personal communications, June 12, 2012, July 13, 2012; March 15, 2013). It has also inhibited consultations when those involved “can’t move past” some of these previous grievances and focus on the issue at hand (Anonymous, personal communications, June 12, 2012).

In the context of meaningful consultation, honesty, reciprocity, and genuine listening also characterize effective dialogue. This supports Pranis et al.’s (2003) contention that these are among the principals that positive human relations are built upon. Honest communication involves stating the purpose of the consultation up front, providing full and accurate information about the proposed project, including cumulative impacts, and ensuring the information is well disseminated throughout the community and that reporting is transparent, ongoing, and accessible (Anonymous, personal communications, March 15, 2013, March 19, 2013; April 9, 2013; May 14, 2012; May 23, 2012; May 24, 2012; May 25, 2012; May 31, 2012). As one participant put it “people want the truth – don’t beat around the bush and give honest and full information” (Anonymous, personal communications, March 15, 2013). Honest communication is critical to trust building because informed decision-making depends upon knowledge of the truth; participants indicated that one instance of withholding or providing inaccurate information can be tremendously damaging to relationship building (Anonymous, personal communications, May 27, 2012; March 15, 2013; March 19, 2013; April 9, 2013). Several participants reported instances in which information had been withheld or misrepresented, most notably in cases where decisions appeared to have been made in advance of consultation (Anonymous, personal communications, May 27, 2012; March 15, 2013; March 19, 2013; April 9, 2013). As aforementioned, they also reported that consultations sometimes failed to engage community members because of poor dissemination. In particular, participants suggested that information should be posted online and delivered to community members’ front doors (Anonymous, personal communications, March 15, 2013; April 9, 2013).

Effective communication must also be reciprocal, flowing both ways such that consulters provide ongoing information about the proposed project and consultees are provided with the opportunity to provide input. However, several participants stated that dialogue in consultations tended to occur “one way” – from consulters to consultees. One



C/TFN participant noted that consulters generally “Came out, and passed out information”. She went on to state that such meetings with “a one way flow of information” should be called “information sessions” rather than consultations (Anonymous, personal communication, July 16, 2012). Another NCPP participant stated that “information is provided but there is no opportunity to return dialogue” (Anonymous, personal communication, March 19, 2013).

Moreover, listening meaningfully is important to effective dialogue. One participant eloquently referred to this as “honouring your opposite” (Anonymous, personal communication, June 20, 2012). She elaborated that this means listening and respecting what others say even when “you do not like it, or agree” and practicing empathy by validating it, showing genuine concern regarding others’ needs, and helping to address them (Anonymous, personal communication, June 20, 2012). Responsiveness emerged as a particularly important aspect of effective dialogue. Participants expressed the importance of knowing that their input will result in change. Meaningful consultations are conducive to unity of thought and collaborative decision-making (Anonymous, personal communications, March 15, 2012; May 14, 2012; May 31, 2012; June 12, 2012; Desjarlais, 2012). However, several participants stated that community input gathering is often tokenistic because decisions have been made in advance (Anonymous, personal communications, June 12, 2012; March 15, 2013).

### *Time*

Time is another principle central to meaningful consultation. Lyon’s (1986) interpretation of the Kaswénta refers to the ongoing nature of the relationship between First Nations and non-First Nations peoples, “as long as the grass is green, the Water flows, and the sun rises in the east” (p. 119). However, time is central to all aspects of consultations. Specifically, engaging early and prior to decision-making and providing communities with ample time to consult with their various networks and make decisions, while being cognizant of timeframes and consultation fatigue, is critical to meaningful consultations.

Experts interviewed suggested it is critical that communities are engaged early in the contemplation stage of consultations, before any decisions are made (Anonymous,

personal communications, May 15, 2012; May 14, 2012; May 17, 2012; May 23, 2012; May 31, 2012; June 13, 2012; June 14, 2012; July 16, 2012; April 10, 2013). Moreover, community participants consistently reported that more time was needed for consultations (Anonymous, personal communication, March 15, 2013; March 22, 2013), while crown and other participants reported that community protocol was time consuming (Anonymous, personal communications, June 12, 2012; July 16, 2012). One participant noted that Point Pearce rarely receives enough notice of consultations and, as a result, consultations with Point Pearce tend to be poorly attended by community members (Anonymous, personal communication, February 5, 2012). He stated that “we need more notice ...[we are] not given enough notice for everyone to show up therefore the entire community doesn’t really have a say – it’s dishonest” (Anonymous, personal communication, February 5, 2012).

Moreover, many community participants stated that their respective communities are typically not given enough time to discuss the topic of consultation with family, community members, and especially Elders (Anonymous, personal communications, May 17, 2012; June 13, 2012). According to participants, this process referred to as the ‘moccasin telegraph’ in Canada, plays a critical role in community decision-making. However, time constraints often inhibit this aspect of the process, perhaps because it is not visible or apparent to consulters. Participants also mentioned consultations generally fail to allot sufficient time for formal decision-making processes (Anonymous, personal communications, June 13, 2012; March 2, 2013). Flexibility in consultation timelines and in embracing community protocols in relation to communal decision-making is important to meaningful consultation (Anonymous, personal communication, April 10, 2013).

At the same time, some participants noted that there is a propensity for community members to take too much time to make decisions, often due to dwelling on past grievances. One participant noted, “sometimes you have to make a decision and move forward” (Anonymous, personal communication, April 10, 2013). Moreover, another participant noted that many community members do not have enough time to participate in every meeting because they are overloaded with other responsibilities. Experts noted ‘consultation fatigue’ as a challenge, especially for under-resourced

communities (Anonymous, personal communications, May 19, 2012; May 24, 2012; May 25, 2012).

## 5.4 The Role Of Online Tools In Facilitating More Meaningful Consultation

This project began with the research question, “Can an online education tool support consultation processes compatible with Indigenous legal traditions in case study communities in Australia and in Canada, and can such a tool facilitate more meaningful, equitable, and effective consultations?” The research conducted for this project responds to this question in two ways. First, consultation and e-learning experts, scholarly literature, and case study participants provide informed narratives on the topic. Second, the results from the implementation of PPAC and C/TFN online consultation tools provide critical insights in this regard.

### 5.4.1 Experts, Scholarly Literature And Case Study Participant Insights

As mentioned in *Chapter 2 (Literature and Expert Narrative Review)*, most consultation experts and case study participants interviewed had not experienced consultation in which e-learning played a role, but generally saw merit in using e-learning in advance of consultations as potentially beneficial (Anonymous, personal communications, May 15; May 17, 2012; May 19, 2012; May 21, 2012; May 23, 2012; May 24, 2012; May 25, 2012; May 31, 2012; June 15, 2012; June 18, 2012). Specifically, they said that it could reduce geographic barriers, costs, and time; streamline consultation processes; build capacity; resolve disputes before they occur and provide proponents with greater certainty; remove pressure from community members to provide immediate feedback; and provide participants with additional time to make decisions (Anonymous, personal communication, May 15, 2012; May 17, 2012; May 19, 2012; May 21, 2012).

However, many cautioned e-learning could not replace face-to-face interaction, which is culturally significant for many Indigenous communities (Anonymous, personal

communications, May 15, 2012; May 22, 2012; May 24, 2012). Experts stated that a number of features would support e-learning effectiveness in this pre-consultation context. They identified access to infrastructure and bandwidth, an easy-to-use platform (with features for the hearing impaired), as well as skills, training, and support as essential to e-learning effectiveness (Anonymous, personal communications, May 21, 2012; May 22, 2012; May 24, 2012; May 25, 2012). They also mentioned that cultural relevance of content (E.g. medicine wheel frameworks, videos of Elders, etc.) and design (E.g. roundtable/sharing circle facilitation), multimodalities (videos, audio, text, etc.), privacy features, and community ownership and engagement are important to its effectiveness (Anonymous, personal communications, May 19, 2012; May 21, 2012).

Case study participants pointed to a number of considerations in relation to e-learning and consultation generally and to the development of their respective online consultation tools specifically. One participant stated face-to-face relationship building is prerequisite to e-learning (Anonymous, personal communications, May 17, 2012). Other participants raised concerns about accessibility to those without access to computers or the Internet and the hearing impaired, promotion and engagement, maintenance and support, skill level, cultural authenticity, language, and appropriateness of technology to purpose (Anonymous, personal communications, April 18, 2012; May 17, 2012; June 12, 2012; June 18, 2012; July 16, 2012; March 19, 2013).

The context in Carcross is quite different than that in Point Pearce. One participant stated that Carcross is one of the best-connected communities in the Canadian North in terms of the Internet. Another participant estimated that just under half of C/TFN citizens in the Carcross/Tagish area had reliable access to a computer and Internet from home and that many connect using the computer lab in the Yukon College (Anonymous, personal communications, April 18, 2012; July 16, 2012). However, some training is needed, especially among older generations (Anonymous, personal communication, July 16, 2012). In Whitehorse, people are generally well connected to and proficient with the Internet (Anonymous, personal communication, April 18, 2012).

In contrast, participants reported that far fewer homes in Point Pearce were equipped and connected in this regard. One participant noted that in-home computer and Internet access is unaffordable for most residents (Anonymous, personal communication,

March 15, 2012). He explained that while computers in the school and community office are accessible, community members often “fight over them” because there are too few (Anonymous, personal communication, March 15, 2012). Likely due partly to limited accessibility, Point Pearce residents seemed to have lower ICT skills as well.

#### 5.4.2 The Implementation of PPAC and C/TFN Online Consultation Tools

As noted in *Chapter Four – Research Protocol (Methodology)*, the C/TFN’s online consultation tool is quite different from the Point Pearce Narungga community’s website. The C/TFN already has a relatively sophisticated website in place. Therefore, they were prepared for a more specialized online tool that would streamline consultation processes to adhere with community protocol. PPAC wanted a basic website that would help to facilitate consultation processes according to their protocol by providing a point of contact and sharing information.

Since the C/TFN’s Education Consultation Portal was piloted in July 2012, it has received 301 page views (total number of pages viewed, included repeat views of the same page) of which 267 were unique page views (the number of visits to the website in which the webpage was viewed at least once). Figure 15 below illustrates that most traffic occurred in July 2012, October 2012 and April 2013, following communications about the website. However, during this pilot period, none of the participants have registered projects. Shortly following the launch of the consultation tool, it became apparent that website visitors were not registering projects, at which time I followed up with some of these visitors to inquire about whether this was due to a lack of proposed projects or another cause. Government and other organizations informed me that they were hesitant to register projects because of the transparency this involved and thus perceived accountability to follow community protocol it implied (Anonymous, personal communication, June 12, 2012). Upon further inquiry, I learned that community protocols were viewed as counterproductive to the protocols and processes of many of the organizations that consult with the C/TFN regularly.

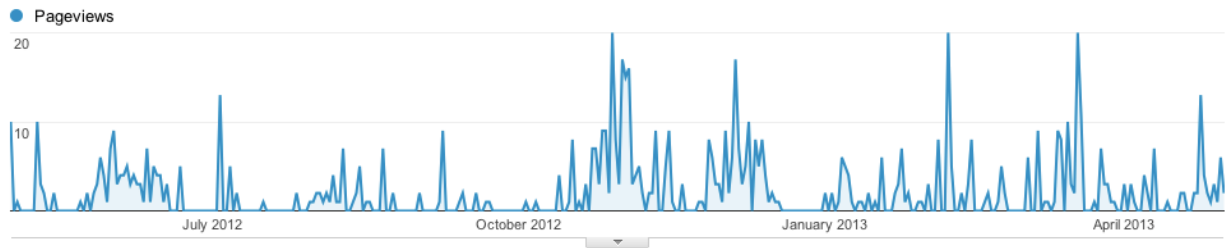


Figure 15. C/TFN Education Consultation Portal Page views July 2012-April 2013. Adapted from *C/TFN Portal and Tool*, by Google Analytics, 2013.

By informing these organizations that the C/TFN had a community consultation protocol and what that protocol entailed, I eliminated lack of knowledge as a possible reason for not adhering to community protocol. Given the scope of this project, it is difficult to determine whether this tool has made a significant impact on improving community consultation protocol adherence merely by sharing the protocol.

Nevertheless, while there is merit in communicating the community's consultation protocol to potential consulters from a capacity building standpoint, the tool remains inadequate for its purposes if not enforced. In order to enforce this tool, the current Kaa Shaa du Heni, Danny Cresswell will be passing a law with the C/TFN government to mandate the registration of education related projects with the tool. In order to increase its accessibility, the tool will be moved to the C/TFN website as well. Moreover, the C/TFN has assembled a communications committee to monitor and update their website, including the education consultation tool. I will be travelling to the community in June 2014 to collaborate on the development of a maintenance plan and train the communications team to maintain the portal.

Although far simpler in its design, PPAC's website has been more challenging to develop because of administrative changes that change the nature of the website and funding cutbacks have inhibited the corporation's ability to partner on this project within the allotted timeframe. We continue to build the website. While the fact that the website remains underway has made tracking traffic impossible, the interest among participants was high.

## 5.5 The Process Of Developing PPAC And C/TFN Online Consultation Tools

While the online consultation tool pilot projects yielded important findings and products that we will continue to develop for the benefit of community consultation, the processes that led to their development were perhaps more significant in some ways to these communities. Specifically, the process of working with the communities on participatory research projects about consultation helped to build capacity about community consultation protocol, both within and between these communities and among the organizations with which they consult. Each community engaged in processes of collaborative inquiry that resulted in the development of unity of thought around their respective community consultation protocols and how these should be conveyed through an online tool. In my initial conversations with members of both communities, it seemed they all felt their respective community consultation protocols were not being followed. However, few could define or describe their community protocol and those who did were not in agreement with one another. At the conclusion of my stay in each community, I had brought many community members together to collaboratively develop these protocols, which ultimately reflected a combination of stories, cultural traditions, community laws, and the protocols of the organizations with which they consult.

Moreover, the communities learned from one another. NCPP learned from Mark Wedge when he visited the community about what the C/TFN protocol entails and the significance of its component steps. NCPP shared their experiences with the C/TFN as well. Last, organizations learned from the communities directly and indirectly, sometimes through me, about their consultation protocols. In the case of the C/TFN, organizations also learned about their protocol through the online tool.

In NCPP's case, a lack of digital equipment and skills inhibited the community from being able to become very engaged in the development of the tool and from connecting with the other community. However, I was able to obtain scholarship funding through the University of Wollongong to purchase five iPads and training sessions with a local Narungga consultant to train community members to use them. These iPads are currently housed at the local school, under the advice of the former Chairperson, for

security purposes and are available for use throughout the day. The feedback from the community about the iPads has been very positive:

Ashley the iPads have been well received by the School and the students at Point Pearce. There has been some uptake by Community members who have shown some interest in their Canadian cousins. There is an open invitation to all Community and wider Community to visit the School. There also has been a formation of “Yorke Central Schools” with three Schools participating and this has opened the iPads up to a wider audience of people, which is great (Anonymous personal communication, February 28, 2015).

## 5.6 Conclusion

The findings from this research project supported the literature and expert narrative review. Participants listed steps of meaningful consultations. Preliminary steps include, gaining permission to come into country, learning about the community, and identifying a main community contact or chaperone. Once one has entered the community, preparatory steps include following local consultation protocol, developing consultation guidelines in collaboration with the community, and communicating with the community on an ongoing basis about the consultation. With preparation complete, the consultation can be implemented and its effectiveness can be measured. Once consultations are complete, actions can be executed to accommodate needs and interests, while continuously reporting back to and collaborating with the community.

In addition to the fact that these steps are seldom followed, the main challenges participants mentioned in relation to consultation were: 1) an overall lack of consultation in both communities; 2) ambiguity and regulation about protocol; 3) process breakdowns; 4) the challenges identified in the literature review and expert interviews (consultations are: tokenistic; couched in a Western law system; oppressive of Indigenous peoples; and ineffective in reconciling stakeholder interests); and 5) a lack of community engagement.



With respect to leading practices, participants reiterated the guiding principles provided by expert interviews in *Chapter 2 (Literature and Expert Narrative Review)*. However, they also stated there is no ‘one-size fits all’ formula for consultation in practice. Instead, they suggested that a relationship-based approach was integral to meaningful consultation. This approach can be understood within the Kaswénta framework as characterized by three interconnected principles: 1) equality; 2) distinction and self-determination; and 3) harmonious and interdependent co-existence, as well as time.

Case study participants, like experts and scholars, saw merit in using online tools for pre-consultation, but not as a replacement for face-to-face relationship building. Ultimately, it seems that while technology can be an important (and even imperative in some instances) tool in consultations, the most significant determining factor of the meaningfulness of consultations are relationships. This is supported by the fact that members of both communities seem to have learned more from the research consultation processes than outcomes and that the outcomes appear to resemble a process, which is ongoing and relationship-based. Further research is needed to explore the value of such online consultation tools for Indigenous communities in various contexts, including education.

## Chapter 6

# Consulting About Consulting (A Metanarrative)

*[P]art of relational accountability...is that you are accountable to yourself, not just to other people. You have to be true to yourself and put your own true voice in there, and those stories that speak to you. That is retaining your integrity. It's honouring the lessons you've learned through saying that they have become a part of who you are (Wilson, 2008, p. 123)*

### 6.1 Introduction

Incorporating reflexive writing into this education thesis has been organic, necessary, and, therefore, inevitable. As a feminist writer with a background in Anthropology, writing reflexively has been a natural engagement with the long-standing traditions of female Anthropologists who incorporated field notes into texts before such practice was legitimized within Anthropology in the 1970s through Clifford's 'reflexive turn' (Behar, 1995). In this regard, my reflexive writing is also a deliberate politicized act of emancipation from the 'academic exile' in which female academics and their works are sometimes relegated (Behar, 1995).

As demonstrated in Figure 13, reflexivity was not a pause or departure from the research process, but a constant embedded within the research protocol (methodology). Reflexive writing is an extension of the Kaswénta Relational Framework's Critical Whiteness and Feminist PAR aspects. As a Settler Canadian academic, Critical

Whiteness calls for reflecting on my journey in understanding racially and culturally oppressive forces within the academy and society (Castleden, et al., 2012; Dunbar, 2008; Moreton-Robinson, 2004). Through reflexive writing, I have opportunity to share with the reader my “Inner arcs of attention” (Marshall, 2001, p. 336), or how I understand, frame, and articulate issues through recognition of internal dialogue patterns and themes. Within the Critical Indigenous realm, this is also my way of becoming “jarwon”, or known to the reader (Martin, 2008, p. 138).

The impetus of this research process was to respond to one main research question, “Can an online education tool support consultation processes compatible with Indigenous legal traditions in case study communities in Australia and in Canada, and can such a tool facilitate more meaningful, equitable, and effective consultations?” However, in order to answer this question, I had to consult extensively with my research partners, the Carcross/Tagish First Nation (C/TFN) and Narungga Community of Point Pearce (NCP). Therefore, another research question emerged in the research process—“How can I effectively consult with Indigenous communities in Australia and Canada about consulting?”—the findings of which proved equally as significant to those that respond to the main research question. As Wilson (2008) argues, “The concepts or ideas are not as important as the relationships that went into forming them...these relationships are with the cosmos around us, as well as with concepts” (p. 74). From this purview, my story, or remembering of my lived experience, consulting about consulting and unpacking the lessons I have learned is paramount.

The purpose of this chapter is to draw on my critical reflections about the process of consulting with the community to respond to this question (“How can I effectively consult with Indigenous communities in Australia and Canada about consulting?”). First, these findings are discussed within the context of the education and learning processes that took place, which I experienced through four teachers: the first teacher, our Mother Earth; the second teacher, Ceremony; the third teacher, Storyteller; the fourth teacher, Intuition. Second, I reflect on my personal journey as consulter with partnering communities, consulting about consulting, as well as comparing and contrasting with the findings discussed in *Chapter 5*.

## 6.2 Education And Learning Processes – The Four Teachers

Like the classic ‘trickster’ of Indigenous storytelling, my teacher throughout this learning journey has been a shape-shifter, assuming many forms. Specifically, there are four embodiments of the teacher that I was fortunate to learn from throughout this process. These will be discussed in turn and include 1) Mother Earth; 2) Ceremony; 3) the Storyteller; and 4) Intuition. Like a trickster<sup>25</sup>, these teachers have both challenged and supported me in this journey (Davis & Weeden, 2009).

### 6.2.1 The First Teacher, Mother Earth

“The environment is the knowledge” (Wilson, 2008)

In my research, I learned from members of the C/TFN and NCPP communities, especially Elders, that our first teacher is our Mother Earth—the Land, Waterways, Cosmos and Skies of the natural world that surrounds us. They explained that the Land is interconnected with all things, including Human Beings, and, thus, it is integral to our learning and development. This is why, traditionally, education was Land-based. Initially I understood these teachings in relation to Tagish/Tlingit, Narungga, and Indigenous perspectives on education. However, it was only as I began to reconnect with the Land and decolonize my mind, body, heart, and spirit that I began to appreciate the application of this teaching to be far more inclusive, universal, and personal.

I recall a lecture I attended at the beginning of my PhD candidature at the University of Wollongong where our disconnection from the Land in the colonial world, and in my world specifically, first became apparent to me. I was sitting in on Mr Anthony McKnight’s course on Aboriginal Education, which, on that particular day, was taking place outside of the building on campus. He brought us to a place near the Education

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<sup>25</sup> “The trickster is the figure, seen in myths and legends across the world, who acts as fool, but who also initiates wisdom and insight, if not for other characters in a story, then for the story’s listeners or readers. In some stories, the hero himself can be a trickster. For example, the wandering Odysseus is a trickster figure, engineering the Trojan Horse and fooling the Cyclops, among other tricks. So also is Prometheus, who steals fire from the gods and brings it to the earth.” (Davis & Weeden, 2009)

Building and as we gathered around him he asked, “What do you see?” “Buildings”, said one student. “A field”, said another. “Students walking by”, said a third. Anthony nodded. “What do you hear?” he asked. “Traffic”, said one student. “Construction,” said another, adding “people talking”. Then he asked us to close our eyes. We did. “Now what do you hear?” he asked. At first I heard the same noises the students described, cars driving by, the sounds of power tools, heavy machinery buzzing and beeping, and incomprehensible chatter and laughter. Then, after a moment, these noises faded. I began to hear the natural environment that surrounded us. “The birds singing”, one student said. I listened and I heard them as well. The Kookaburra was laughing and the crows sang out their four increasingly low-pitched wails. There was also a subtler but almost constant chirping and the sound of wings flapping as birds travelled from one tree to the next, which I had never noticed before. “Mmmhmm, what else?” Anthony asked. “The wind blowing through the trees”, said another student. I heard this as well now, swishing, whistling, and rustling leaves.

As students shared what they heard, it was as if these sounds became apparent to me as well, ever more abounding until my ears were filled with the noises of the elements, plants, insects, and animals around us. “And, what do you smell?” he asked. We stood there still, with our eyes closed listening to these sounds, now focusing our attention on the scents around us too. I inhaled deeply through my nose, and the smell of wet Earth, dewy grass, and aromatic flowers filled my nostrils. The scents of everything around us were intensified. “The rain” I said after a moment. At the close of the exercise, we opened our eyes. I looked around and it was as if the campus had transformed. This time, I saw the trees, the grass, the birds, and flowers. I saw the grandmother, Mount Keira, in the distance shrouded in a veil of mist. I saw all of the things I had heard and smelled when we had closed our eyes. The people, buildings, and construction work faded into the background. This was the first time I truly understood how far removed I had become from nature, especially in my educational pursuits.

While this lecture was a moving experience, it was only later in my PhD that it took on new and greater significance in relation to my understanding of learning. While working with the C/TFN in Carcross, participants frequently asked that I meet with them out on the Land to discuss consultation. While at first I thought this was coincidental, I

grew to understand it as a significant aspect of understanding consultation, as participants shared with me their preference to hold consultations (in part) outside, particularly in the case of resource extraction, so that the natural environment could be understood and appreciated. I thought back to Anthony McKnight's lecture and how he taught us that if we listen and pay attention, the Land would speak to us and make herself apparent. However, it was one particular experience with Mark Wedge from which I gained an understanding of how the Land is our teacher.

As we drove along the dirt road in the forested area of Tagish (just outside of Carcross), Mark's husky-cross dog ran alongside the car. Mark had agreed to meet with me for the second time since I had been in Whitehorse. It was a critical juncture, midway through the fieldwork. A great deal had happened and I was hoping to seek his guidance. However, I knew that I would receive guidance on more than the project. This was his way. As the car bounced along the uneven dirt road, which resembled more of a path, he began to ask me how everything was going. I started to talk about some of the challenges I was having in conveying consultation protocol with the project. He listened and after some time asked me the question differently. "Yes," he said, "and how are *you* doing?" "Oh," I said, remembering his teaching on the medicine wheel, and how inseparable our mental capacity is from our emotional, spiritual, and physical states. "I'm good," I told him. We laughed.

Then I thought for a moment and decided to share more. "Actually, I have been thinking a lot about some of our discussions about life stages and family and I think I am ready to be a mother. I mean I think Shawn and I are both..." The sound of Mark's dog barking cut my sentence short. Mark stopped the car, "Sorry" he apologized as he jumped out and ran after his dog who was now chasing something in the distance. A few moments later I saw him return with the dog. He hopped back into the car and we continued. "He was chasing baby birds," Mark said. "Anyways," I continued, "I really think I'm in a place where ...", but I was stopped short again. Mark slowed the truck to a halt once again as a bird flew past in the opposite direction, his dog tailing behind. "I'm sorry", he said as he hopped out of the vehicle and retrieved his dog again. When he returned to the car, he closed the door and turned to me, "Did you see that?" I thought for a moment and responded, "The bird flying and the dog chasing it? I guess he's still

chasing birds,” which seemed unremarkable given the cliché ‘you can’t teach an old dog new tricks’. “No,” he corrected me. “The mother bird is distracting the dog by leading him away from her babies”. I was awestruck at his response and the realization that the mother bird had literally sacrificed her own life to save her babies.

Suddenly, I realized the significance of this interruption. It was as if the Land was responding to me about the nature of motherhood, as Mark often did without imposition. When I failed to see what was literally in front of me, Mark simply pointed it out. He had explained to me before that this was how Tlingit and Tagish peoples learned traditionally, from the Land. “We are already surrounded with everything we need to know about life”, he had said to me before. I thought about how for most of our student lives we learn from within institutions far removed from the natural world. At the time, I thought of Land-based learning as culturally relevant to certain peoples. It was only after this experience with Mark and his dog that day that I realized we all miss out on rich learning from nature that is relevant to all peoples when we remove ourselves from the natural environment. However, it would take some time to internalize this information and to reconnect with the environment for pedagogical purposes.

When Mark Wedge arrived in our home in Balgowan, South Australia, the first thing he did was smudge the house and us. Then, he asked if we could go for a walk outside. Balgowan is a very small coastal town on the Yorke Peninsula. It is situated on the outskirts of tree-lined farmlands, amidst long flat horizons and big colourful Skies. The coast resembles more of an arid dessert-like topography, with mostly sand, a few trees and long grass leading up to steep cliffs of red Earth that dip down toward stony and sandy beaches. My fiancé Shawn and I took Mark out to the beach. He began to explore. He traversed through the rocky shoreline toward the impressive red escarpment, touching the earth and examining the red dust as it slipped through his fingers. “Do you think this is red ochre?” He asked. Shawn and I looked to one another each hoping the other might know. “I think it might be”, Shawn answered after a moment. “Or Iron deposit”. He said. “Oh,” said Mark. “How do you think it got here?” We were silent. “I’m not sure”, I said. We stood for a moment staring at the red earth. Then we both moved closer and begun examining it ourselves. I had seen this escarpment so many times, marvelled at it, but never wondered what it was or where it came from. I had never really interacted with it in

this way.

After some time, Mark continued walking, then stopped, knelt down, and picked up a fossilized rock, examining it in his hands. “What do you think this is?” He asked us after a moment. “Ahhh a fossil?” I responded. “Yes, but do you think it was part of this”, he gestured to the red escarpment, “at one time?” “I’m not sure”, I answered and our walk continued on like this. “Those trees I saw on our drive here, what kind of trees are those?” He asked. We did not know. At first, I was focused on the fact that I did not have the answers, which was problematic from my Westernized standpoint. I had read about Point Pearce and the surrounding area prior to my move there. I thought I was well prepared. I now felt embarrassed. However, once I acknowledged this feeling, and that Mark’s intentions were good, a new feeling emerged—humility. I was humbled by how little I knew about the Land. This humility allowed me to move beyond the embarrassment and venture to embrace the experience as a learning opportunity. I considered why I had not learned about these things. While Mark explained that he always learns from and about the Land first, this was not the way I had been taught. My instinct was to consult with the texts about this place and the people who knew about this place, but not with the place itself. Why was this the case?

Weeks later a community member took Shawn and I out on the Land in and around Point Pearce. He shared stories with us about each place we visited. Much of the tour was nostalgic. The old stables where community members used to keep livestock were empty and dilapidated. The old stone granary where the community stored its grains and where children used to play were ruins. The rusted old metal structure where the young people used to swim was a remnant of the old community water tank. The many places where families went to camp and live off the Land were still abounding with rabbits and butterflyfish. However, his tour also conveyed and evoked hope for the community’s future. The Point Pearce Aboriginal School was vibrant and vandalism-free; its walls were covered in murals of Narungga art painted by local artists. The community member explained that he had rebuilt the (Kindergarten to Year 2) school in consultation with the community after the old mission school burned down repeatedly.

Overall, the tour was successful in transforming the Land into a place through his stories. On this outing, the Landscape, coloured by memories and stories, transformed



into a very different place. I began to notice things after that. I would hear birds singing that I had never heard before; see trees and colours in the sky that I had never seen before; smell aromas of the Land, Water, and Air around me I had never really noticed before. I had opened myself up to this place. The local history, the stories, they were here, in the Land. Like a loyal old friend I had lost touch with, this reconnection with our Mother Earth, the teacher, has been at once awkward and yet incredibly organic and familiar to me. I feel repentance and humility and tremendous honour that I have been awakened in this way.

### 6.2.2 The Second Teacher, Ceremony

*“Research itself is a sacred ceremony within an Indigenous paradigm, as it is all about building relationships and bridging this sacred space” (Wilson, 2008, p. 87)*

As a Settler Canadian, I have been displaced from my traditional ancestral Lands and cultures, as well as ceremonies. However, my human need for ceremony has never subsided. What remains is a feeling of yearning for something I seem to vaguely remember, but that is always just out of reach. After my Aunt, born in Scotland, went to visit her daughter, son-in-law, and grandchildren there a few years ago (her daughter had decided at the age of eighteen to move back to her mom’s homeland although she was raised in Canada), she returned eager to share some of the knowledge she had gained about our MacMillan Clan culture and ancestry. She brought back with her the MacMillan Quaich (Quaigh), a two-handled drinking bowl inscribed with Celtic art associated with our clan. One evening when we were enjoying a family dinner she taught me how to use the Quaich ceremoniously to offer guests the MacMillan malt (or malt from their land base). My understanding of this ceremony is that it is multilayered in its cultural significance.

On its surface, it has been a gesture to bond people together in different relational contexts and mark renewal of relationality. For example, it is now widely used at weddings and births. However, traditionally, I have been told it was used to extend

welcome to those from outside of the clan broadly, either guests or hosts of MacMillan travellers. The significance of offering the malt, which is harvested from the Lands from which the MacMillan clan lived, was a way of instantly connecting with the clan. It was also a way to demonstrate the protocols of sharing and inclusivity within the clan circle, as all within the circle drink from the same Quaich. The ceremony also encompasses more pragmatic aspects, such as protocol that directs a clan member to drink of the malt prior to the guest as a demonstration that the malt is safe to drink.

While I acknowledge this is the beginning of a learning journey on just one side of my mixed European ancestry about our traditional ceremonies, and that I have much to learn in this regard, I cannot deny the connection to such ceremony I feel. This experience with ceremony has nourished my spirit and conjured some unconscious memory that I cannot describe in scientific terms. In a similar way, the ceremonies of other cultures have moved my spirit. It is from this place which some might refer to as blood memory that I believe all humans can form a basis for understanding ceremony. Personally, it is from within the spirit, resonating out to my emotional, mental, and then physical self, that I could properly situate myself as pupil of the second teacher, Ceremony.

While the discreet ceremonial practices that took place throughout my learning journey (acknowledgement, smudges, sweats, feasts, gift-exchange) form an important part of this research story, the teacher I refer to in this section is a much more philosophical ceremony. Specifically, it reflects the viewpoint provided by Cree Academic Shawn Wilson in his seminal text, *Research is Ceremony* (2008). Wilson (2008) argues that Indigenous researchers in Canada and Australia are conducting research as ceremony through relational accountability with all things, including knowledge seeking. Indigenous academics like Karen Lillian Martin, Linda Tuwaha Smith, Jan Longboat, and Martin Brokenleg among others have drawn parallels between research and ceremony in their works as well. Wilson (2008) argues that the researcher's personal cultural values as well as those of the local environment inform one's research process in this regard.

As discussed in *Chapter 5 – Kaswénta as Research Protocol (Methodology)*, the relational lens I used to embark on this journey is the Haudenosaunee Kaswénta. This

guide for my relationality and relational accountability with communities and the research has been based on its principles of equality, self-determination, and peaceful and harmonious co-existence. An extension of this lens was observance of the protocols of the communities with which I partnered. While conducting this research as ceremony, I honoured the Kaswénta through constantly and ceremoniously renewing its spirit and intent in different contexts.

Ceremony taught me to be constantly self-reflexive of the power dynamics among the Human Beings and research involved in this project, with an aim to strive for equality, self-determination, and peaceful and harmonious co-existence. What matriculated from this aspect of ceremony were the renewal and reinterpretation of human and research relationships. On the human level, I used the Kaswénta as a relational framework for ceremony to establish a renewed relationship between Indigenous and non-Indigenous Human Beings, both those involved in the research and in the context of consultations broadly. Specifically, this involved collaborating with the Indigenous and non-Indigenous communities and peoples in a way that acknowledged their equal importance and self-determination to this process, positioning community participants as research collaborators in a way that fostered peaceful co-existence with non-Indigenous research collaborators and peoples. On the research level, this involved acknowledging Indigenous and non-Indigenous ways of knowing as equal and self-determining and facilitating their combined use to promote peaceful co-existence among Indigenous and non-Indigenous research collaborators and peoples. For example, this constant and ceremonious self-reflexivity of the application of the relational Kaswénta framework in this research process informed the use of a relational framework in place of theory, oral narrative alongside literature, and a legal pluralist view of consultation. However, Ceremony as teacher has been most significant in informing me about the way to consult with participants in this process, which will be discussed further in this chapter.

### 6.2.3 The Third Teacher, the Storyteller

*“The truth about stories is that that’s all we are” (King, 2003, p. 2)*

*“As a nation, we must care for our stories, never forgetting that they are a font of change, a source of knowledge that law is repeatedly forced to recognize” (Windsor & Nakata, 2002, p. 51)*

*Stories, elders say, do many things. They tell us who we are and how we came to be here. They help us think about complicated issues. They guide us when we have difficult choices to make. Stories communicate history, values, experiences and knowledge. They combine knowledge that ancestors, elders, families and community members pass on to future generations. Oral storytelling is probably the oldest form of recording history-making in the world and it still has great power for Carcross-Tagish First Nation. (C/TFN, n.d., p. 7)*

The pedagogical importance of storytelling in Indigenous communities has been historically undermined, with stories often relegated to ‘myths’ and ‘fables’. However, as we move toward an era of inquiry-based learning, a space is emerging for increased understanding and appreciation for these traditions in an educational context. I have always considered myself a storyteller. Perhaps this does not hold in an Indigenous context. However, in my own life, my stories have been the constant source of strength from which I have drawn understanding about the world and from which I have encouraged the world to draw understanding of me. My background in community-based research, Anthropology, creative writing, and feminist participatory action research have informed a view that the most profound knowledge is conveyed through stories because stories provide room for emotive, relational, and spiritual dialogue that liberates counterhegemonic viewpoints from being colonized within dominant discourse. It is because of this personal history that I have been receptive to the third teacher, the Storyteller.

The Storyteller came to me throughout this research process, during informal discussions, formal research conversations and discussion groups, interviews, and even from within texts. This teacher taught me that consultations are not discrete moments in time, but continuous and encompassing of narratives of personal and family history with the Land, government, and other organizations. The Storyteller could not disconnect from

this past or overlook the future implications of consultation. The Storyteller could not impersonalize the process either. Rather, the Storyteller reminded me of the spiritual, emotional, mental, and physical contexts of consultations and their implications. For many participants, consultation was a trigger of past trauma. Grievances were neither insignificant nor narrow, but a historical lack of consultation emerged as a common theme that presupposed historic trauma for participants of both communities.

The Storyteller also taught me to work with communities as a Human Being and not a researcher in the conventional sense. I have been taught that for many Indigenous peoples, including C/TFN and NCPP participants, adults should not direct one another on what to do, but encourage one another to reflect using storytelling as a tool. As Wilson (2008) states, “It was up to the listener [of the story] to piece together a lesson from the story and to apply the pieces where they fit to help in the current problem” (p. 28). On a practical level, storytelling taught me that deep learning requires patience, as stories tend to be interpretive, multilayered, culturally contextual, and may present themselves in different ways over time. I have heard stories that take on new meaning in my life several years after they have been shared with me. Last, the Storyteller introduced me to the fourth teacher, the current (or my Intuition). Through storytelling, reflexivity and critical thinking are encouraged, based on the deep-rooted belief that all Human Beings have the capacity to know innately and intuitively what is right for them and, in this regard, are their own teachers.

#### 6.2.4 The Fourth Teacher, Intuition

*Understanding our values helps us move back to our own “good path”. These values call for us to work through, within ourselves, and with others, to find actions that give meaning to our values. These values do not tell us how to act, but how to understand our actions (C/TFN, n.d., p. 59)*

*“What lies behind us and what lies before us are tiny matters compared to what lies within us—Ralph Waldo Emerson” (Pranis, et al., p. 239)*

When I was younger, up until about the age of thirteen or fourteen years, I was extremely intuitive. Throughout the years, I had premonitions, and ‘feelings about things’, which I shared with my family who evolved from sceptical to mystified, but were assured I possessed this ability. After a series of extremely traumatic events for my family, which I predicted in turn, I became disconnected from myself and from there grew a dissonance with my intuition.

The years that followed were fraught with difficulty. I found myself straying down the wrong path, in the same harmful relationships over the years. My life became very difficult, like I was always struggling and fighting to stay afloat. One evening when I was visiting my parents for dinner I caught up with a friend of my mother’s who she had worked with many years ago. This friend happened to be a member of one of the local First Nations communities. For the purpose of confidentiality, I will call her Sam. She shared with me a relationship struggle her daughter was experiencing and I told her my story. At the time, I had managed to remove myself from the cycle, but had not yet reached a place where I could develop a positive relationship. While I can only hope that my story helped her daughter, I can verify that what Sam shared with me has helped me profoundly. She asked me, “When did things begin to become difficult for you?” I thought for a moment, going back to the beginning, the moment when I began to stray. “I was about thirteen or fourteen”, I responded, recalling my first unhealthy relationship. She nodded. “When did you stop listening to your gut?” She asked. This question changed my life. I remembered how I had grown afraid of what my intuition would reveal, due to the trauma I had foreseen and then experienced at that age and thereafter how I made the conscious decision to ignore my intuition entirely. What followed were years of what felt like travelling through life blindfolded.

This epiphany suddenly leant significance to a gift that I had received months earlier, after I had just ended a long-term, unhealthy relationship and felt lost. A friend of mine had entered the Miss Indian World contest of Indigenous role models and was fundraising by selling raffle tickets for her trip to Albuquerque, New Mexico to participate. I sold as many tickets as I could at work and bought the remainder. I forgot about having purchased these tickets until I received an email informing me that I had won a raffle prize, which would be mailed to me in the coming weeks. I had also

forgotten about the email until I received a package one day at my home, inside of which I found a White soapstone buffalo. I marvelled at its beauty, not knowing its significance.

The following week, my friend, the Miss Indian World contestant, made plans to stay at my house. We were going to fuel ourselves with coffee and candy and stay up most of the night working on our Master's theses together, like we often did. When the caffeine and sugar buzz proved insufficient, we would nap for our regular three hours before heading off to our respective offices. Working full time and studying for our Master's full time, we preferred the company of those in our exact situation. Everyone who was better rested and fed, which was most other people, was intolerable to us during this time. My friend entered the room just like she had many times before, replaced her boots with the pair of moccasins she left at my house and started to tell me about her day. "Sisco you'll never believe..." she stopped dead in her tracks, her eyes fixed on the White Buffalo. I looked over at the sculpture. "Pretty cool eh?" "Sisco, you never said it was a White Buffalo!" She approached the buffalo, placing her bag down beside the table along the way. Her eyes remained locked on the sculpture. Entranced, she carefully reached for the sculpture and turned it around, observing it from all angles. She sat down still looking at it, "hmm."

She finally broke her gaze away from the White Buffalo, grabbed her beading supplies from her bag, and began to set up. "Do you know the story of the White Buffalo?" She asked me. She knew I didn't. "It's a Lakota Sioux story, but has significance among many First Nations." I nodded. She went on to tell me a story about a White Buffalo calf woman who visited the Lakota Sioux and promised them the next time she came, she would bring new beginnings, peace, and tranquillity. Therefore, the White Buffalo has a very special and sacred significance, as a sign of many things including the coming of great change, rebirth, and peace and tranquillity. She continued beading a turtle medallion as she explained this to me.

She didn't venture to tell me what she thought it meant, how I should interpret it, or even whether it was a significant message for me. I desperately wanted to know what the story meant, but I knew better than to ask. If it had been a message, it would not be her inclination to attempt to decipher it for me. She had previously explained to me that in Algonquin culture adults do not tell each other what to do. They tell stories, share

things, and leave it up to one another to take from it what they will. This is because, she explained, Algonquin peoples traditionally believe that everyone knows which decision is right for them intuitively. According to this paradigm, stories are not static objects to be picked apart, but living, spiritually significant, discursive, and highly contextual messages, open to the interpretation of their keepers, tellers, and listeners. Therefore, they take on different meanings, based on situational and individual contexts.

Only a matter of weeks after the White Buffalo's arrival I met a Lecturer from an Australian university who encouraged me to apply for a scholarship to study for my PhD in Australia. I was hesitant to leave my well-salaried position during a recession to pursue the unknown. However, something I can only describe as a 'gut feeling' urged me to apply. I told myself I would leave the decision to fate. If my application was successful, and the opportunity was made financially feasible, I would pursue it. This was the beginning.

Since the arrival of the White Buffalo and the conversation with my mother's friend, which helped me to understand this gift, life changed. It became less difficult. I was no longer deliberately carving out a path for myself against some unknown oppositional force, but moving in harmony along a path that seemed to unfold effortlessly before me, including my PhD journey. As I embarked on this learning journey, I have been continuously reminded of the importance of learning from and listening to our inner teacher, our Intuition. My decisions to pursue my PhD with the University of Wollongong and to work with the C/TFN and NCPP were largely based on my intuition. Likewise, I relied on my intuition to guide me through research relationships, informing me to approach certain people at specific times and in particular ways. Last, only by unearthing that knowledge within was I able to make sense of the most appropriate ways to work with communities and to understand the teachings that were offered. This type of knowledge that is based strongly on the spiritual and emotional self has long been repressed in Western education.

While the White Buffalo and my mother's friend taught the importance of listening to the fourth teacher, Intuition, I had not yet learned how to understand this in the broader scheme of my PhD project or my life. As I reached a critical juncture in my research and with my career life, I sought Mark Wedge's guidance. Mark had already



shared with me his viewpoint that we all have a purpose and destiny and that we choose which path we take to arrive there, sometimes we stray from the right path, but ultimately we are meant to reach a certain destination. “How do I know if I am on my rightful path?” I asked Mark. “You will know deep down...” Mark said “...and the universe will remind you. When you are not on your rightful path, it will feel like you’re walking against the current, always a struggle”, Mark explained, “but when you are on your rightful path it will feel like you are floating with the current.” Suddenly it was clear. From Mark’s worldview, the inner teacher (Intuition as ourselves) is connected with Mother Earth. This connection was critical to my understanding of the research process and the data I collected.

I recalled a story that one of the NCPP participants had shared with me in which he lost his wallet in a community in the Australian outback and a highly spiritual Indigenous man from the Northern Territory told him he would ‘sing out’ for it. Several days later, on a road trip through the vast Australian interior, the participant claimed he had a gut feeling that he should stop to stretch his legs. When he got out of the car, he looked down to find his wallet on the ground, all of his money and cards intact. Even as he shared the story, the man was obviously mystified, but had come to understand this as what his Indigenous friends referred to as the universe ‘singing out’. For me, the story exemplified this inextricable spiritual connection between Human Beings and the Land and the pedagogical significance this bond has for us all. Reconnecting with my intuition and with the signs the universe provides has been an integral part of this learning process and ongoing journey. It has been the experience of relatedness.

### 6.3 Reflections On My Personal Journey As Consulter

As I learned from the literature I reviewed, and from experts and participants I interviewed about consulting, I was informed by my research findings and also my actions as a consulter with participating communities. My prior knowledge and this research led me to follow the steps of the consultation process identified through the research and articulated in *Chapter 5 — Findings*. These steps involve (1) asking

permission to come in to country; 2) learning as much background information as possible about the community; 3) identifying a main community contact and chaperone; 4) following local consultation request/notification protocol; 5) developing consultation guidelines, expectations and design in collaboration with the community; 6) promoting ongoing communication with the community about the consultation; 7) implementing consultation (protocol); 8) measuring effectiveness of implementation; 9) executing actions/accommodating community needs and interests; and 10) continuously reporting back to and working with the community.

While these steps are ordered in a particular way, they rarely occur in a linear fashion in practice. In my experience, they were interconnected because of significant overlap, and they were also collaborative and iterative because I was learning protocol as I conducted it. Moreover, some steps began prior to my PhD candidature because my relationship with the C/TFN preceded my PhD candidature. Therefore, I have provided narratives of my consultation with each community to convey how they occurred, as opposed to attempting to present them as a series of contrived, consecutive, and mutually exclusive steps.

### 6.3.1 Consulting with the C/TFN About Consulting

My first visit to the C/TFN occurred upon personal invitation from the Kaa Shaa du Heni (Chief) at the time, Mark Wedge, upon meeting at a conference a few years prior to starting my PhD. During this first visit, I learned a great deal from Mark and other community members, including current Kaa Shaa du Heni, Danny Cresswell, about the community (Step 2). Thereafter, I began to develop a relationship with the community through collaboration on a few projects. When I began my PhD, and decided I would like to work with the C/TFN, I made some phone calls to community contacts to gain some advice on how to proceed (Step 4). Once I had confirmed that consultation and e-learning would be an area of interest to the C/TFN, and we had developed some ideas of how we might collaborate, I submitted a formal letter and proposal to the Kaa Shaa du Heni, Danny Cresswell, for the executive council's consideration (Step 4) in accordance with

the local consultation request process, and revised the proposal until we were both comfortable with the proposed project plan. Once I had received their conditional approval, I asked for and was granted their permission to visit the community (Step 1), and to present to the Executive Council on the proposed project to gain their full approval to work together (Step 4). In advance of this presentation, I continued to research as much background information as possible about the community and identified my main community contacts (Steps 2 & 3). These contacts included Mark Wedge, Beverly Sembsmoen, and Danny Cresswell, who I had met and worked with prior to this project. They directed me to work with other C/TFN staff members, including Cully Robinson, Geraldine James, Hilary Aitken, and Robin Lord who worked in the C/TFN's Capacity Development Department.

The presentation resulted in the drafting of an MOU to outline the terms of our engagement in this project (Step 5), including shared copyright of this thesis among the University of Wollongong, C/TFN Executive Council, and Point Pearce Aboriginal Corporation (Appendix A). Thereafter, I engaged in ongoing communication with community contacts and research participants about the use of an online tool to help outside organizations consult with the community, which informed my research process (consulting with the community) and outcomes (Step 6 & 7). This included mainly in-person verbal communication, as well as participant information sheets, presentations, Lucidchart wireframes, and mock-ups of the web portal. At this stage, relationship building and learning about community cultural protocols were integral, including Land-based learning, dispute resolution circles, and oral histories. My personal experience consulting with the C/TFN confirmed that consultations are sometimes ambiguous, as there was initially a lack of consensus about community protocol (Step 6 & 7). Nevertheless, through iterative consultation with community members, we were able to develop a community protocol for the C/TFN web portal (Step 6 & 7). I presented iterations of it to the C/TFN consultation web portal and consultation tool to the community for feedback and made revisions in response (Step 8). I also worked with members of the C/TFN who ensured I was on track with the project and consulting with them appropriately (Step 8). Once the C/TFN approved of the consultation web portal mock-up I launched it, and worked with the community to evaluate its use (Step 9, 10, &

11). While I have been continuously reporting back to the C/TFN throughout this process, I will be returning in June 2014 to present the findings of this project to the community and develop a plan for next steps (Step 11).

### 6.3.2 Consulting with the NCPP About Consulting

As aforementioned, my initial supervisor, Dr Michelle Eady, and her supervisor before her, had worked with the NCPP and there was a mutual desire for them to continue to work together. My first contact with Papa George Walker, President of the PPAC, and Ron Watson, Principal of Point Pearce Aboriginal School, was by phone with Dr Eady. They were identified as my main community contacts based on Dr Eady's pre-existing relationship with them and their leadership roles in the community in relation to consultation and education (Step 3). Once we established the project would be relevant to the community and requested permission to enter Narungga country (Step 1), I embarked to learn as much as possible about Point Pearce history and Narungga culture in advance of my visit (Step 2). During my first visit to Point Pearce, Dr Eady introduced me at a PPAC meeting and I presented on my PhD project in accordance with protocol (Step 4). We then developed an agreement with guidelines for working together (Step 5) (Appendix B). Between my initial visit with the community and my return to work together on the project, I continued to research about the Narungga peoples and Point Pearce (Step 2).

Once I returned to the community to work together on the project, I presented on the findings from working with the C/TFN and engaged in a process of ongoing communication with my main community contacts and research participants (Step 6). I conducted research consultations and conversations with various community members about community consultation protocol, the findings from which informed both my research process (of consulting with the community) and outcomes (findings) (Step 7). While in the community, I continuously reported to George on the progress of the project (Step 10). I am continuing to collaborate with PPAC on the development of their website, and to share iterations prior to launching it (Step 7, 8, 9 & 10).

### 6.3.3 Consulting in Accordance with the Kaswénta Relational Framework

In applying the Kaswénta as a relational framework, I aimed to reflect its principles in my own work consulting with the C/TFN and NCPP for this research project. In consulting with both communities, I honoured the principle of *equality* by addressing community capacity challenges, including community sub groups, and balancing my power with the communities' power over the project process and outcomes, ensuring equal community influence over mutually beneficial and accommodating outcomes. I was limited in my ability to remove capacity challenges from the C/TFN and NCPP. However, I was able to take action to balance any capacity differentials that might affect the consultation and project and to build community capacity. Specifically, I offered my time and energy as a resource to reduce the capacity challenges they faced in relation to understaffing and to ensure the project did not detract from other work in the communities. I also helped both C/TFN and NCPP community members to build ICT, consultation protocol, and research capacity through the collaborative process of developing their respective online tools, establishing community protocols, and conducting research. I included broad community groups by conducting broad community-level consultations and informal networking, rather than strictly relying upon community governance systems. Last, I balanced my power over the project process and outcomes with that of the communities through community-based research partnership practices formalized through protocol agreements. For example, the power was shared equally among project partners though the shared copyright among the University of Wollongong and both participating communities established in the protocol agreement with the C/TFN (Appendix A). In addition to signing protocol agreements, establishing shared copyright of the thesis, and providing them with copyright over their respective online tools, I honoured the principles of *distinction and self-determination* through selecting communities for which the research topic is of mutual interest, respecting their right to refuse involvement in the project, and promoting and following community consultation protocols.

I honoured the principle of *harmonious and interdependent co-existence* mostly through embracing the four teachers. The first teacher, Mother Earth, taught me to reconnect with the Land and to appreciate the significance of this connection to this research project and the case study communities. The second teacher, Ceremony, taught me to be constantly self-reflexive of the power dynamics among the Human Beings and research involved in this project, with an aim to strive for equality, self-determination, and peaceful and harmonious co-existence. The third teacher, the Storyteller, taught me to appreciate Indigenous knowledge and ways of knowing equally with academic and other knowledge systems. The fourth teacher, Intuition, taught me how to relate with people and the Land as a Human Being. Last, I engaged with communities early on and on an ongoing basis, providing them with ample *time* to consult with their various networks and make decisions, while being cognizant of timeframes and that avoidance of consultation fatigue is critical to meaningful consultations.

## 6.4 Conclusion

Upon reflecting on the journey I undertook in consulting with the C/TFN and NCPP about consulting, a personal metanarrative emerges, which helps to nuance the findings within a relational and auto ethnographic context. This metanarrative sheds light on the educational and learning processes involved in this journey, as well as the parallels and dissonance between my personal ethnographic experience and the findings of this study. Specifically, the educational and learning journey may be described through encounters with four teachers, Mother Earth, Ceremony, Storyteller, and Intuition. Second, it corroborates the consultation steps identified by the research, but demonstrates that, in practice, such steps are seldom linear. Drawing on my experience, I showed how these steps overlap, due to the collaborative and iterative nature of learning consultation protocol as one follows it. Last, in this chapter, I have revealed how my personal experience consulting with these communities about consulting honoured the principles of the Kaswénta relational framework, including equality that honours difference, self-determination, and harmonious and interdependent co-existence.

## Chapter 7

### Conclusion (The Beginning)

Canada and Australia share similar colonial histories, including the dispossession of Indigenous Land and children from communities with the explicit purpose of genocide (eradication of a peoples), to support liberal-capitalist, nation-states legitimized by ideologies of White supremacy. In the post-apology era, as both countries reflect upon past mistakes and make efforts toward reconciliation, a fundamental issue is overlooked—both countries remain focused on the “Indian Problem” when we need to shift our focus to the “Settler Problem” (Regan, 2012).

Consultations with Indigenous communities are the locus, lifeblood, and barometer of colonial relations. Meaningful and ongoing consultations are critical to Indigenous/Settler equality, self-determination, and friendship in Canada and Australia. Yet, as this education thesis illustrates, there is a general lack of consultation with Indigenous communities in both countries and existing consultations tend to be ambiguous, fraught with process breakdowns, tokenistic, colonizing, oppressive, ineffective, and lacking community engagement. Alexander (2000) argues the Internet provides opportunity to address some of these barriers, stating that, “The promise and implications of e-governance—when governments use new technologies to share and to seek information, and sometimes, to facilitate consensus among diverse communities—merits serious study” (p. 280).

In response to Alexander's (2000) call for greater inquiry into e-learning and consultations, this thesis set out to reflect on a number of questions: 'Can an online education tool support consultation processes compatible with Indigenous legal traditions in case study communities in Australia and in Canada, and can such a tool facilitate more meaningful, equitable, and effective consultations?' 'What are the features and processes of meaningful consultation?' 'What are the challenges common to consultations?' 'What are the leading practices of meaningful consultation?' and 'How can I effectively consult with Indigenous communities in Australia and Canada about consulting?' To answers to these questions, I collaborated with two Indigenous communities the world apart and worked with them to develop online consultation tools. These tools are designed to help outside organizations navigate through the process of consulting with them in accordance with their respective protocols. I relied on a participatory and community based partnership research approach as well as the background research conducted for this project (literature and expert narrative review) to consult with each community about consultation processes.

The findings reveal that an online education tool can be beneficial and important (in addition to in-person meetings) in supporting consultation processes compatible with Indigenous legal traditions in case study communities in Australia and in Canada, and in facilitating more meaningful, equitable, and effective consultations. However, such a tool was not found to be critical in this regard. Experts interviewed generally agreed that e-learning could be useful in the pre-consultation stage, especially in relation to capacity-building, but that it could not replace in-person meetings and its effectiveness is conditional. Most participants saw merit in including online tools to support consultation in addition to in person meetings. Further research is needed to explore the value of such online consultation tools for Indigenous communities in various contexts, including education. However, the findings suggest that the meaningfulness of consultations depend on a number of factors, which are independent of whether e-learning is a part of the process.

Instead, a relationship-based approach was found to be integral to consultation processes compatible with Indigenous legal traditions and to facilitating more meaningful, equitable, and effective consultations in both C/TFN and NCPP. Within the



Kaswénta framework, this is characterized by three interconnected principles, which encompass leading consultation practices: 1) equality; 2) distinction and self-determination; and 3) harmonious, and interdependent co-existence, as well as time. First, the Kaswénta holds that First Nations and non-First Nations people should be equals. Therefore, meaningful consultations ensure Indigenous communities have equal capacity to engage in the process. As such, they are initiated as early as possible in the contemplation stage, before any decisions are made to ensure Indigenous influence over decision-making from the conceptual stages. Meaningful consultations also ensure equal influence over the outcome through mutually beneficial and reasonably accommodating outcomes that address both community and proponent concerns and interests. This means addressing socio-economic, socio-cultural, and psycho-historical disadvantage due to historical and ongoing colonization through mutual capacity building. This provides communities with the technical and general skills required to consult on equal footing with experts while providing consultants with the knowledge they need to respectfully consult with communities in accordance with community protocols. Last, it also means ensuring community sub groups are included in the decision-making process.

Second, the Kaswénta framework also holds that, while equal, First Nations and non-First Nations should remain distinct (in their own vessels) and self-determining peoples without interference over one another's lifestyles and affairs. Therefore, meaningful consultations ensure culturally appropriate communication occurs and that all parties' laws, legal traditions, and consultation protocols are honoured. These goals can be achieved through a collaboratively established protocol agreement.

Third, the Kaswénta holds that the relationship between First Nations and non-First Nations peoples should co-exist harmoniously, interdependently, and in peace, friendship, and respect. According to case study participants, harmonious and interdependent co-existence in consultations depends on recognition of our human interdependence, mutual respect, and trustworthiness/good faith, as well as relating to one another in a humanistic, emotionally competent manner. Two-way, honest, open, transparent, responsive, and ongoing dialogue, in which both parties engage prepared to make concessions to reach an agreement is conducive to unity of thought and collaborative decision-making and, thus, important to harmonious co-existence.

Balancing rights with interests is also important to maintaining harmonious co-existence in consultations. Communities can achieve this by attempting to focus on interests where possible. However, proponents should respect the fact that rights-based approaches are more meaningful and effective in advancing Indigenous rights.

Time is another principle central to meaningful consultation. Specifically, engaging early and prior to decision-making and providing communities with ample time to consult with their various networks and make decisions, while being cognizant of timeframes and consultation fatigue, is critical to meaningful consultations. Consultations must also be ongoing in nature, and proponents must take the time to consider and explain cumulative impacts of projects to communities.

Using an auto-ethnographic approach to this thesis, I was able to test these steps and framework as I developed it in collaboration with both communities and reflect on how it worked, based on my experience consulting with both communities about consultation. The findings of this research support the consultation challenges and leading practices identified in the literature and expert narrative review. Among the consultation approaches proposed in the literature, the findings corroborate with Desjarlais' (2012) Anishinawbemowin interpretation of the term "consultation", which, unlike the English interpretation, implies: 1) acknowledgement and inclusion of all parties involved; 2) focus on relationships (founded on mutual respect and collaboration); and 3) communal and consensus decision-making (meaning discussions continue until all parties agree). They also align with Pranis et al.'s (2003) Peacemaking Circles.

This research has served to contribute to a timely and critically important developing body of literature in Indigenous consultations. Specifically, it sheds light on ways in which non-Indigenous researchers can conduct respectful research with Indigenous communities and on how consultations with Indigenous communities can be improved. Perhaps most significantly, it honours the Kaswénta and introduces it as a relational framework for meaningful consultations with Indigenous communities and for (Feminist) Community Based Partnership Research with Indigenous communities and/or focused on Indigenous/Settler relations. This framework repurposes an existing treaty for research, incorporating Critical Indigenous Studies with Unsettling Pedagogy (Whiteness Studies) and Community Based Partnership Research (PAR) within a framework of

relatedness. Importantly, it also provides other Settlers and Indigenous peoples with the opportunity to honour the spirit and intent of this treaty through research.

This research has also addressed several gaps in consultation discourse. It has provided important insights into the potential for online tools to contribute to meaningful consultation with Indigenous communities. The findings suggest that future research is needed in this area to further explore how online tools, like the C/TFN's online consultation portal, might help organizations to navigate through the consultation process in accordance with their community protocol. Mandating the registration of projects through C/TFN government legislation is the next step in enforcing adherence to community consultation protocols. NCPP can continue to build its website and promote its community consultation in addition to (but not as a replacement for) in person meetings.

Additionally, this research has responded to the need for comparative studies on Australian and Canadian consultations (Martin, et al., 2011; Newman, 2009a) and hopefully inspired future studies of a similar nature. It is also hoped that in highlighting education consultations as a gap and making education consultations the focus of the C/TFN consultation tool, it will encourage further research on this important area of inquiry. Moreover, this research contributes to new areas of interest in legal anthropology, such as dispute-management and decision-making (Martin, et al.). Last, it provides some insights into a potential way forward to the newly posed but long-existing "Settler Problem" in Critical Whiteness discourse (Regan, 2012).

In addition to the contributions of the "Second person action research" (cooperative inquiry with communities about practical problems of mutual concern) conducted for this project, the "First person action research" (self-inquiry process) conveyed in this thesis also contributes to this field in important ways (Reason & Torbet, 2001, pp. xxv, xxvi). Reflecting on my personal experience consulting with C/TFN and NCPP for this project illustrates the transformative learning process I underwent from *researcher* to *Human Being doing research* through encounters with four teachers—Mother Earth, The Storyteller, Ceremony, and Intuition. Through sharing my inner arcs of attention (Marshall, 2001, p. 336) to self-reflexivity and, thus, transforming them into outer arcs of attention (Marshall, 2001), it is hoped other researchers will glean tangible

examples of self-reflexivity in progress that might be useful to their own research endeavours.

In line with PAR research's wider purpose of contributing to 'human flourishing' and community well being (Bradbury & Reason, 2001, p 2), this research has helped to build capacity and relationships among participants. Specifically, this project has built ICT, consultation, and research capacity among the C/TFN and NCPP participants. For example, the provision of iPads and training to the NCPP has helped the community to connect with others and learn:

The opportunity to broaden community members' perspective of the world around them through the internet has opened their minds. Too often we take things for granted and forget others don't have the same opportunities as us. Everyone has the right to learn; the use of i-pads helps make it possible for our community (Anonymous personal communication, February 28, 2015).

It has also built capacity in both communities about their respective community research protocols and how to communicate them using an online tool. Additionally, it has built capacity among outside organizations that consult with the C/TFN and NCPP through the use of their respective online tools. The research also stands to build capacity in and among other communities and organizations involved with Indigenous consultations, for which these online tools might serve as templates. For example, not only is C/TFN's Executive Council considering whether to pass a law to mandate the use of the tool by outside organizations wishing to consult with them, but other First Nations communities in Yukon have also expressed an interest in building similar portals,

The Carcross/Tagish First Community portal is very important to helping our community improve consultations over education. We take education very seriously and want to ensure that we are meaningfully consulted with through our protocol about anything that will affect our citizens' education. Right now, we are sharing this idea with other communities. I recently brought the portal forward to the Yukon First Nations Education Commission and suggested that it is something all First Nations across Yukon should use. Other First Nations are showing interest and we are looking into funding options (Mark Wedge, personal communication, March 6, 2015).

As well, this research has built a relationship among these communities. For example, in reference to his visit to Point Pearce, C/TFN Community Ambassador Mark Wedge has stated that,

Visiting Point Pearce was a very important part of respectfully researching with both communities. It helped us to build relationships with one another and exchange stories and experiences. We learned about one another's culture and shared ideas about moving toward regaining self-identity and self-determination as Indigenous peoples, especially over education, through projects like this one (Mark Wedge, personal communication, March 6, 2015).

As a result of this relationship building, the University of Wollongong stands to foster future projects of importance in this and other areas.

While I acknowledge the purpose of this chapter is to conclude the research, terming it “Conclusion” full stop is a misnomer. PAR demands we move from first and second person action research to “Third person action research” as well, which involves political change on a grander scale (Reason and Torbet, 2001, pp. xxv, xxvi). The Kaswénta as a relational framework stands to make important contributions to the framing of consultations, especially in the Canadian context. However, the implications of applying this framework within the current colonial context include decolonization. While non-Indigenous Canada and Australia may not be prepared to discuss what this would entail, national and international pressure is mounting in both countries, the status quo is no longer workable—a paradigm shift is inevitable. For this reason, I have termed this chapter in parenthesis ‘the beginning’.

Indigenous self-determination requires a new conversation about our beginnings; we need to renegotiate what this means. Reconciliation requires Settler Canada and Australia to engage in a paradigm shift from the current state of ongoing complicit colonization to active decolonization. The spirit and intent of the Kaswénta provides a guideline for Settlers to live on Turtle Island. Honouring the Kaswénta provides a tangible way for Settler Canadians to decolonize. It’s principles—equality that honours difference, self-determination, and peaceful co-existence (friendship)—provide a template and basis for dialogue between Settler and Indigenous Australians about what decolonization might look like in the Australian context. We need to renew our

agreements in Canada and develop new and appropriate ones in Australia. There is an imperative for future research in this area to explore these questions and carve out a space for a new beginning that remembers where we have come from and proceeds with wisdom, deliberation, and compassion. As Bignall, Rigney and Hattam (2014) assert,

While the aims, processes and practices of decolonization have been theorized extensively and are well illustrated globally by cases in diverse international locations, ways of thinking productively about postcolonial reconstruction are relatively less well developed... For a genuinely transformative effect to take hold, the critical and destabilizing moment of decolonization must also be accompanied by a reconstructive movement enabling the emergence of new forms of non-imperial society" (p. 2).

## Coming Home (Epilogue)

*“Indigenous research is a life changing ceremony...If research hasn’t changed you as a person, then you haven’t done it right” (Wilson, 2008, p. 61, 135)*

As aforementioned in Relative Importance (Prologue), this research experience has been a personally transformative process. The death of my pre-PhD self and birth of my post-PhD self has been ceremonious. In this stage of my ‘rite of passage’, incorporation, I am reborn, redefined, and incorporated as a new person and researcher (Venn Gennep, 1908/1960; Lewin, 1952/1997; Turner, 1969). However, rather than being reincorporated into my original context, this transformation has instead brought me home to London, Ontario. Consistent with the auto-ethnographic approach taken throughout this thesis, this Epilogue will discuss who I have become through this transformative work, so the reader can know me again and understand this transformation as a measure of the success of this process. It will also discuss my current and future work in my new journey and reiterate my expectations of the reader.

Allow me to reintroduce myself. I am a Granddaughter of ‘Nana’ Betty Pearson, the MacMillan Matriarch. I am a daughter of Elissa and Peter Sisco. I am a Sister to Thomas Sisco, Adam Sisco, and Debbie Johnstone. I am a sister in law to Julie (Doxtator) Gowers, Dave Johnstone, and Alisha Fowler. I am an Aunty and maternal figure to Michelle Sisco-Hopper. I am also an Aunty to Austin Doxtator, Vicky Sisco, Sally Sisco, Brandon Doxtator, and Jack Sisco. I am a niece to my Aunties and Uncles near and far, including Aunty Janet, Uncle Lester Pearson, Aunty Jean (who has been a second mother to me) and Uncle Al Smith, Aunt Dorothy Anne and Uncle George Foster,

and Aunt Sandy and Brian Breen. Last, I am a cousin to Jim Hall, Jeff Hall, Stephanie Hall, Gillian Braithwate, Chris Pearson, Andy Pearson, Tim Pearson, John Thomas Smith, Matthew Smith, Katherine Smith, Linda Foster, John Foster, Scott Breen, Steven Breen, Jenn Breen, Jacqueline Breen, Heather Breen, Kelly Breen, and Stephanie Sisco (and too many second, third, and fourth cousins to list here).

The decision to return home was organic, like walking with the current of the river, or following a songline. Ultimately, it was my understanding of relatedness that drew me back home. What I have realized is this - I belong with my family. Outside of this web of relatedness, I do not exist. They are such a significant part of who I am and I live to be a significant part of who they are. However, this separation from home was purposeful. Among its purposes, the distance and the lessons I learned from those who truly understand what it means to be a Human Being helped me to appreciate my relations. I will try to be close to them and will always cherish them from near or far, wherever life takes me.

I did not return home the same person. I hope that I now have more to offer my relations. I also returned with a partner. I am now engaged to a high school 'crush', who reconnected with me ten years after high school to ask me on our first date when I was visiting home for Christmas. I am so grateful to have shared this wonderful journey with my fiancé, Shawn Savage. His steadfast support has been essential to my perseverance through this process. He has also become an important part of my family and I hope that I have become an important part of his.

Since returning home, my decision has been reinforced. My mother has had four consecutive heart attacks and I was able to spend time with her in the hospital, help my father to run the household, and care for my Nana. I continue to go to the gym with her and help with her recovery. One of my nieces has needed tutoring in school, which has given me the opportunity to bond with her again. When I feel sad, I spend time with my nieces and nephews, who lift my spirits. They remind me about the wonder of childhood and it is a joy to be in their lives. My Nana, our Matriarch, has been a constant inspiration and source of strength. Spending time with her in her old age has been a gift, and I apply the wisdom I learn from her everyday. I have been able to spend more time with my father than ever before, as running his own business has afforded him the luxury of



spending more time with family as well. As I set out to put the lessons I have learned from this process into action, he has been a mentor and counsellor in times of adversity. I also recently learned I have a heart arrhythmia called Supraventricular Tachycardia (SVT), although I have had symptoms of this debilitating but non-life threatening condition all of my life. My family, in particular my fiancé and my mother, have been incredibly supportive, and I cannot imagine dealing with some of these episodes and pursuing treatment without them.

Moreover, coming home has provided me with an opportunity to develop relationships with the First Nations communities in this area, especially the Chippewas of the Thames First Nation, Munsee-Delaware Nation, and Oneida Nation of the Thames. At the beginning of my research, when I approached an Elder in Dharwal territory about working together, he told me to go home and work with the First Nations where I am from and come back when I have learned from them. This response affected me profoundly. I had spent time working with communities across Canada and now in Australia, but had yet to work with the communities surrounding my hometown. Working with these communities has been a wonderful experience and I have learned so much. I look forward to continuing these relationships.

Although the completion of this work will mark the ending of my PhD candidature, I continue to be a student in life and to learn from the Four Teachers. I listen to my Intuition to know where the current or my songline will take me next, which is why I returned home. I attend Ceremony with local Elders and learn from their Stories. I recognize and take more time to appreciate the lessons that Mother Earth has to offer. For example, I have learned to pick traditional Tobacco and to use this and other sacred medicines for various purposes in a good way. What will I do with the lessons I have learned from this journey and that I continue to learn?

When I asked Tagish/Tlingit Elder Mark Wedge to be my Supervisor he said, “Yes, only if you promise to change the world”. I did promise. This is no small task, but I believe it is also our individual and collective duties as Human Beings. To influence the world as it has influenced me—this is reciprocity.

Since coming home, I have been working as the First Nations, Metis and Inuit (FNMI) Education Advisor for the Thames Valley District School Board (TVDSB) in my

region. Through this work, I have developed relationships with Indigenous communities, Elders, families, parents and students in London, ON and surrounding area (including the three aforementioned First Nations communities). My understanding of why I was hired for this position, despite being non-Indigenous, is because the TVDSB foremost wanted someone with experience building relationships and working collaboratively with Indigenous communities. It is also my understanding that they wanted to bring someone in with a critical research perspective from outside of the education system (a non-teacher), because they felt this would bring the necessary positive changes. The impetus for this desire for change is that despite having spent a great deal of funding on programming for FNMI students over the past five years, the data the TVDSB has collected indicates that FNMI student achievement has not improved (Thames Valley District School Board, 2014a).

For the past ten months that I have been working with the TVDSB in the capacity of FNMI Education Advisor, I have been responsible for providing the TVDSB with strategic leadership on its FNMI programming. In this role, I have worked to build relationships with communities and reposition the TVDSB as a learner and partner in relation to the local Indigenous community instead of Educational Authority. This has not been without its challenges, as systems take time to change and growing pains are inevitable. Moreover, in building trust with the communities as a non-Indigenous person representing the school board, I am working to overcome decades past of troubled relations, starting with the local residential school experience at Mount Elgin Industrial School (The United Church of Canada, n.d.). This school, which ran between 1851-1946, was one of the earliest and longest operating residential school in Canada (The United Church of Canada, n.d.).

My predecessors in this role were both Indigenous women. Candace Brunette Debassige envisioned, built the foundations for and launched the TVDSB's Indigenous programming. Robyn Michaud-Turgeon helped to strengthen relationships with the community and develop these programs. In my time in this position, I have tried to bring a Critical Whiteness/Settler Perspective. While Indigenous programming is needed to support Indigenous students in cultural connectedness, I think there is also work to be done at the systems level in identifying and making visible the Whiteness/Settlement that

has historically been a barrier for Indigenous students and decolonizing. Specifically, I have tried to expand Indigenous programming from a deficit model that targets and, thus, problematizes Indigenous students, to a systems model that addresses the systemic issues related to Indigenous achievement and addresses them through programming for all students and staff. This shift from student to system as the problem is, in my view, a necessary first step to moving forward in achieving better outcomes for Indigenous students.

For example, this year's programming has included a review of our past programming and action plan moving forward within a systems model. It has also included cultural competency for the TVDSB system and school staff as well as students. This has included a fieldtrip for the senior administrative team, consisting of visits to each of our three neighbouring communities. The visits were videorecorded and the TVDSB is currently collaborating with the communities to develop this footage into a cultural competency tool for staff and students to learn about the challenges FNMI students from the three surrounding communities face (such as the residential school experience and a one hour bus ride to attend TVDSB schools), as well as the strength and resiliency of these communities (such as the local healing lodges and culturally rich elementary schools) (TVDSB, 2014b). I also deliver Indigenous cultural competency presentations to system and school staff at meetings and events. Moreover, in collaboration with the FNMI Student Advisory Council, I am facilitating a project in which FNMI Student Leaders will deliver cultural competency within their school communities with the support of Teacher Champions and Principals. I also work to decolonize and Indigenize curriculum and pedagogy for all students. For example, we bring local Indigenous Elders and Cultural Teachers into classrooms to assist teachers in leading cultural activities and lessons for all students and staff (TVDSB, n.d.).

Developing positive relationships with the Indigenous community in and surrounding my hometown and shifting the organization to become more self-reflexive in supporting FNMI students has proven very rewarding. However, it became apparent that the TVDSB is not yet ready or well positioned for the types of system level changes I have a responsibility to make. It was a difficult decision, but I have decided to start my own consulting firm, *White Buffalo Consulting*, through which I have worked mainly in

community based partnership research projects. In this new role, I feel I will be better able to affect important change as Allied Other to communities.

Outside of work, I have also been working to implement the lessons I have learned. My fiancé and I have participated in Round Dances and other events as a part of the Idle No More movement to raise awareness about the *First Nations Education Act*, which, as mentioned in the *Relative Importance (Prologue)*, has now been redrafted. I also took my nephew Brandon, who is Oneida, to his first Pow Wow, and have committed to bringing him and his brother to other cultural events. I have attended ceremonies outside of work and plan to attend more with family. I also recently attended a spiritual learning session held by a Cultural Teacher in Oneida to continue to learn from the communities.

However, I have much bigger plans to honour the Kaswénta. Specifically, I would like to start a renewal campaign in the Settler community and, when the time is right, help to facilitate the renewal of this agreement. I have been working with local Elders to start this process and have been in touch with a local Oneida Elder who can read this wampum belt. In the short term, I will be sharing this work and the significance of honouring the Kaswénta at conferences and while in the presence of anyone who will listen. I cannot do this on my own. Honouring the Kaswénta is our collective responsibility. Wherever I travel in the river of life I will do so in my vessel, alongside Indigenous peoples, as equals, honouring our differences and rights to self-determination, and in peace, harmonious co-existence, and friendship. I hope the reader will join me.

As noted in the *Relative Importance (Prologue)*, my outlook on stories, like this thesis, is that they are only brought to life through their reinterpretations. In this regard, this Epilogue is an account of the beginning of a story I hope will continue to develop with each reader. This thesis, then, is intended to inspire future actions to be taken by readers like you. I conclude this ending by suggesting that your reading this story, and acting as a result to contribute to its development, is as destined a part of this journey as the series of events that led me to write it. This is my way of creating space for your story. This is the beginning.

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## Appendix A: MOU Between The C/TFN And The University Of Wollongong

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University of Wollongong




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MEMORANDUM OF UNDERSTANDING BETWEEN  
The Carcross/Tagish First Nation Executive Council  
AND  
The Faculty of Education and The Faculty of Law  
The University of Wollongong

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This MEMORANDUM OF UNDERSTANDING (MOU) is hereby made and entered into by and between the Carcross/Tagish First Nation Executive Council, hereinafter referred to as C/TFN Executive Council and The Faculty of Education and The Faculty of Law at The University of Wollongong, hereinafter referred to as UOW Education and Law.

### A. PURPOSE:

The purpose of this MOU is to develop and expand a framework of understanding and cooperation between the C/TFN Executive Council and UOW Education and Law, in the capacity of PhD Candidate Ashley Sisco's research project, entitled "E-learning For Empowerment: Meaningful Aboriginal Consultation Processes in Canada and Australia" hereinafter referred to as the research project.

### B. STATEMENTS OF MUTUAL BENEFITS AND INTERESTS

It is anticipated that the research project benefits and interests both the C/TFN Executive Council and UOW Education and Law. It is anticipated that this collaborative community project will have benefits to the community because the project will be designed with the community to align with community priorities. Some specific benefits, include:

- Opportunity to improve consultation with the territorial and federal governments over the implementation of the *Education Act*. Through the development of an e-learning program, this project aims to build capacity in consultations within the community in common law pertaining to consultation in order to improve consultation outcomes for the community. The community has identified the implementation of the *Education Act* as a priority in this regard.
- Potential for better outcomes for the community from consultations/relationships with other organizations broadly—This could result in important outcomes for the community, including greater influence over decisions affecting rights, especially related to land.
- Broader application of community law—This project aims to raise awareness and respect for the community's laws, in consultations/relationships and decision making, among governments and organizations. One of the main goals of this project is to better integrate the community's laws into such consultations/relationships.
- Enhancements to community curriculum—Data collected from the program regarding the efficacy of e-learning/e-sharing will contribute to enhancements to the local school curriculum, which I understand is in the midst of being revised.



- Evidence for greater community funding—I realize the community already has great profile, but this work would build upon that, which could benefit the community in future grant applications and other ventures, especially for ICT equipment.
- ICT training for community members. The training provided to community members for this project can equip them with valuable ICT and other skills for future education, employment, communication and other skills.
- Learning from and sharing with the Narungga community of Point Pearce in South Australia—The project will connect the Carcross/Tagish First Nation community with the Narungga First Nation community of Point Pearce in South Australia. Much could be learned from one another in terms of consultation processes (as Australia and Canada are under the same common law) and e-learning.

It is anticipated that the research project will also benefit and interest PhD Candidate Ashley Sisco in assisting her to complete her candidature and obtain her PhD. It will also help UOW in contributing to an important body of scholarship.

#### C. C/TFN Shall

- a) Facilitate access for PhD Candidate Ashley Sisco's accommodation while staying in C/TFN community to complete project tasks, without financial burden to the C/TFN Executive Council.
- b) Facilitate access for PhD Candidate Ashley Sisco's office space while staying in C/TFN community to complete project tasks, without financial burden to the C/TFN Executive Council.
- c) Provide time in kind to cooperate on the project, so work is completed in a timely manner, without financial burden to the C/TFN Executive Council.

#### D. PhD Candidate Ashley Sisco, under the auspices of UOW Education and Law, shall:

- a) Work with the community and participants throughout the project to ensure full collaboration in its design, implementation and interpretation.
- b) Provide the C/TFN Executive Council with shared access to the data collected within the C/TFN community.
- c) Provide the C/TFN Executive Council with ownership of the data managed between the UOW and C/TFN.
- d) Provide C/TFN participants and designates of the C/TFN Executive Council with ample time and opportunity to review drafts of the dissertation prior to submission and publication to check for accuracy, and resolve any sensitive issues to the community's satisfaction.
- e) Provide the community and the C/TFN Executive Council with acknowledgement of their contribution to the dissertation and any articles that should arise from the project.
- f) Provide the C/TFN Executive Council with shared copyright of the dissertation, and any articles that arise from this project, with the Point Pearce Aboriginal Corporation and UOW.



E. IT IS MUTUALLY UNDERSTOOD AND AGREED BY AND BETWEEN THE PARTIES THAT:

- a) The C/TFN Executive Council and UOW Education and Law are to be regarded as project collaborators in the research project. C/TFN participants and Ashley Sisco, under the guidance of UOW Education and Law academics, will work together to achieve mutual goals in line with community priorities.
- b) The C/TFN Executive Council and Ashley Sisco, under the guidance of UOW Education and Law, will do their best to collaborate on this project in line with the principles of OCAP (Ownership, Access, Control, and Possession)<sup>1</sup> (Schnarch, 2004) in the following ways:
  - The C/TFN Executive Council will retain ownership of the data collected. Data will be collected and used in collaboration with the community and in a manner respectful of its protocols.
  - The C/TFN Executive Council will have control (shared with Ashley Sisco and her supervisors) over the use of the data. They will have ample time and opportunity to review drafts of the dissertation prior to submission and publication, to ensure any discrepancies and/or sensitive issues are resolved to the community's satisfaction. Ashley Sisco will consult with the community prior to submission of articles using data from the project to ensure any discrepancies and/or sensitive issues are resolved to the community's satisfaction, and to determine whether co-authorship is desired.
  - The C/TFN Executive Council and UOW Education and Law will share access to the data collected. Ashley Sisco will ensure data is kept safe and secure and the confidentiality of participants is protected in line with UOW ethics protocols. UOW Education and Law requires that the data be destroyed 5 years after the close of the project. However, the C/TFN Executive Council retains the right to keep the data thereafter.
  - The dissertation and any articles that result from the data collected in the community will be disseminated to the C/TFN Executive Council, and remain in the community's possession.
- c) Due to UOW policy regarding the necessity of original research in PhD dissertations, co-authorship is prohibited for this project. This means that while the dissertation will share copyright with the C/TFN Executive Council (and the Point Pearce Aboriginal Corporation), as well as acknowledge the contributions of the C/TFN, and the fact that the knowledge remains its property, Ashley Sisco will retain authorship of the dissertation. However, co-authorship arrangements may be made with articles published about the project if this is the C/TFN Executive Council desire.

<sup>1</sup> Schnarch, B. (2004). "Ownership, Control, Access, and Possession (OCAP) or Self-Determination Applied to Research: A Critical Analysis of Contemporary First Nations Research and Some Options for First Nations Communities and the Panel on Research Ethics Aboriginal Research Ethics Initiative". *Journal of Aboriginal Health*, Vol. 1, No. 1. Ottawa: National Aboriginal Health Organization. Retrieved March 1, 2012 from First Nations Centre, National Aboriginal Health Organization <http://www.research.toronto.ca/ethics/pdf/human/nonspecific/OCAP%20principles.pdf>



## 1. PRINCIPLE CONTACTS

### **C/TFN Executive Council Contacts**

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Director of Capacity Development  
867- 821-8223  
[Cully.Robinson@ctfn.ca](mailto:Cully.Robinson@ctfn.ca)

*Robin Lord,*  
Education Outreach Worker  
[Robin.Lord@ctfn.ca](mailto:Robin.Lord@ctfn.ca)  
Ph. 867- 821-8303

*Hillary Aitken,*  
Policy Analyst  
[hillary.aitkin@ctfn.ca](mailto:hillary.aitkin@ctfn.ca)  
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### **UOW Education and Law Contacts**

*Ashley Sisco,*  
PhD Candidate  
[ashleysisco@gmail.com](mailto:ashleysisco@gmail.com)  
ph. 519-668-3214 (until March 14<sup>th</sup>)

*Professor Lori Lockyer,*  
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ph. (02) 4221 3961

## 2. COMMENCEMENT/EXPIRATIONDATE

The memorandum of understanding is executed as of the date of last signature and is effective through August 27<sup>th</sup>, 2014 at which time it will expire unless extended.



University of Wollongong



3. IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the last written date below.

**C/TFN Executive Council Signatories:**

**Signatory 1**

Print Name.....

Signature.....

Position at

UOW.....

Date.....

**Witness**

Print Name.....

Signature.....

Position at

UOW.....

Date.....

**Signatory 2**

Print Name.....

Signature.....

Position at

UOW.....

Date.....

**Witness**

Print Name.....

Signature.....

Position at

UOW.....

Date.....

**UOW Education and Law Signatories:**

**Professor Paul Chandler, Dean of Education**

Print Name..... *Paul Chandler*

Signature.....

Position at

UOW..... *Dean, Faculty of Education*

Date..... *12/5/12*

**Witness**

Print Name..... *JANNA NIKOLIC*

Signature.....

Position at UOW..... *DEAN'S ASSISTANT*

Date..... *11.5.12*

**Professor Luke McNamara, Dean of Law**

Print Name..... *Luke McNamara*

Signature.....

Position at

UOW..... *Dean, Faculty of Law*

Date..... *11 May 2012*

**Witness**

Print Name..... *Lauren Davies*

Signature.....

Position at UOW..... *Dean's Assistant*

Date..... *11/05/2012*

## Appendix B: Council Of Point Pearce Community Support And Consent Form

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University of Wollongong



November 29, 2011

### Council of Point Pearce Aboriginal Community Support and Consent Form

We, the **Point Pearce Aboriginal Corporation** give consent and support for our community to participate in the research project described below:

#### TITLE OF THE PROJECT:

Ph D. CANDIDATE: Ashley Sisco

SUPERVISORS: Dr Michelle Eady, [meady@uow.edu.au](mailto:meady@uow.edu.au) ph. (02) 4221 3613, Professor Luke McNamara [luke\\_mcnamara@uow.edu.au](mailto:luke_mcnamara@uow.edu.au) ph. (02) 4221 3382, Professor Lori Lockyer, [lockyer@uow.edu.au](mailto:lockyer@uow.edu.au) ph. (02) 4221 5511.

In giving our consent and support we acknowledge that:

1. We have received information about the research entitled, "Better Consultations Using Technology" (E-learning for Empowerment; Making Meaningful Aboriginal Consultations in Australia and Canada) and have been given opportunity to discuss the research project with Ashley Sisco who is conducting this research as part of her Doctor of Philosophy studies at the University of Wollongong.
2. We understand that our community members will be taking part in discussions, working together to develop and deliver learning on the computer and that they will be observed as they interact with other research participants both face to face and in an online community.
3. We understand that this research is being facilitated to try to find ways to best support Aboriginal communities accomplish their self identified ICT literacy needs and consultations with organizations, but we understand that the research is not guaranteed to achieve these benefits.
4. We understand that the interviews and interactions will be audio taped and later transcribed and online interactions saved as text files.
5. We also understand that some photographs may be captured throughout group interactions.
6. We understand that the community members' participation in the study will be treated confidentially and that community members' identities will be protected through pseudonym and omission of identifying features of their person and employ.
7. We understand that the community's participation in this research is voluntary. Community members are able to refuse to be included at any time. Withdrawal of consent will not affect the relationship with the researcher or the University of Wollongong. We understand that no community members or the community itself will receive monetary reimbursement for their participation in this project.
8. We understand that the know researcher may want to write about the research in written or conference form and we understand that although always acknowledged, we are not co authors in the writings of the research.
9. While remaining the property of the community, we understand that the knowledge collected from the community's participation may be reported within written conference, journal papers and other written works, and that the researcher will hold copyright of this research, we understand what that means and we consent for the research to be used in this manner.

1. Print Name GEORGE L WALKER  
Signature.....  
Position on Council CHAIRPERSON  
Date 29-11-11



2. Print Name EDWARD D NEWCHURCH  
Signature.....  
Position on Council COUNCIL MEMBER PUBLIC OFFICER  
Date 29-11-11

3. Print Name ERNEST C. WILSON  
Signature.....  
Position on Council VICE-CHAIRPERSON  
Date 29-11-11

4. Print Name BARRY T POWER  
Signature.....  
Position on Council COUNCIL MEMBER  
Date 29-11-11

5. Print Name Vanessa Agis  
Signature.....  
Position on Council Council Member  
Date 29/11/11



## Appendix C: Point Pearce Participant Recruitment Flyers

**WANT BETTER CONSULTATIONS?**  
**How would YOU like organizations to consult with the**  
**community?**  
**What is the protocol?**  
**Are organizations following it?**  
**How can they do it better?**



**I am a student working with Point Pearce and an Aboriginal community in Canada on a project about community consultations.**

**I would like to chat with community members about how we can make these meetings better.**

**If you would like to have a yarn please contact me at:  
8836 3220 or ashleysisco@gmail.com  
or ask George Walker**

**I would like to chat with you!**

**JOIN YOUR FELLOW COMMUNITY MEMBERS**  
**March 13<sup>th</sup> and March 15<sup>th</sup> at 1pm-3pm (drop in or stay)**  
**Meeting about consultation at the community council office**  
**Food and drinks. Call to RSVP.**

## Appendix D: Chart of adherence to ethical guidelines and principles.

Ethical Guidelines	Key and Relevant Principles	How they applied to this project
Government of Australia's (2006) <i>Keeping Research on Track</i>	Building relationships	<ul style="list-style-type: none"> <li>• Introduced to former PPAC Chairperson through former supervisor.</li> <li>• Engaged in phone and email correspondence.</li> <li>• Obtained permission to come to Narungga country by phone.</li> <li>• Visited community to discuss possibility of working together, presented for PPAC, and developed research agreement.</li> <li>• Continued to stay in touch while in Carcross, then spent time building relationship in person during fieldwork Jan-April 2013.</li> </ul>
	Conceptualization/thinking	<ul style="list-style-type: none"> <li>• Developed project concept informally with PPAC through phone and email correspondence and in person meeting.</li> </ul>
	Development and approval	<ul style="list-style-type: none"> <li>• Developed project plan informally with PPAC through phone and email correspondence and in person meeting.</li> <li>• Obtained input on research proposal and ethics application from PPAC.</li> <li>• Developed an agreement outlining research relationship.</li> </ul>
	Data collection and management	<ul style="list-style-type: none"> <li>• Obtaining consent and managing data in accordance with the community's protocols (as well as the university's protocols).</li> </ul>
	Analysis –looking at the meaning	<ul style="list-style-type: none"> <li>• Worked with the NCPP to interpret and analyse data and ensure the conclusion drawn aligned with those of the community's.</li> </ul>
	Report writing	<ul style="list-style-type: none"> <li>• Gained input from the NCPP about the thesis writing and website at draft stages to ensure the information was complete and accurate</li> <li>• Incorporated input and made recommended changes.</li> </ul>
	Dissemination	<ul style="list-style-type: none"> <li>• Presented the results to the community via PowerPoint at PPAC meeting and community barbeque gathering following the research conducted with</li> </ul>

		<p>C/TFN.</p> <ul style="list-style-type: none"> <li>Presented the results of the research conducted in the community to PPAC via PowerPoint and in the form of electronic and printed copies of the draft and final theses.</li> </ul>
	Learning from our experience	<ul style="list-style-type: none"> <li>In consultation with Point Pearce, identified the need for access to equipment through which to connect with the Internet as well as ICT skills within Point Pearce.</li> <li>Obtained a scholarship and used funds to provide four ipads to the community and to allow the community to hire a local consultant to train community members to use the ipads.</li> </ul>
Janke's (2008) <i>Our Culture Our Future</i>	Own and control Indigenous cultural and intellectual property	<ul style="list-style-type: none"> <li>In agreement with PPAC, states that knowledge remains property of community.</li> <li>Data has been collected and used in collaboration with the community and in a manner respectful of its protocols as explicitly stated by the community in the agreement and in ongoing partnership with the community.</li> <li>Reported to the PPAC Chairperson to oversee this process.</li> <li>NCPP and PPAC has been given ample time and opportunity to review drafts of the dissertation prior to submission and publication, to ensure any discrepancies and/or sensitive issues are resolved to the community's satisfaction.</li> </ul>
	Be recognised as the primary guardians and interpreters of their cultures, arts and sciences, whether created in the past, or developed by them in the future.	<ul style="list-style-type: none"> <li>Consulted with Point Pearce participants on an ongoing basis to ensure I was collecting data appropriately and interpreting, analysing, and reporting it accurately and appropriately.</li> </ul>
	Full and proper attribution	<ul style="list-style-type: none"> <li>While the interviewees remain anonymous, the Narungga community of</li> </ul>

		PPAC are acknowledged for their partnership on this project throughout the thesis and through the provision of shared copyright of the thesis.
	Prevent distortions and mutilations of Indigenous Cultural and Intellectual Property.	<ul style="list-style-type: none"> <li>The thesis findings were presented to the community in the form of a presentation and in the form of the written thesis, which was reviewed by the Chairperson of the Point Pearce Aboriginal Council and delegates and approved pending minor revisions.</li> </ul>
Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS)	Rights, respect and recognition	<ul style="list-style-type: none"> <li>Recognize (in research and praxis) the uniqueness of Narungga peoples as a distinct cultural group, as well as the uniqueness of Point Pearce as a community, and the diversity among Narungga peoples within and from Point Pearce in reporting of findings.</li> <li>Thesis is premised on respectful relations with Indigenous peoples, including the right to self-determination, which is embedded in the relational framework and protocol (research methodology).</li> <li>As outlined in the MOU with C/TFN, PPAC shares copyright of this thesis with C/TFN and the University of Wollongong.</li> <li>At NCPP's request, the funding for their portion of the community ambassador exchange (of a NCPP community leader to visit Carcross) was replaced with the provision of iPads and training to Point Pearce community members, as the community identified this as a more pressing need.</li> </ul>
	Negotiation, consultation, agreement and mutual understanding	<ul style="list-style-type: none"> <li>All research was conducted on the basis of free, prior and informed consent.</li> <li>Consultation took place with PPAC community leadership, as well as other community segments, Elders, and other adults both men and women from different kin groups.</li> <li>An agreement was reached and signed with PPAC early on, outlining the basic rules of engagement.</li> <li>I have adhered to the more complex and ongoing community consultation protocol as it evolved and was articulated by community members.</li> </ul>

	Participation, collaboration and partnership	<ul style="list-style-type: none"> <li>• NCPP's participation throughout this research project has been ongoing. We continue to stay in touch and work together on next steps.</li> <li>• At the community's request, funding was provided to community members for iPads and training to use the iPads to build local capacity in using iPads (and the internet broadly) to learn and connect in place of the funding that would have been used for NCPP's portion of a community ambassador exchange.</li> </ul>
	Benefits, outcomes and giving back	<ul style="list-style-type: none"> <li>• Benefits to the community were discussed with the community from the beginning and have been integral to this community based partnership and action research project.</li> <li>• Specific benefits that have been identified by the community include the provision of iPads and training to use them for the community, and the creation of a website for PPAC to encourage respectful consultation. The equipment and training has been provided and the website has been created and I am consulting with the community to ensure it meets their needs before it is launched.</li> </ul>
	Managing research: use, storage and access	<ul style="list-style-type: none"> <li>• The agreement with PPAC recognizes that knowledge remains property of community.</li> <li>• Data has been collected and used in collaboration with the community and in a manner respectful of its protocols, as explicitly stated by the community in the agreement and in ongoing partnership with the community.</li> <li>• NCPP and PPAC has been given ample time and opportunity to review drafts of the dissertation prior to submission and publication, to ensure any discrepancies and/or sensitive issues are resolved to the community's satisfaction.</li> </ul>
	Reporting and compliance	<ul style="list-style-type: none"> <li>• Ongoing reporting on research progress and compliance with agreements (both formal and informal) has been undertaken in-person during</li> </ul>

		fieldwork, and via phone and email correspondence the remainder of the time, at the community's preference.
National Aboriginal Health Organization's (2005) <i>OCAPI</i>	Ownership	<ul style="list-style-type: none"> <li>Through the MOU, the C/TFN Executive Council retains the right to ownership of the data collected. Data has been collected and used in collaboration with the community and in a manner respectful of its protocols as explicitly stated by the community. The C/TFN executive council appointed a C/TFN employee to oversee this process; Ashley has reported to this employee throughout the process.</li> </ul>
	Control	<ul style="list-style-type: none"> <li>Through the MOU, the C/TFN Executive Council has had control (shared with Ashley Sisco and her supervisors) over the use of the data. They were given ample time and opportunity to review drafts of the dissertation prior to submission and publication, to ensure any discrepancies and/or sensitive issues are resolved to the community's satisfaction.</li> </ul>
	Access	<ul style="list-style-type: none"> <li>Through the MOU, the C/TFN Executive Council and UOW Education and Law share access to the data collected. I have ensured that the data is kept safe and secure and the confidentiality of participants is protected in line with UOW ethics protocols. UOW Education and Law requires that the data be destroyed 5 years after the close of the project. However, the C/TFN Executive Council retains the right to keep the data thereafter.</li> </ul>
	Possession	<ul style="list-style-type: none"> <li>Through the MOU, the draft dissertation was disseminated to the C/TFN Executive Council, and the final dissertation will be disseminated to the C/TFN and remain in the community's possession.</li> </ul>
AREI's (2008) <i>Issues and Options for Revisions to the Tri-Council Policy Statement on Ethical Conduct of Research</i>	Respect for human dignity	<ul style="list-style-type: none"> <li>Knew topic was relevant to C/TFN based on information community members had shared during pre-existing relationship.</li> <li>Researched with C/TFN using a community based partnership research and participatory action research approach. This included C/TFN provided input on the research and tool design, data management and reporting.</li> </ul>
	Respect for Aboriginal	<ul style="list-style-type: none"> <li>Worked with C/TFN to ensure accurate understanding and representation</li> </ul>

<i>Involving Humans (TCPS): Section 6: Research Involving Aboriginal Peoples</i>	Diversity	<p>of their unique historical, social, and political context as well as consultation protocol.</p> <ul style="list-style-type: none"> <li>• Approach to and results of work with C/TFN was vastly different, including the online tools, consistent with the uniqueness of these communities.</li> <li>• The ability to differentiate in this regard was an extension of community based partnership approaches</li> </ul>
	Respect for Indigenous Knowledge Systems	<ul style="list-style-type: none"> <li>• Use of an Indigenous relational framework in place of a theoretical framework.</li> <li>• Incorporation of Indigenous knowledge and ways of knowing, including the land as educational tool.</li> <li>• Involvement of Elders, including the community ambassador, as project advisors and mentors.</li> <li>• Use of cultural frameworks, like button blanket to frame cultural concepts.</li> </ul>

## Appendix E:

### Consultation Expert Interview Guide

University of Wollongong



#### Interview Guide

Thank you for taking part in the “E-learning for Empowerment: Making Aboriginal Consultations Meaningful in Canada and Australia” project. We would like to draw on your experience to evaluate e-learning opportunities, the consultation process and the potential for e-learning to improve the consultation process. Your answers to the following questions will help us to do this.

Before we begin I would like to define the terms “consultations” and “e-learning” for the purpose of this interview.

**Consultations** are meetings among Aboriginal communities, governments, and other organizations (e.g. corporations, boards of education etc.) about decisions that might impact Aboriginal rights (e.g. to land, education, etc.). Consultations are supposed to help Aboriginal communities, governments, and other organizations to resolve disagreements and develop mutually beneficial solutions outside of the court system.

**E-learning** is learning through structured, online real time (live chat) and/or self-paced (email) educational programs. For this project it will involve an online program developed to educate various groups involved in consultations to improve the consultation process and outcomes.

Please explain which category described you best:

☐ Community member

☐ Government representative

☐ Lawyer or law specialist

☐ Representative of other organization.

☐ E-learning specialist

Please specify: \_\_\_\_\_

#### Part One: Personal experience with consultations

1. Using the definition for consultations provided at the top of this discussion group guide, how many years of experience do you have with consultations?



2. Describe the types of roles (i.e. negotiator, community member, etc.) you have had in these consultations and your level of participation.

3. Describe the consultation process – where were the meetings held? How were they facilitated? How were decisions reached? Etc.

4. Describe a consultation process that was successful and explain what made it successful.

### **Part Two: Perceptions of consultations**

1. Have the consultation processes you have experienced been effective in enabling a decision outside of the court system?

2. In your experience, what makes consultation processes more effective?

3. How would you define meaningful consultation?

4. Using this definition, have the consultation processes you have experienced been meaningful? Explain.

5. One definition of meaningful consultation is one in which communities, corporations and governments all had enough influence in the outcome. According to this definition, have the consultation processes you have experienced been meaningful? Explain.

6. In the consultations you have experienced, were the decisions reached fair?

7. Have the consultation processes you have experienced been equitable? (i.e. did Aboriginal communities enter into consultations on equal footing with corporations and government?) Explain.

8. If not, what could have been done to make these processes more equitable?

9. Have the consultation processes you have experienced adequately included Aboriginal laws and legal traditions? Explain.

10. If not, how could they have better included these laws and legal traditions?

11. Based on your experience, should Aboriginal communities determine (have veto over) whether development takes place on Aboriginal lands? Why or why not?

12. In your experience, what has been the biggest problem with consultation processes in their current form? Explain.

13. In your experience, what has most contributed to the success of consultation processes in their current form? Explain.

14. In your experience, is the consultation process clear? Explain.

### **Part Three: E-learning and consultations**

1. Have you experienced consultations where e-learning has played a role in preparing the participants? Explain.

2. What role, if any, do you think e-learning could have played in the consultation processes you have witnessed? Explain.

## Appendix F:

### E-Learning Expert Interview Guide

University of Wollongong



#### Interview Guide

Thank you for taking part in the “E-learning for Empowerment: Making Aboriginal Consultations Meaningful in Canada and Australia” project. We would like to draw on your experience to evaluate e-learning opportunities, the consultation process and the potential for e-learning to improve the consultation process. Your answers to the following questions will help us to do this.

Before we begin I would like to define the terms “consultations” and “e-learning” for the purpose of this interview.

**Consultations are** meetings among Aboriginal communities, governments, and other organizations (e.g. corporations, boards of education etc.) about decisions that might impact Aboriginal rights (e.g. to land, education, etc.). Consultations are supposed to help Aboriginal communities, governments, and other organizations to resolve disagreements and develop mutually beneficial solutions outside of the court system.

**E-learning is** learning through structured, online real time (live chat) and/or self-paced (email) educational programs. For this project it will involve an online program developed to educate various groups involved in consultations to improve the consultation process and outcomes.

Please explain which category described you best:

☐ Community member

☐ Government representative

☐ Lawyer or law specialist

☐ Representative of other organization.

☐ E-learning specialist

Please specify: \_\_\_\_\_

#### Part One: Personal experience with e-learning

1. How many years of experience do you have with e-learning?

--

2. How many years of experience, if any, do you have in e-learning with Aboriginal communities?

3. Describe the types of roles (i.e. e-teacher, e-student, e-learning consultant, etc.) you have had with e-learning.

4. Describe an e-learning program that was successful and explain what made it successful.

### **Part Two: Perceptions of e-learning**

In your experience:

1. How would you define e-learning?

2. Have e-learning programs you have been involved with been effective in enabling learning?

--

3. What makes e-learning effective?

--

4. What are the biggest challenges/problems with e-learning?

--

5. What is the difference between using technology to communicate and using it to facilitate learning?

--

6. Do students prefer in-person learning, e-learning or a mix of both?

--

7. Does e-learning increase or decrease student participation?

--

8. Does e-learning makes learning more democratic, in that it allows everyone to communicate with and learn from one another (two-way learning)?

**Part Three: E-learning and consultations**

1. Have you ever helped others to e-learn about consultations, or are you aware e-learning having been used for consultations?

2. If so, was it useful? Explain.

3. If not, do you think it would be useful? Explain.

4. What resources are necessary to ensure effective e-learning about consultations?

5. What skills are necessary for individuals to effectively e-learn about consultations?



6. Can you foresee any challenges with e-learning for this purpose? If so, please list them.

7. Do you think there would be any benefits to e-learning about consultations? If so, please list them.

8. In designing an e-learning program to help communities, governments, and corporations prepare to better consult with one another, what considerations should be made?

## Appendix G: Community Supplement

In the consultations you have experienced:

1. Have communities benefitted from learning more about Western law in relation to consultations?

2. What is the biggest challenge that communities have faced?

3. What have governments done to better consult with your community? What could they have done better?

4. What have other organizations done to better consult with your community? What could they have done better?

5. What have lawyers done to improve consultation processes with your community? What could they have done better?

## Appendix H: Lawyer And Law Specialist Supplement

In the consultations you have experienced:

1. Have communities benefitted from learning more about Australian/Canadian state law in relation to consultations?

2. Have consultations improved when corporations and governments learned more about community laws and legal traditions in relation to consultations?

3. Have consultations improved when corporations and governments learned from one another about processes in place for consultations?

4. What have corporations done to better consult with communities? What could they have done better?

5. What have governments done to better consult with communities? What could they have done better?

6. What have communities done to improve consultation outcomes? What could they have done better?

7. What have lawyers done to improve consultation processes with communities? What could they have done better?

## Appendix I: Government Representative Supplement

In the consultations you have experienced:

1. Have communities benefitted from learning more about state law in relation to consultations?

2. Have consultations improved when governments and other organizations learn more about community laws and legal traditions in relation to consultations?

3. Have consultations improved when governments and other organizations learn from one another about processes in place for consultations?

4. What have organizations done to better consult with communities? What could they do better?

5. What have governments done to better consult with communities? What could they do better?

6. What have communities done to better consult with communities? What could they do better?

7. What have lawyers done to improve consultation processes with communities? What could they do better?

## Appendix J: Organization Representative Supplement

In the consultations you have experienced:

1. Have communities benefitted from learning more about state law in relation to consultations?

2. Have consultations improved when governments and other organizations learn more about community laws and legal traditions in relation to consultations?

3. Have consultations improved when governments and other organizations learn from one another about processes in place for consultations?

4. What have organizations done to better consult with communities? What could they do better?

5. What have governments done to better consult with communities? What could they do better?

6. What have communities done to better consult with communities? What could they do better?

7. What have lawyers done to improve consultation processes with communities? What could they do better?



## Appendix K: C/TFN Community Interview Guide

University of Wollongong



### C/TFN Community Interview Guide

Thank you for taking part in the “E-learning for Empowerment: Making Aboriginal Consultations Meaningful in Canada and Australia” project. We would like to draw on your experience to evaluate e-learning opportunities, the consultation process and the potential for e-learning to improve the consultation process. Your answers to the following questions will help us to do this.

Before we begin I would like to define the terms “consultations” and “e-learning” for the purpose of this interview.

**Consultations** are meetings among Aboriginal communities, governments, and other organizations (e.g. corporations, boards of education etc.) about decisions that might impact Aboriginal rights (e.g. to land, education, etc.). Consultations are supposed to help Aboriginal communities, governments, and other organizations to resolve disagreements and develop mutually beneficial solutions outside of the court system.

**E-learning** is learning through structured, online real time (live chat) and/or self-paced (email) educational programs. For this project it will involve an online program developed to educate various groups involved in consultations to improve the consultation process and outcomes.

The objective of this interview guide is to investigate:

- the definition of meaningful consultation about education with C/TFN (What does it look like? How does the community define it?);
- how this can be effectively communicated/taught to the community and other stakeholders/participants in these consultations using technology; and
- other contacts that can shed light on these topics.

### *Part One: Consultations over education and technology*

1. In your experience, what are the main education issues/challenges in the community?
2. Does the community work with YTG, federal government and other organizations on education issues?
3. When there is consultation with these bodies over education issues, how is this carried out?
4. Do you think the C/TFN self-governance is respected in the area of education?

5. What is the technology skill level in the community?
6. Do most people have a computer and Internet access from home? Work?

***Part Two: Previous consultations with the communities to date***

When the YTG, federal government, and/or other bodies have consulted with the community in the past, over education issues (can speak to others):

1. How was it initiated? Where were the consultations held? Who was present?  
What was the protocol?
2. Has the community been given full and accurate information? If not, where does the communication breakdown?
3. Has the community been given sufficient time to think through the information provided, discuss it with family/friends etc. and reach a decision?
4. Has the community been given sufficient time to think through the information provided, discuss it with family/friends etc. and reach a decision?
5. Did you get a sense that they were negotiating in good faith of achieving reconciliation or compromise?
6. Was decision-making collaborative with the community?
7. Was there a clear understanding of the community's rights with respect to controlling education?
8. Was there a focus on relationship and trust building?
9. Was the community negotiating on equal footing with the YTG/federal government/other organization(s)?
10. Was the outcome unfair or bias or was it mutually beneficial?
11. Did the consultations include communities' laws and protocols, or have they been more based in Western law?
12. What has your community done to prepare for consultations about educational issues? What could they have done better?

***Part Two: Improving consultations***

1. How would you like to see such consultations carried out?
  - a. Between the Ya Dak Du Hidi and the C/TFN?
  - b. Between the K-9 school and the C/TFN?
  - c. Between the High school and C/TFN?
  - d. Between the YTG and the C/TFN?
  - e. Between the federal government and the C/TFN?
  - f. Between the C/YFN, FNEC and other bodies and the C/TFN?
2. Are there certain protocols or laws that could be better understood by the communities? What resources would they need? Where would the consultation take place? Who would attend? Explain.

3. How can the consultation process align with C/TFN's cube (children, youth, adults, and Elders, and Spiritual, emotional physical and mental)?

***Part Three: Technology and education consultations***

Do you think technology (e.g. an e-learning program) could help:

1. Your community to better prepare for consultation by effectively communicating/teaching community members about the issue and/or the consultation protocol?
2. Your community to better prepare for consultation by allowing members to communicate with one another and develop consensus?
3. Your community to better prepare for consultations involving other Yukon First Nations by allowing them to communicate with one another and develop consensus?
4. Governments, organizations, lawyers and others involved in the consultation to better prepare for consultation by effectively communicating/teaching them about the community protocols?
5. Governments, organizations, lawyers and others involved in the consultation to communicate and develop common goals for consulting with the communities? Explain.
6. Governments, organizations, lawyers and others involved in the consultation to better understand the communities' laws and legal protocols? Explain.
7. C/TFN to better understand the protocols of government and other organizations related to consultation in education? Explain.

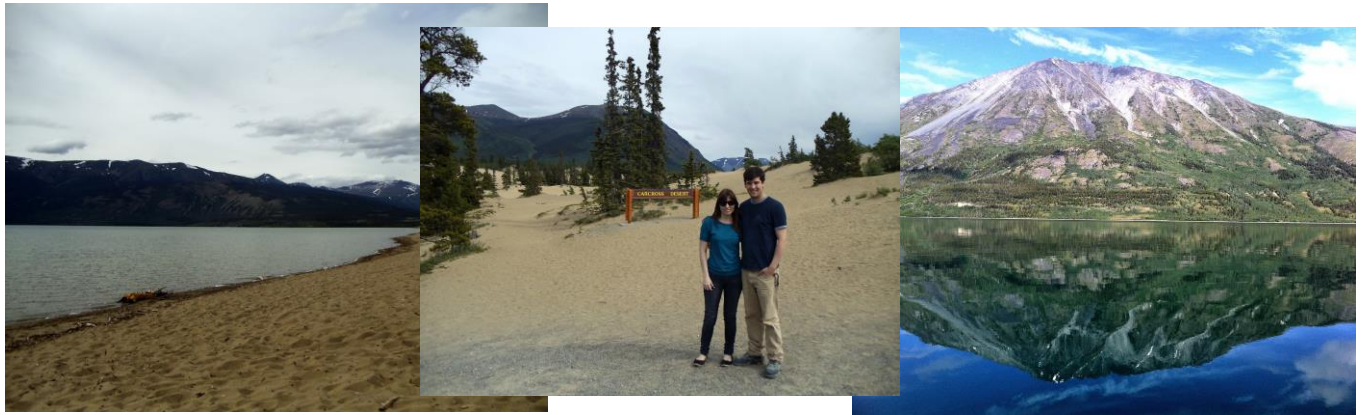
***Part Four: Other contacts***

1. Is there anyone else involved in community consultations I should speak with?

## Appendix L: Photographs Of C/TFN Traditional Territory And Point Pearce Narungga Bookayana

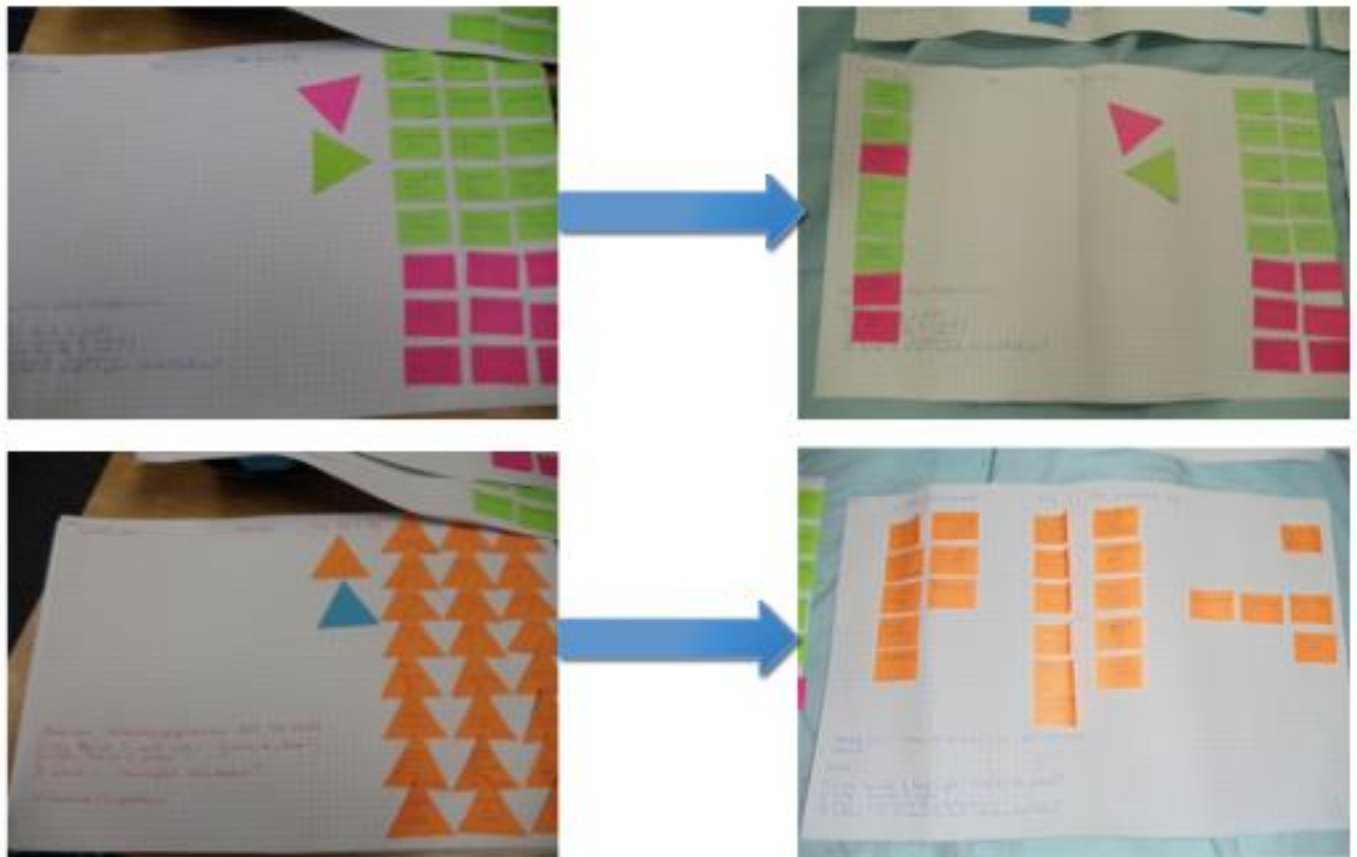


*L1. Photographs of C/TFN traditional territory*



*L2. Photographs of Point Pearce Narungga Bookayana*

## Appendix M: Photographs From Consultation Protocol Activity



*M1.* Photographs of Consultation Protocol Activity (templates on left and completed activities on right)

## Appendix N: C/TFN Community Discussion Group /Interview Guide

University of Wollongong



### C/TFN Community Interview Guide

Thank you for taking part in the “E-learning for Empowerment: Making Aboriginal Consultations Meaningful in Canada and Australia” project. We would like to draw on your experience to define meaningful consultation with C/TFN over educational issues, and the potential for e-learning to improve such consultation processes. Your answers to the following questions will help us to do this.

Before you begin, please read the following definitions of the terms “consultations” and “e-learning” provided below, which apply to this questionnaire.

**Consultations** are meetings among Aboriginal communities, governments, and other organizations (e.g. corporations, boards of education etc.) about decisions that might negatively impact Aboriginal rights (e.g. to land, education, etc.). Consultations are supposed to help Aboriginal communities, governments, and other organizations to resolve disagreements and develop mutually beneficial solutions outside of the court system.

**E-learning** is learning through structured, online real time (live chat) and/or self-paced (email) educational programs. For this project it will involve an online program developed to educate various groups involved in consultations to improve the consultation process and outcomes.

The objective of this interview guide is to investigate:

1. the definition of meaningful consultation about education with C/TFN? (What does it look like? How does the community define it?);
2. how this can be effectively communicated/taught to the community and other stakeholders/participants in these consultations using technology; and
3. other contacts that can shed light on these topics.

### ***Part One: Consultations over education and technology***

7. In your experience, what are the main education issues/challenges in the community?
8. Does the community work with YTG, federal government and other organizations on education issues?
9. When there is consultation with these bodies over education issues, how is this carried out?
10. Do you think the C/TFN self-governance is respected in the area of education?

11. What is the technology skill level in the community?
12. Do most people have a computer and Internet access from home? Work?

***Part Two: Previous consultations with the communities to date***

When the YTG, federal government, and/or other bodies have consulted with the community in the past, over education issues (can speak to others):

1. How was it initiated? Where were the consultations held? Who was present?  
What was the protocol?
2. Has the community been given full and accurate information? If not, where does the communication breakdown?
3. Has the community been given sufficient time to think through the information provided, discuss it with family/friends etc. and reach a decision?
4. Has the community been given sufficient time to think through the information provided, discuss it with family/friends etc. and reach a decision?
5. Did you get a sense that they were negotiating in good faith of achieving reconciliation or compromise?
6. Was decision-making collaborative with the community?
7. Was there a clear understanding of the community's rights with respect to controlling education?
8. Was there a focus on relationship and trust building?
9. Was the community negotiating on equal footing with the YTG/federal government/other organization(s)?
10. Was the outcome unfair or bias or was it mutually beneficial?
11. Did the consultations include communities' laws and protocols, or have they been more based in Western law?
12. What has your community done to prepare for consultations about educational issues? What could they have done better?

***Part Three: Improving consultations***

1. How would you like to see such consultations carried out?
  - a. Between the Ya Dak Du Hidi and the C/TFN?
  - b. Between the K-9 school and the C/TFN?
  - c. Between the High school and C/TFN?
  - d. Between the YTG and the C/TFN?
  - e. Between the federal government and the C/TFN?
  - f. Between the C/YFN, FNEC and other bodies and the C/TFN?
2. Are there certain protocols or laws that could be better understood by the communities? What resources would they need? Where would the consultation take place? Who would attend? Explain.



3. How can the consultation process align with C/TFN's cube (children, youth, adults, and Elders, and Spiritual, emotional physical and mental)?

***Part Hour: Technology and education consultations***

Do you think technology (e.g. an e-learning program) could help:

1. your community to better prepare for consultation by effectively communicating/teaching community members about the issue and/or the consultation protocol?
2. your community to better prepare for consultation by allowing members to communicate with one another and develop consensus?
3. your community to better prepare for consultations involving other Yukon First Nations by allowing them to communicate with one another and develop consensus?
4. governments, organizations, lawyers and others involved in the consultation to better prepare for consultation by effectively communicating/teaching them about the community protocols?
5. governments, organizations, lawyers and others involved in the consultation to communicate and develop common goals for consulting with the communities? Explain.
6. governments, organizations, lawyers and others involved in the consultation to better understand the communities' laws and legal protocols? Explain.
7. C/TFN to better understand the protocols of government and other organizations related to consultation in education? Explain.

***Part Five: Other contacts***

2. Is there anyone else involved in community consultations I should speak with?



## Appendix O: C/TFN Government Representative Discussion Group /Interview Guide

University of Wollongong



### **Government Representative Discussion group/Interview Guide**

Thank you for taking part in the “E-learning for Empowerment: Making Aboriginal Consultations Meaningful in Canada and Australia” project. We would like to draw on your experience to evaluate e-learning opportunities, the consultation process and the potential for e-learning to improve the consultation process. Your answers to the following questions will help us to do this.

Before we begin I would like to define the terms “consultations” and “e-learning” for the purpose of this interview.

**Consultations** are meetings among Aboriginal communities, governments, and other organizations (e.g. corporations, boards of education etc.) about decisions that might impact Aboriginal rights (e.g. to land, education, etc.). Consultations are supposed to help Aboriginal communities, governments, and other organizations to resolve disagreements and develop mutually beneficial solutions outside of the court system.

**E-learning** is learning through structured, online real time (live chat) and/or self-paced (email) educational programs. For this project it will involve an online program developed to educate various groups involved in consultations to improve the consultation process and outcomes.

The objective of this interview guide is to investigate:

- the definition of meaningful consultation about education with C/TFN (What does it look like? How does the community define it?);
- how this can be effectively communicated/taught to the community and other stakeholders/participants in these consultations using technology; and
- other contacts that can shed light on these topics.

### ***Part One: Consultations over education and technology***

1. In your experience, what are the main education issues/challenges for the C/TFN?
2. Does the community work with you (government department) on education issues?
3. Does the community work with YTG, federal government and other organizations on education issues?

4. When there is consultation with these bodies over education issues, how is this carried out?
5. Do you think the C/TFN self-governance is respected in the area of education?
6. What are the challenges with consulting with C/TFN over educational issues?
7. What is the technology skill level in your department?
8. Do most people have a computer and reliable Internet access from work?

***Part Two: Previous consultations with the communities to date***

When you (and/or other bodies) have consulted with the community in the past, over education issues:

1. How was it initiated? Where were the consultations held? Who was present? What was the protocol?
2. Has the community been given full and accurate information? If not, where does the communication breakdown?
3. Has the community been given sufficient time to think through the information provided, discuss it with family/friends etc. and reach a decision?
4. Was your organization aiming to compromise?
5. Was decision-making collaborative with the community?
6. Was there a clear understanding of the community's rights with respect to controlling education?
7. Was there a focus on relationship and trust building?
8. Was the community negotiating on equal footing with you or your department (or the YTG/federal government/other organization(s))?
9. Was the outcome unfair or bias, or was it mutually beneficial?
10. Did the consultations include communities' laws and protocols, or have they been more based in Western law?
11. What has your department done to prepare for consultations with the C/TFN about educational issues? What could they have done better?

***Part Two: Improving consultations***

1. How would you like to see such consultations carried out with C/TFN over education?
2. Are there certain protocols that could be better understood by C/TFN? What resources would they need? Where would the consultation take place? Who would attend? Explain.

***Part Three: Technology and education consultations***

Do you think technology (e.g. an e-learning program) could help:

1. Your department (and others involved in the consultation) to better prepare for consultation by being able to access information about the community's protocols?
2. Your department to communicate with other organizations and/or governments involved in the consultation and develop common goals for consulting with the C/TFN? Explain.
3. Your department (and others involved in the consultation) to better understand the communities' laws and legal protocols? Explain.
4. C/TFN to better understand the protocols of government and other organizations related to consultation in education? Explain.
5. C/TFN to better prepare for consultation by effectively communicating/teaching community members about the issue and/or the consultation protocol?
6. C/TFN to better prepare for consultation by allowing community members to communicate with one another and develop consensus?
7. C/TFN to better prepare for consultations involving other Yukon First Nations by allowing them to communicate with one another and develop consensus?

***Part Four: Other contacts***

1. Is there anyone else involved in consultations with C/TFN I should speak with?

## Appendix P: C/TFN Non-Governmental Representative Discussion Group/Interview Guide

University of Wollongong



### C/TFN Community Interview Guide

Thank you for taking part in the “E-learning for Empowerment: Making Aboriginal Consultations Meaningful in Canada and Australia” project. We would like to draw on your experience to evaluate e-learning opportunities, the consultation process and the potential for e-learning to improve the consultation process. Your answers to the following questions will help us to do this.

Before we begin I would like to define the terms “consultations” and “e-learning” for the purpose of this interview.

**Consultations** are meetings among Aboriginal communities, governments, and other organizations (e.g. corporations, boards of education etc.) about decisions that might impact Aboriginal rights (e.g. to land, education, etc.). Consultations are supposed to help Aboriginal communities, governments, and other organizations to resolve disagreements and develop mutually beneficial solutions outside of the court system.

**E-learning** is learning through structured, online real time (live chat) and/or self-paced (email) educational programs. For this project it will involve an online program developed to educate various groups involved in consultations to improve the consultation process and outcomes.

The objective of this interview guide is to investigate:

4. the definition of meaningful consultation about education with C/TFN (What does it look like? How does the community define it?);
5. how this can be effectively communicated/taught to the community and other stakeholders/participants in these consultations using technology; and
6. other contacts that can shed light on these topics.

### *Part One: Consultations over education and technology*

1. In your experience, what are the main education issues/challenges for the C/TFN?
2. Does the community work with you on education issues?
3. Does the community work with YTG, federal government and other organizations on education issues?
4. When there is consultation with these bodies over education issues, how is this carried out?

5. Do you think the C/TFN self-governance is respected in the area of education?
6. What is the technology skill level in your organization?
7. Do most people have a computer and reliable Internet access from work?

***Part Two: Previous consultations with the communities to date***

When you (and/or other bodies) have consulted with the community in the past, over education issues:

1. How was it initiated? Where were the consultations held? Who was present?  
What was the protocol?
2. Has the community been given full and accurate information? If not, where does the communication breakdown?
3. Has the community been given sufficient time to think through the information provided, discuss it with family/friends etc. and reach a decision?
4. Was your organization aiming to compromise?
5. Was decision-making collaborative with the community?
6. Was there a clear understanding of the community's rights with respect to controlling education?
7. Was there a focus on relationship and trust building?
8. Was the community negotiating on equal footing with your organization (or the YTG/federal government/other organization(s))?
9. Was the outcome unfair or bias, or was it mutually beneficial?
10. Did the consultations include communities' laws and protocols, or have they been more based in Western law?
11. What has your organization done to prepare for consultations with the C/TFN about educational issues? What could they have done better?

***Part Two: Improving consultations***

1. How would you like to see such consultations carried out with C/TFN over education?
2. Are there certain protocols that could be better understood by C/TFN? What resources would they need? Where would the consultation take place? Who would attend? Explain.

***Part Three: Technology and education consultations***

Do you think technology (e.g. an e-learning program) could help:

1. Your organization (and others involved in the consultation) to better prepare for consultation by being able to access information about the community's protocols?
2. Your organization to communicate with other organizations and/or governments involved in the consultation and develop common goals for consulting with the C/TFN? Explain.
3. Your organization (and others involved in the consultation) to better understand the communities' laws and legal protocols? Explain.
4. C/TFN to better understand the protocols of government and other organizations related to consultation in education? Explain.
5. C/TFN to better prepare for consultation by effectively communicating/teaching community members about the issue and/or the consultation protocol?
6. C/TFN to better prepare for consultation by allowing community members to communicate with one another and develop consensus?
7. C/TFN to better prepare for consultations involving other Yukon First Nations by allowing them to communicate with one another and develop consensus?

***Part Four: Other contacts***

1. Is there anyone else involved in community consultations I should speak with?

## Appendix Q: Point Pearce Community Discussion group/Interview Guide

University of Wollongong



### Point Pearce Community Interview Guide

Thank you for taking part in the “E-learning for Empowerment: Making Aboriginal Consultations Meaningful in Canada and Australia” project. We would like to draw on your experience to evaluate e-learning opportunities, the consultation process and the potential for e-learning to improve the consultation process. Your answers to the following questions will help us to do this.

Before we begin I would like to define the terms “consultations” and “e-learning” for the purpose of this interview.

**Consultations** are meetings among Aboriginal communities, governments, and other organizations (e.g. corporations, boards of education etc.) about decisions that might impact Aboriginal rights (e.g. to land, education, etc.). Consultations are supposed to help Aboriginal communities, governments, and other organizations to resolve disagreements and develop mutually beneficial solutions outside of the court system.

**E-learning** is learning through structured, online real time (live chat) and/or self-paced (email) educational programs. For this project it will involve an online program developed to educate various groups involved in consultations to improve the consultation process and outcomes.

The objective of this interview guide is to investigate:

- the definition of meaningful consultation about education with Point Pearce (What does it look like? How does the community define it?);
- how this can be effectively communicated/taught to the community and other stakeholders/participants in these consultations using technology; and
- other contacts that can shed light on these topics.

### *Part One: Consultations over education and technology*

1. In your experience, what are the main education issues/challenges in the community?
2. Does the community work with South Australian government, federal government and other organizations on education issues?
3. When there is consultation with these bodies over education issues, how is this carried out?

4. What is the technology skill level in the community?
5. Do most people have a computer and Internet access from home? Work?

***Part Two: Previous consultations with the communities to date***

When the South Australian government, federal government, and/or other bodies have consulted with the community in the past, over education issues (can speak to others):

1. How was it initiated? Where were the consultations held? Who was present?  
What was the protocol?
2. Has the community been given full and accurate information? If not, where does the communication breakdown?
3. Has the community been given sufficient time to think through the information provided, discuss it with family/friends etc. and reach a decision?
4. Did you get a sense that they were negotiating in good faith of achieving reconciliation or compromise?
5. Was decision-making collaborative with the community?
6. Was there a clear understanding of the community's rights with respect to controlling education?
7. Was there a focus on relationship and trust building?
8. Was the community negotiating on equal footing with the government/other organization(s)?
9. Was the outcome unfair or bias or was it mutually beneficial?
10. Did the consultations include communities' laws and protocols, or have they been more based in Western law?
11. What has your community done to prepare for consultations about educational issues? What could they have done better?

***Part Two: Improving consultations***

1. How would you like to see such consultations carried out?
2. Are there certain protocols or laws that could be better understood by the communities? What resources would they need? Where would the consultation take place? Who would attend? Explain.
3. How can the consultation process align with Narungga culture and values?

***Part Three: Technology and education consultations***

Do you think technology (e.g. an e-learning program) could help:

1. Your community to better prepare for consultation by effectively communicating/teaching community members about the issue and/or the consultation protocol?



2. Your community to better prepare for consultation by allowing members to communicate with one another and develop consensus?
3. Your community to better prepare for consultations involving other Aboriginal groups by allowing them to communicate with one another and develop consensus?
4. Governments, organizations, lawyers and others involved in the consultation to better prepare for consultation by effectively communicating/teaching them about the community protocols?
5. Governments, organizations, lawyers and others involved in the consultation to communicate and develop common goals for consulting with the communities? Explain.
6. Governments, organizations, lawyers and others involved in the consultation to better understand the communities' laws and legal protocols? Explain.
7. Point Pearce to better understand the protocols of government and other organizations related to consultation in education? Explain.

***Part Four: Other contacts***

1. Is there anyone else involved in community consultations I should speak with?

## Appendix R: Point Pearce Government Representative Discussion Group/Interview Guide

University of Wollongong



### Point Pearce Government Representative Discussion group/Interview Guide

Thank you for taking part in the “E-learning for Empowerment: Making Aboriginal Consultations Meaningful in Canada and Australia” project. We would like to draw on your experience to evaluate e-learning opportunities, the consultation process and the potential for e-learning to improve the consultation process. Your answers to the following questions will help us to do this.

Before we begin I would like to define the terms “consultations” and “e-learning” for the purpose of this interview.

**Consultations** are meetings among Aboriginal communities, governments, and other organizations (e.g. corporations, boards of education etc.) about decisions that might impact Aboriginal rights (e.g. to land, education, etc.). Consultations are supposed to help Aboriginal communities, governments, and other organizations to resolve disagreements and develop mutually beneficial solutions outside of the court system.

**E-learning** is learning through structured, online real time (live chat) and/or self-paced (email) educational programs. For this project it will involve an online program developed to educate various groups involved in consultations to improve the consultation process and outcomes.

The objective of this interview guide is to investigate:

- the definition of meaningful consultation about education with Point Pearce (What does it look like? How does the community define it?);
- how this can be effectively communicated/taught to the community and other stakeholders/participants in these consultations using technology; and
- other contacts that can shed light on these topics.

#### *Part One: Consultations over education and technology*

1. In your experience, what are the main education issues/challenges for Point Pearce?
2. Does the community work with you (government department) on education issues?

3. Does the community work with the South Australian government, federal government and other organizations on education issues?
4. When there is consultation with these bodies over education issues, how is this carried out?
5. What are the challenges with consulting with Point Pearce over educational issues?
6. What is the technology skill level in your department?
7. Do most people have a computer and reliable Internet access from work?

***Part Two: Previous consultations with the communities to date***

When you (and/or other bodies) have consulted with the community in the past, over education issues:

1. How was it initiated? Where were the consultations held? Who was present? What was the protocol?
2. Has the community been given full and accurate information? If not, where does the communication breakdown?
3. Has the community been given sufficient time to think through the information provided, discuss it with family/friends etc. and reach a decision?
4. Was your organization aiming to compromise?
5. Was decision-making collaborative with the community?
6. Was there a clear understanding of the community's rights with respect to controlling education?
7. Was there a focus on relationship and trust building?
8. Was the community negotiating on equal footing with you or your department (or other parties)?
9. Was the outcome unfair or bias, or was it mutually beneficial?
10. Did the consultations include communities' laws and protocols, or have they been more based in Western law?
11. What has your department done to prepare for consultations with Point Pearce about educational issues? What could they have done better?

***Part Two: Improving consultations***

1. How would you like to see such consultations carried out with Point Pearce over education?
2. Are there certain protocols that could be better understood by Point Pearce? What resources would they need? Where would the consultation take place? Who would attend? Explain.

***Part Three: Technology and education consultations***

Do you think technology (e.g. an e-learning program) could help:

1. Your department (and others involved in the consultation) to better prepare for consultation by being able to access information about the community's protocols?
2. Your department to communicate with other organizations and/or governments involved in the consultation and develop common goals for consulting with Point Pearce? Explain.
3. Your department (and others involved in the consultation) to better understand the communities' laws and legal protocols? Explain.
4. Point Pearce to better understand the protocols of government and other organizations related to consultation in education? Explain.
5. Point Pearce to better prepare for consultation by effectively communicating/teaching community members about the issue and/or the consultation protocol?
6. Point Pearce to better prepare for consultation by allowing community members to communicate with one another and develop consensus?
7. Point Pearce to better prepare for consultations involving other Aboriginal groups by allowing them to communicate with one another and develop consensus?

***Part Four: Other contacts***

1. Is there anyone else involved in consultations with Point Pearce I should speak with?

## Appendix S: Point Pearce Non-Governmental Representative Discussion Group/Interview Guide

University of Wollongong



### Point Pearce Non-Governmental Representative Discussion Group/Interview Guide

Thank you for taking part in the “E-learning for Empowerment: Making Aboriginal Consultations Meaningful in Canada and Australia” project. We would like to draw on your experience to evaluate e-learning opportunities, the consultation process and the potential for e-learning to improve the consultation process. Your answers to the following questions will help us to do this.

Before we begin I would like to define the terms “consultations” and “e-learning” for the purpose of this interview.

**Consultations** are meetings among Aboriginal communities, governments, and other organizations (e.g. corporations, boards of education etc.) about decisions that might impact Aboriginal rights (e.g. to land, education, etc.). Consultations are supposed to help Aboriginal communities, governments, and other organizations to resolve disagreements and develop mutually beneficial solutions outside of the court system.

**E-learning** is learning through structured, online real time (live chat) and/or self-paced (email) educational programs. For this project it will involve an online program developed to educate various groups involved in consultations to improve the consultation process and outcomes.

The objective of this interview guide is to investigate:

- the definition of meaningful consultation about education with Point Pearce (What does it look like? How does the community define it?);
- how this can be effectively communicated/taught to the community and other stakeholders/participants in these consultations using technology; and
- other contacts that can shed light on these topics.

### *Part One: Consultations over education and technology*

1. In your experience, what are the main education issues/challenges for the Point Pearce?
2. Does the community work with you on education issues?

3. Does the community work with the South Australian government, federal government and other organizations on education issues?
4. When there is consultation with these bodies over education issues, how is this carried out?
5. What is the technology skill level in your organization?
6. Do most people have a computer and reliable Internet access from work?

***Part Two: Previous consultations with the communities to date***

When you (and/or other bodies) have consulted with the community in the past, over education issues:

1. How was it initiated? Where were the consultations held? Who was present? What was the protocol?
2. Has the community been given full and accurate information? If not, where does the communication breakdown?
3. Has the community been given sufficient time to think through the information provided, discuss it with family/friends etc. and reach a decision?
4. Was your organization aiming to compromise?
5. Was decision-making collaborative with the community?
6. Was there a clear understanding of the community's rights with respect to controlling education?
7. Was there a focus on relationship and trust building?
8. Was the community negotiating on equal footing with your organization (and other parties)?
9. Was the outcome unfair or bias, or was it mutually beneficial?
10. Did the consultations include communities' laws and protocols, or have they been more based in Western law?
11. What has your organization done to prepare for consultations with the Point Pearce about educational issues? What could they have done better?

***Part Two: Improving consultations***

1. How would you like to see such consultations carried out with Point Pearce over education?
2. Are there certain protocols that could be better understood by Point Pearce? What resources would they need? Where would the consultation take place? Who would attend? Explain.

***Part Three: Technology and education consultations***

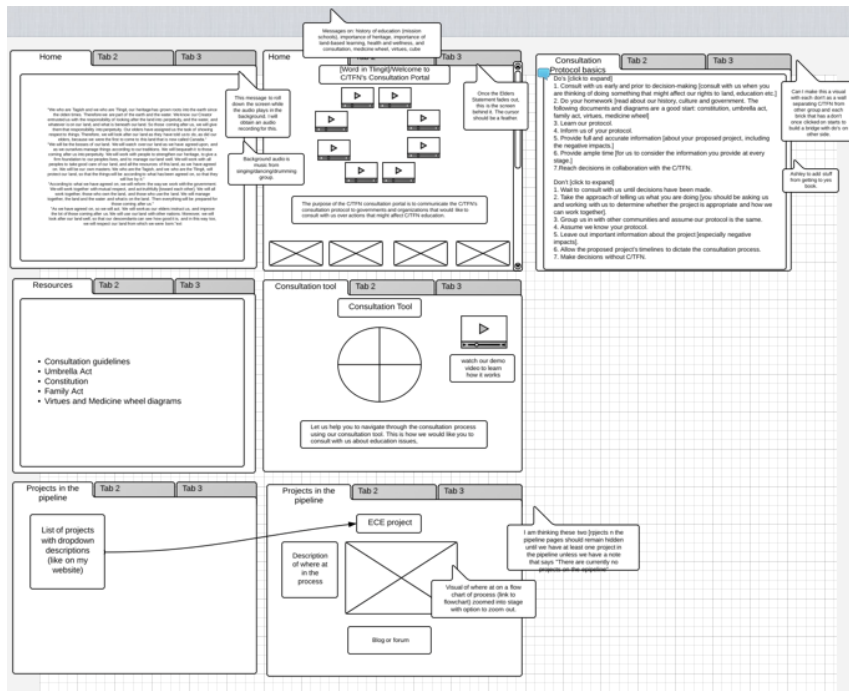
Do you think technology (e.g. an e-learning program) could help:

1. Your organization (and others involved in the consultation) to better prepare for consultation by being able to access information about the community's protocols?
2. Your organization to communicate with other organizations and/or governments involved in the consultation and develop common goals for consulting with Point Pearce? Explain.
3. Your organization (and others involved in the consultation) to better understand the communities' laws and legal protocols? Explain.
4. Point Pearce to better understand the protocols of government and other organizations related to consultation in education? Explain.
5. Point Pearce to better prepare for consultation by effectively communicating/teaching community members about the issue and/or the consultation protocol?
6. Point Pearce to better prepare for consultation by allowing community members to communicate with one another and develop consensus?
7. Point Pearce to better prepare for consultations involving other Yukon First Nations by allowing them to communicate with one another and develop consensus?

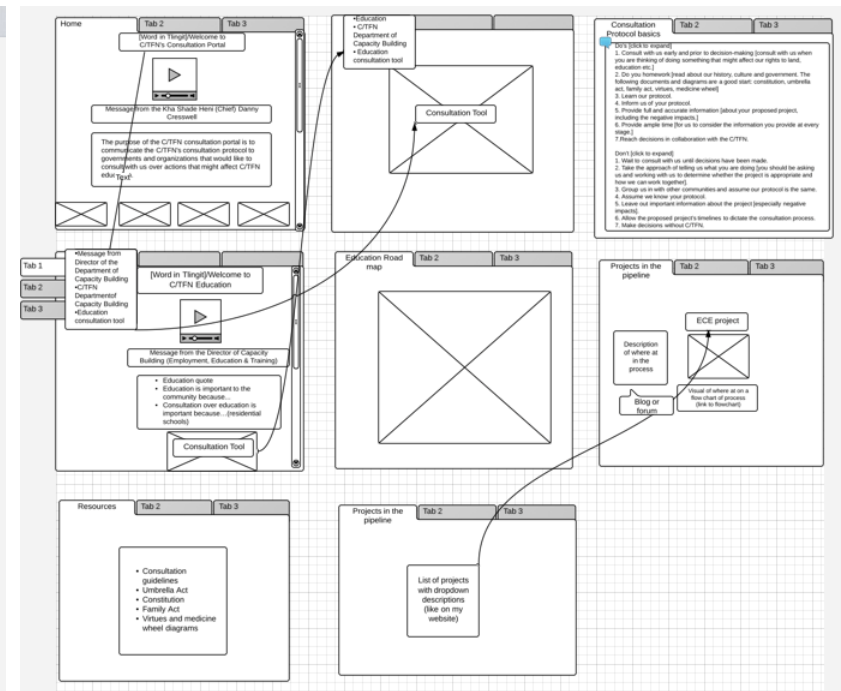
***Part Four: Other contacts***

2. Is there anyone else involved in community consultations I should speak with?

## Appendix T: Wireframes for Online Tool Development

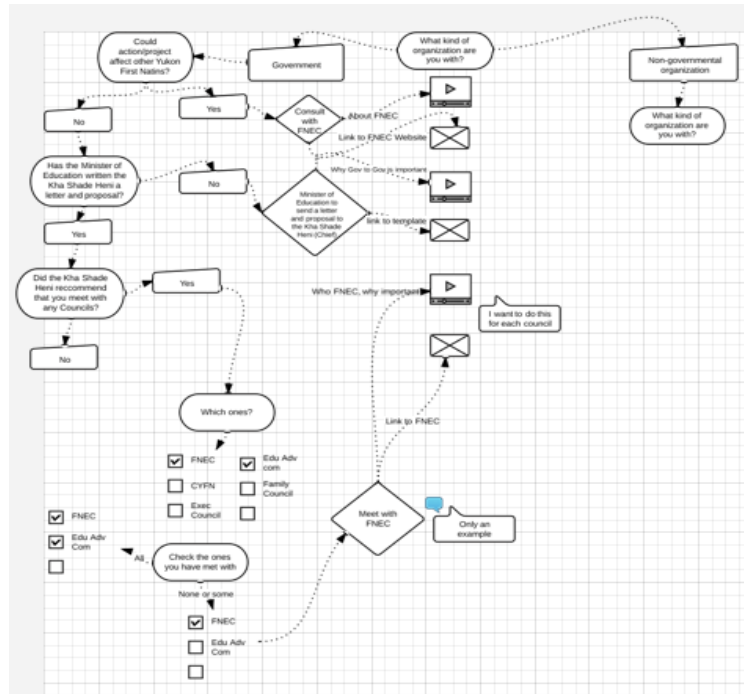


T1. Consultation Web Portal Iteration 1

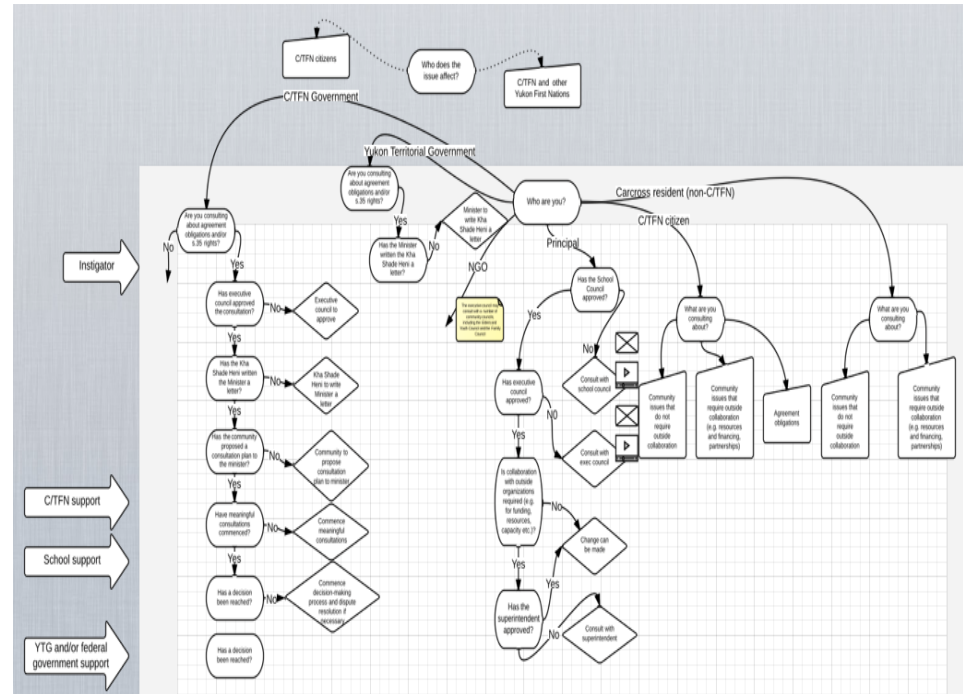


T2. Consultation Web Portal Final Iteration

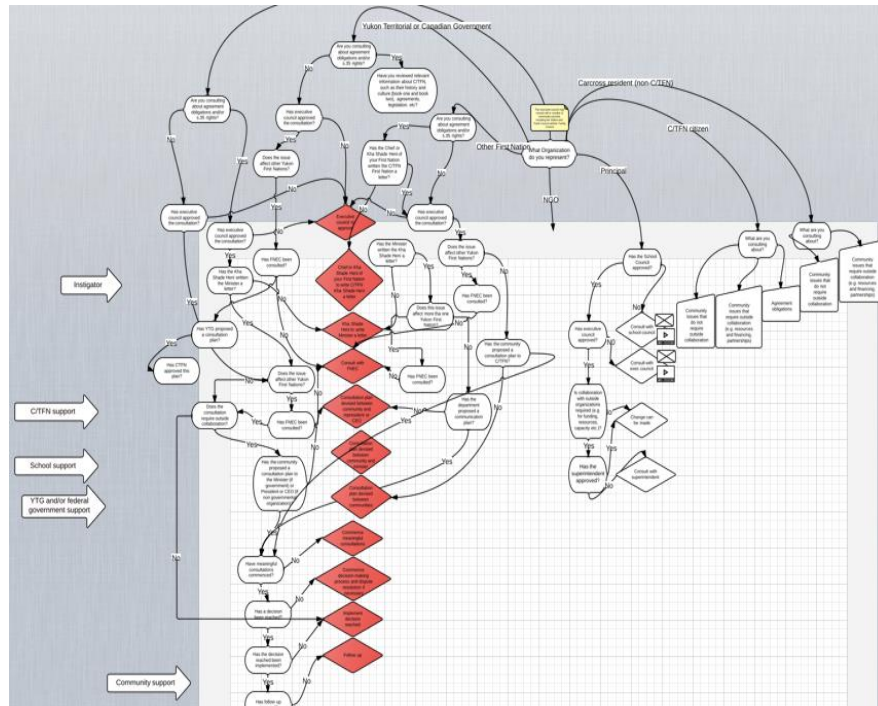




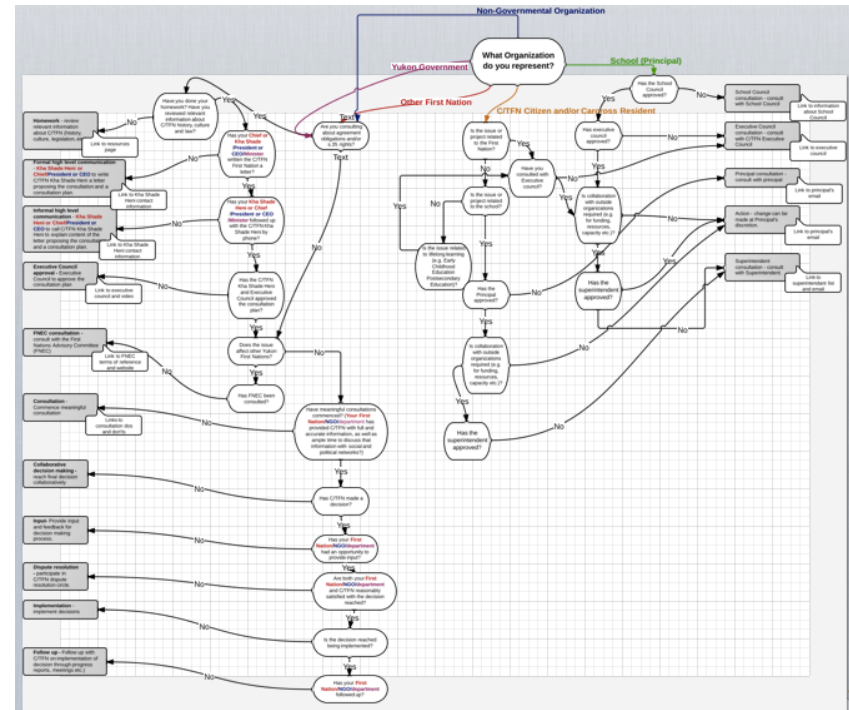
T3. Master Flowchart Iteration 1



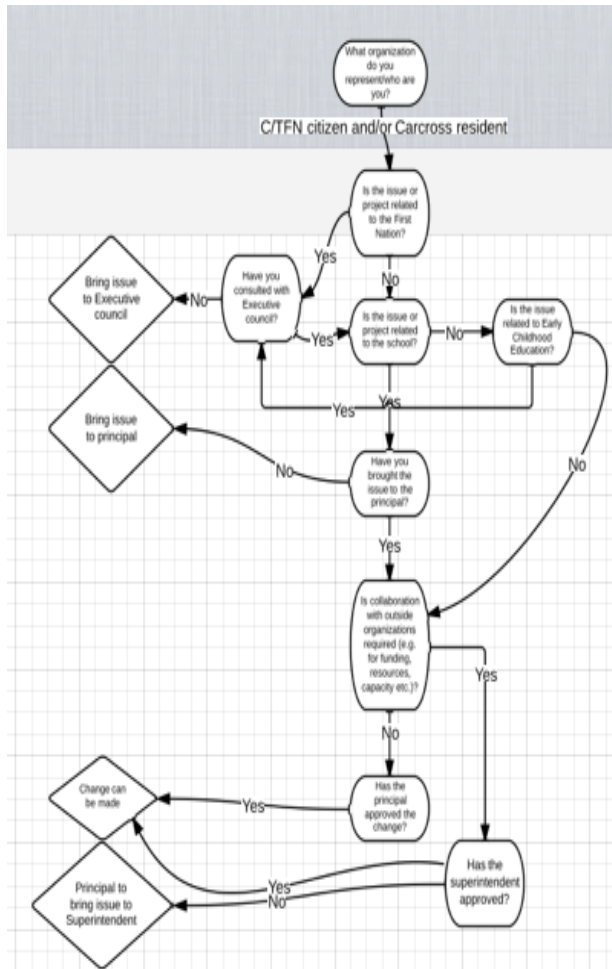
T4. Master Flowchart Iteration 2



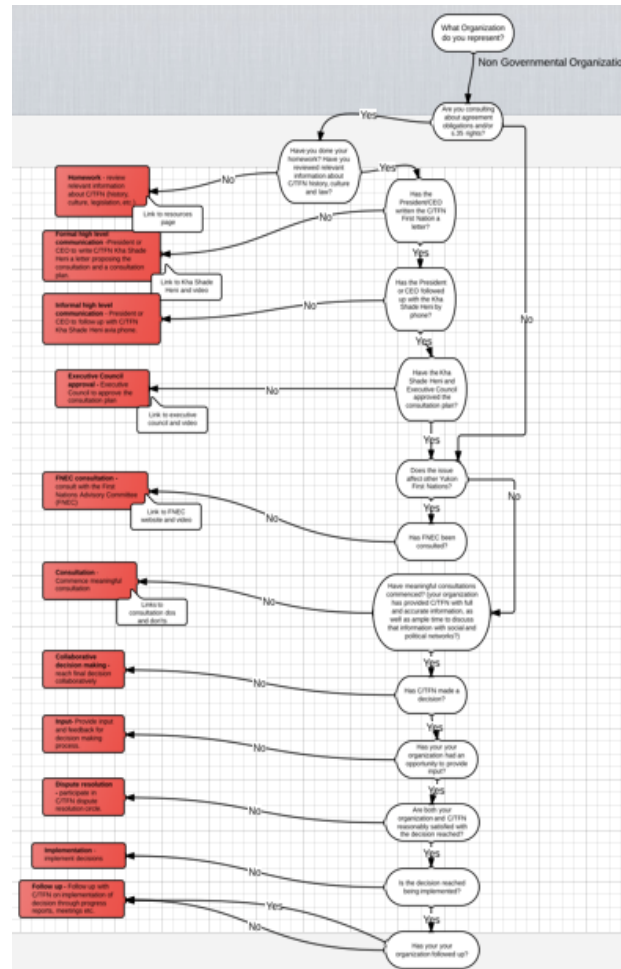
T5. Master Flowchart Iteration 3



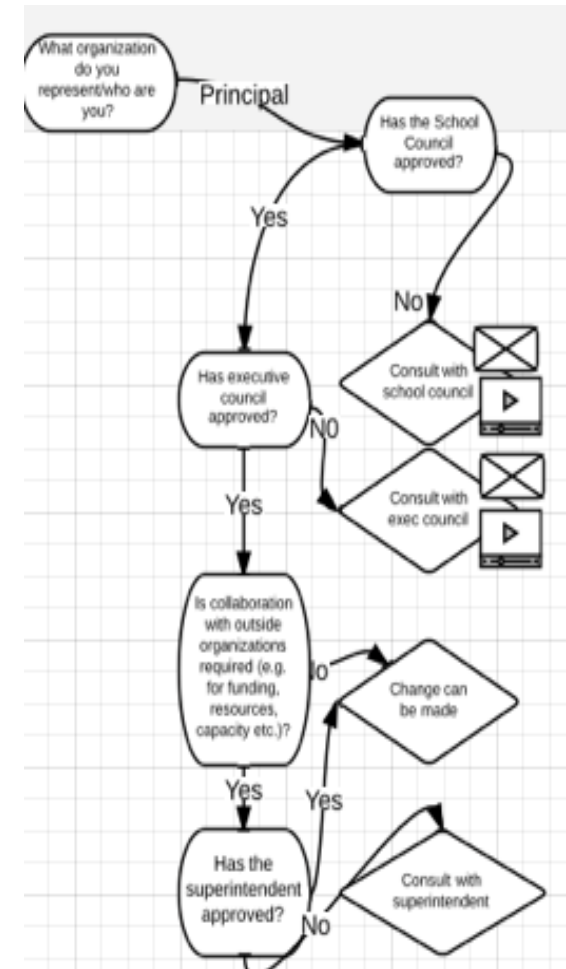
T6. Master Flowchart Iteration 4



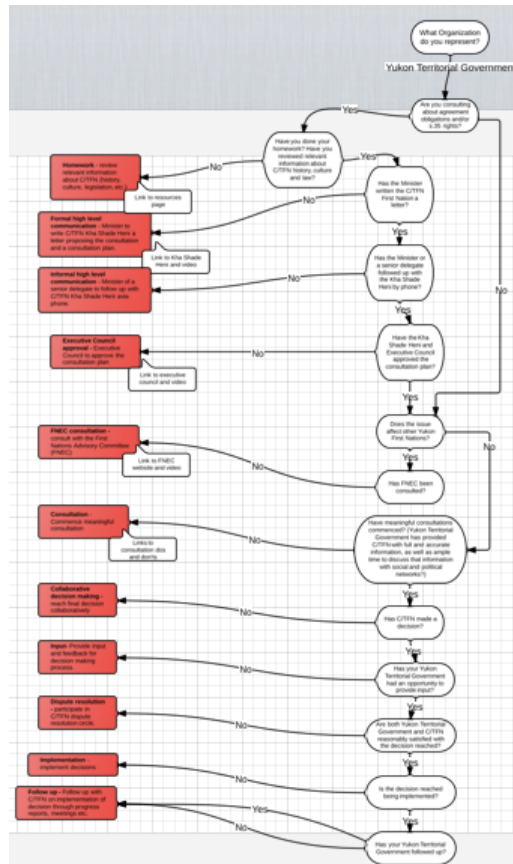
T7. Flowchart for CTFN and/or Carcross resident



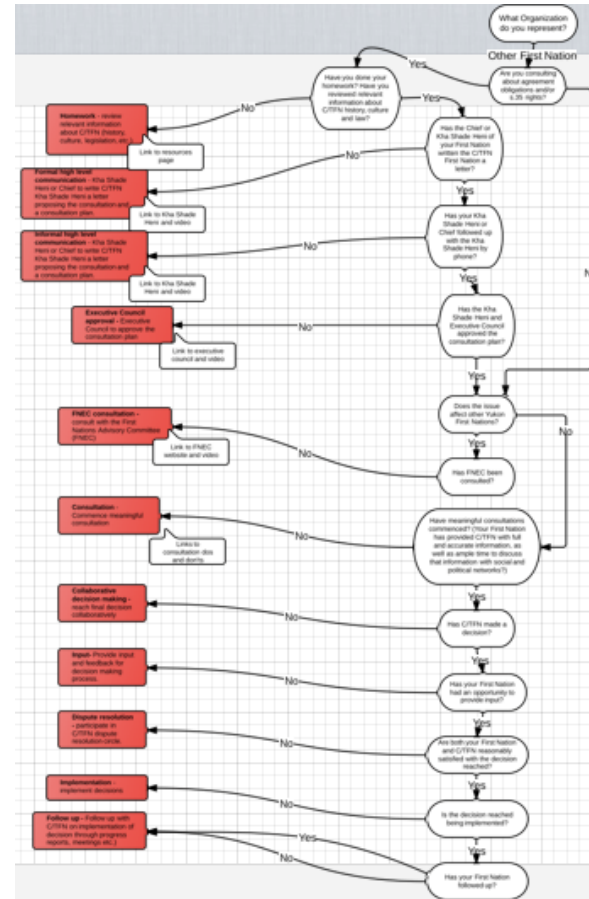
T8. Flowchart for Non-Governmental organization



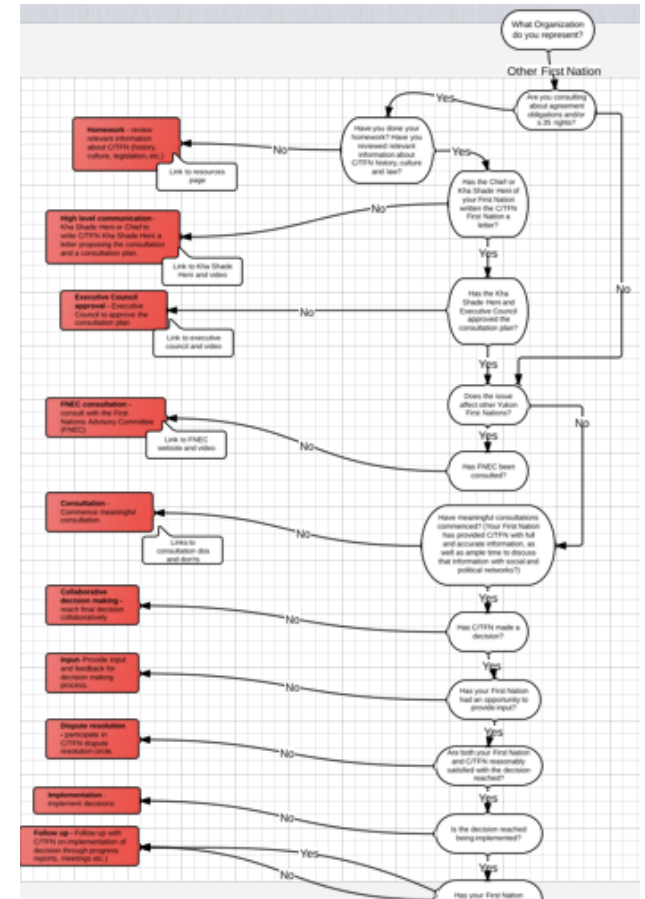
T9. Flowchart for Principal



T10. Final Flowchart for YTG



T11. Final Flowchart for other First Nations



T12. Final Flowchart Other Organizations





### Elders' Statement

"We who are Tagish and we who are Tlingit, our heritage has grown roots into the earth since the olden times. Therefore we are part of the earth and the water. We know our Creator entrusted us with the responsibility of looking after the land into perpetuity, and the water, and whatever is on our land, and what is beneath our land. So from coming after us, we will give them that responsibility into perpetuity. Our elders have assigned us the task of showing respect to things. Therefore, we will look after our land as they have told us to do, as did our elders, because we were the first to come to this land that is now called Canada."

We will be the bosses of our land. We will watch over our land as we have agreed upon, and as we ourselves manage things according to our traditions. We will bequeath it to those coming after us into perpetuity. We will work with people to strengthen our heritage, to give a firm foundation to our peoples lives, and to manage our land well.

We will work with all peoples to take good care of our land, and all the resources of this land, as we have agreed on. We will be our own masters. We who are the Tagish, and we who are the Tlingit, will protect our land, so that the things will be according to what has been agreed on, so that they will live by it.

According to what we have agreed on, we will reform the way we work with the government. We will work together with mutual respect, and act truthfully [toward each other]. We will all work together, those who own the land, and those who use the land. We will manage together, the land and the water and what is on the land. Then everything will be prepared for those coming after us.

As we have agreed on, so we will act. We will work as our elders instruct us, and improve the lot of those coming after us. We will use our land with other nations. Moreover, we will look after our land well, so that our descendants can see how good it is, and in this way too, we will respect our land from which we were born.



## Resources

[Agreements \(Self-Government Final Transfer Agreement, Self-Government, Final Agreement\)](#)

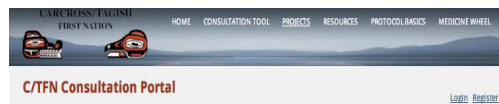
[CTN constitution and citizenship code](#)

[Capacity Development Policy Manual](#)

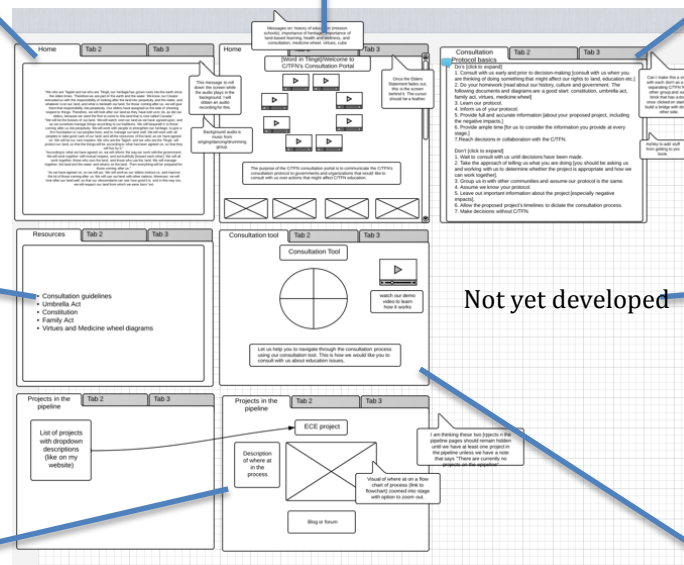
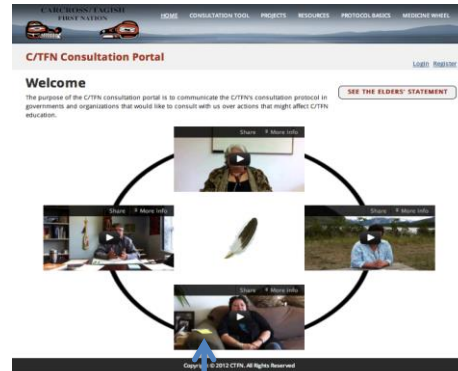
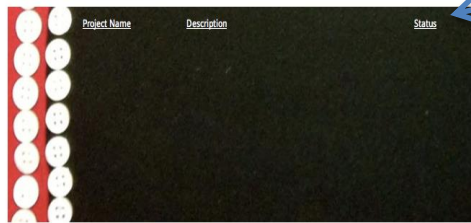
[Legislation \(Administration Act, Family Act 2010, Finance Act, Land Use, Deed and Legislation \(October 2009\)\)](#)

[RNEC terms of reference](#)

[Church, The Community School School Growth Plan 2011/2012](#)



## Projects in the Pipeline



Not yet developed



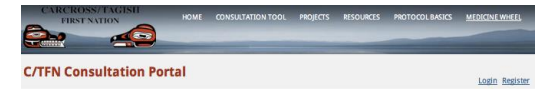
## Consultation Protocol Basics

**Do**

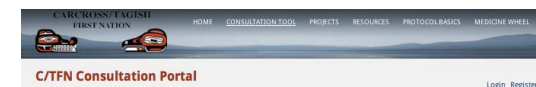
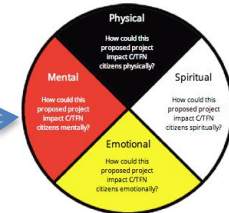
1. Consult with us early and prior to decision-making [Read More...](#)
2. Do your homework [Read More...](#)
3. Learn our protocol.
4. Inform us of your protocol.
5. Provide full and accurate information [Read More...](#)
6. Provide ample time [Read More...](#)
7. **Reach** decisions in collaboration with the CTIN.

**Don't**

1. Wait to consult with us until decisions have been made.
2. Take the approach of telling us what you are doing. [Read More...](#)
3. Group us in with other communities and assume our protocol is the same.
4. Assume we know your protocol.
5. Leave out important information about the project. [Read More...](#)
6. Allow the proposed project's timeliness to dictate the consultation process.
7. Make decisions without CITT.

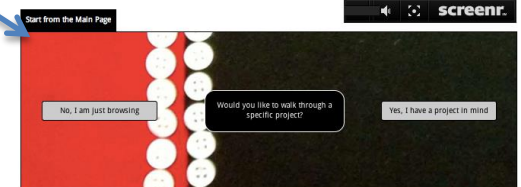


### Medicine Wheel



### Consultation Tool

Let us help you to navigate through the consultation process using our consultation tool. This is how we would like you to consult with us about educational issues.



### T13. C/TFN Consultation Web Portal Final Iteration Wireframe

## Appendix U: C/TFN Consultation Photographs



*U1.* Photographs of C/TFN community members at consultation

Appendix V:

C/TFN And Point Pearce Community Ambassador Gift Exchange



VI. Photograph of Community ambassadors Mark Wedge (left) and George Walker (Right)