

FIRST NATIONS GUIDANCE ON LAND USE PLANNING

Concurrent Session
Tuesday, August 20, 2024
8:30 a.m. – 9:45 a.m. EST



FIRST
NATIONS
GUIDANCE
ON LAND
USE
PLANNING

Ontario's rapid development requires responsible land use planning.

Learn how to fulfill your role in protecting Indigenous sacred and burial sites while building strong relationships with First Nations communities.

Understand the deep cultural significance of these sites and discover practical strategies to navigate complex projects respectfully.

TODAY'S SPEAKERS



Miptoon, Councillor,
Chippewas of Nawash
Unceded First Nation



Kevin Restoule,
Government Relations
Coordinator, Anishinabek
Nation



Tanya Hill-Montour,
Archaeology Supervisor,
Six Nations of the Grand
River



Deputy Grand Council
Chief Chris Plain,
Anishinabek Nation



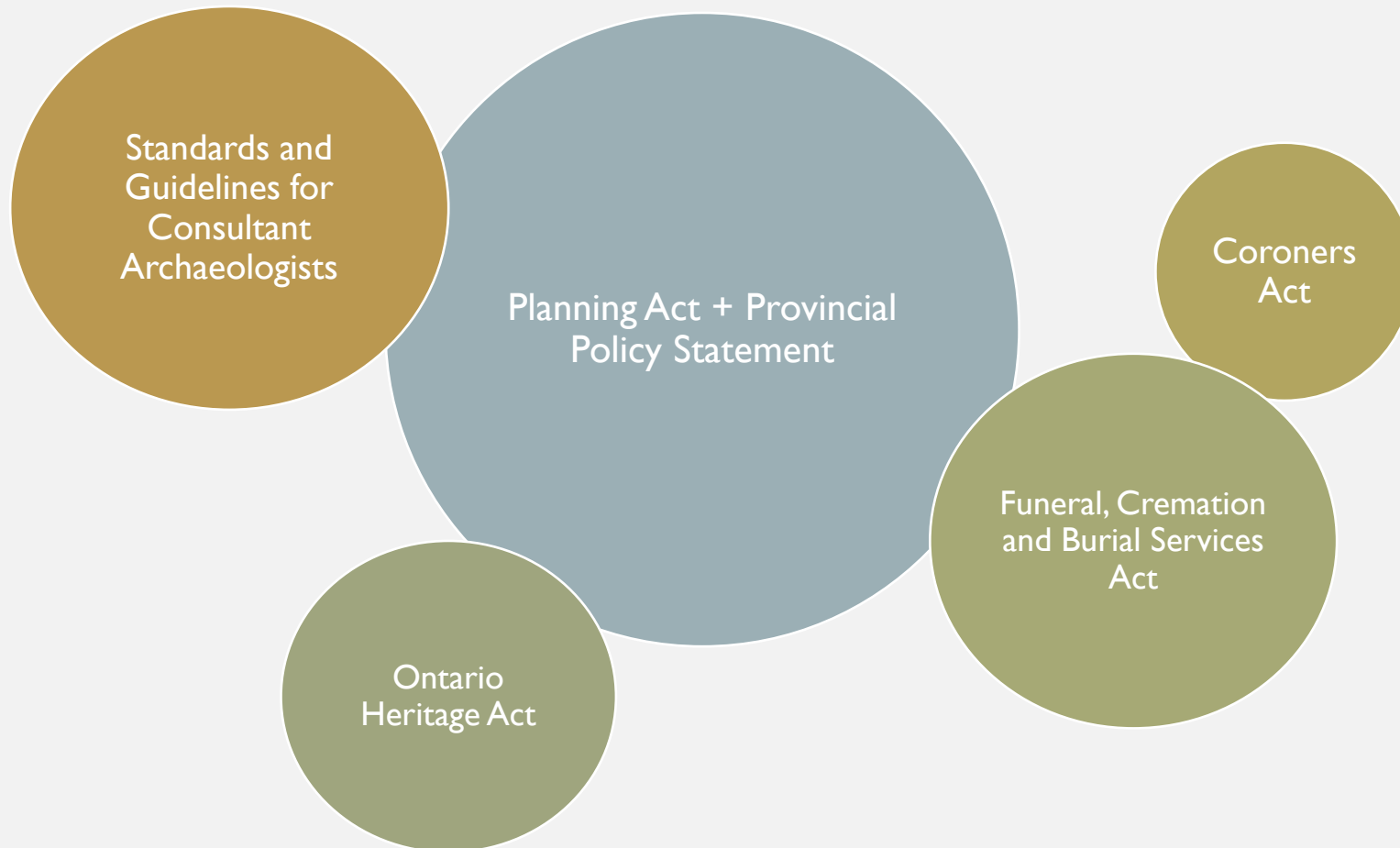
Brandy George,
Archaeologist and Cultural
Advisor

THE PROTECTION OF SACRED SITES

POLICY LANDSCAPE

- **Patchwork of domestic policy:** First Nations sites generally fall within the scope of provincial legislation. Exceptions may occur within federal Crown lands.
- There is **no standalone provincial law** that addresses the protection of culturally significant sites, archaeological sites, or the repatriation of First Nations artifacts.


POLICY LANDSCAPE



Legislation	Guidance	Challenges
Planning Act + Provincial Policy Statement	Planning authorities shall engage early with Indigenous communities and ensure their interests are considered when identifying, protecting and managing archaeological resources and cultural heritage landscapes.	The participation of First Nations in the planning process is not explicitly legislated. The PPS creates a grey area i.e., what is “early”, who are “Indigenous communities”, First Nations rights vs. “interests”. Kee:Way and AMO and jointly called on the province to provide more clarity in the PPS.
Funeral, Burial and Cremation Services Act	Requires any person who uncovers a burial containing human remains to immediately stop work and contact the appropriate authorities, such as the police or Coroner.	Required Indigenous community participation is late in the process after several key decision had been made. The protocols developed by most First Nations require consultation prior to undertaking any archaeological fieldwork.
Coroners Act	<p>Under the Coroners Act, the Coroner will determine whether the person whose remains were discovered died under any of the circumstances set out in Section 10 of the Coroners Act.</p> <p>If the remains or burial is determined to be of no forensic interest, control of the process returns to the Registrar of Cemeteries, who then determines the origin of the burial site, and declares the site to be an aboriginal people’s burial ground, a burial ground, or an irregular burial site.</p>	A process to notify First Nations about discoveries is currently being developed and implemented in Ontario.

Legislation	Guidance	Challenges
Ontario Heritage Act	<p>Defines and sets out the measures required conserving the heritage resources of Ontario. Archaeological practice and access to archaeological resources is regulated under the terms of the Act, regulations to the Act, terms and conditions of licensing, and standards and guidelines developed by the Ministry of Citizenship and Multiculturalism.</p>	<p>Under the OHA, First Nations do not have the right to manage:</p> <ul style="list-style-type: none"> • Ontario’s archaeological and historical past • Who is qualified to explore the archaeological past • How that past can be explored • Which archaeological finds have cultural heritage value or interest • How the artifacts and documentation from each archaeological site is curated/stored; and • When First Nations should be consulted about matters related to archaeological heritage.
Standards and Guidelines for Consultant Archaeologists	<p>Only set out two instances where Indigenous communities must be engaged:</p> <p>(1) Stage 3 assessment when assessing the cultural heritage value or interest of an archaeological site</p> <p>(2) Stage 3 assessment when preparing the mitigation strategy for the impacts to certain types of Indigenous sites</p>	<p>The Standards & Guidelines largely lack teeth and offer little recourse to First Nations who have feel they have not been adequately engaged in the archaeological process.</p>

COLLABORATION WITH MUNICIPALITIES



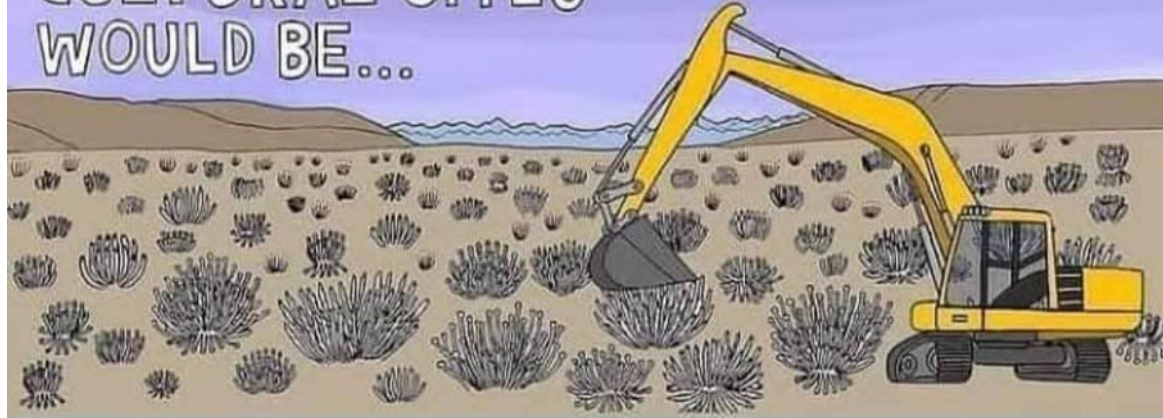
AMO OTTAWA
Six Nations
Archaeological Unit
Tanya Hill-Montour

Aug 20, 2024

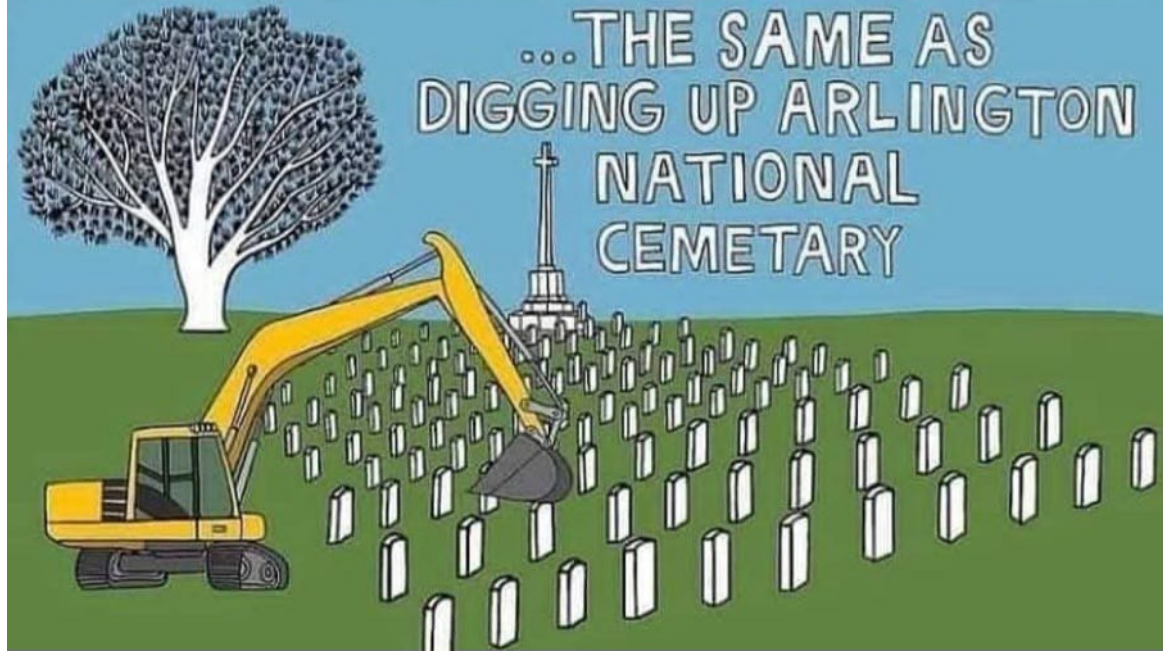


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...THE SAME AS
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Today's reality of Challenges

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News / Local News

Parking lot project cancelled following archeological findings near Grand River

Celeste Percy-Beauregard, LJI reporter

Published Aug 02, 2024 • Last updated Aug 06, 2024 • 2 minute read

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The findings on an unoccupied riverside property in the hamlet of Newport in Brant County included projectile points used by nomadic hunters and gatherers in the early and middle Archaic periods as early as 9,500 years ago, according to a report by Archaeological Consultants Canada.

Archaeological Consultants Canada

The hamlet of Newport won't be

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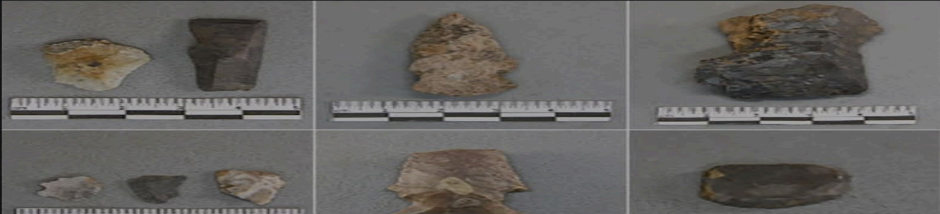
Ontario farmer says he has to pay \$400,000 in archeological fees to build a home on his field

Bruce Cassel said he was told by the Ontario government that until the dig is complete, he could face fines or even jail time for stepping out into his own field

Mohit Sharma

Published Aug 02, 2024 • Last updated Aug 02, 2024 • 6 minute read

404 Comments



CONTRIBUTORS

OPINION

Preserving Indigenous archeological sites shouldn't been seen as just more 'red tape'

We cannot go back to the time when archaeological sites and burials could be bulldozed away for the sake of progress, Paul Racher writes.

Aug. 17, 2024 | 3 min read



The fact that Ontario does not come quickly to mind when one thinks about archaeology is an unfortunate legacy of old colonial stereotypes, writes archeologist Paul Racher, seen at a dig.

Paul Racher photo



By Paul Racher

Ontario needs homes.

Doug Ford has set some aggressive goals for increasing the housing supply which by all



1991

1911

1871

1845

1823

1793

1742

1696

1597



Treaty Belts



WELCOME TO AMERICA
YOU ARE ON INDIAN LAND

IMPORTANCE OF FIRST NATION-MUNICIPAL RELATIONS
– BLUEWATER BRIDGE PROJECT

**FIRST NATIONS GUIDANCE ON LAND
USE PLANNING:**

**TECHNICAL PERSPECTIVES IN
PRACTICE**



Overview of Ontario's Rapid Development

Responsible Land Use Planning

Ontario is experiencing rapid development, necessitating responsible land use planning. This approach ensures the protection of Ancestral habitation, sacred and burial sites, emphasizing the importance of sustainable growth and respect for cultural heritage.

Importance of Building Relationships

Inclusive Planning Processes

Building strong relationships with First Nations communities is crucial for respectful and inclusive planning processes. Collaborative efforts ensure that Indigenous voices are heard and their cultural values respected in land development projects.



Legal and Ethical Considerations

Ethical Responsibilities

Beyond legal obligations, there are ethical responsibilities to protect Indigenous heritage sites. Respectful engagement and taking Indigenous perspectives seriously in land use planning are critical to ethical land management.



Legal Frameworks

Legal protections for Indigenous sites include the duty to consult and accommodate Indigenous interests as per section 35 of the Constitution Act, 1982. These include recognizing Indigenous rights and ensuring their interests are accounted for in development projects.

Strategies for Respectful Engagement

Community Participation

Incorporate Indigenous community participation in all stages of planning. This approach fosters trust and ensures that the planning process is inclusive and respectful of Indigenous knowledge and perspectives.

Ongoing Dialogue

Maintain ongoing dialogue with Indigenous communities even after initial consultations. Building long-term, transparent relationships contributes to more effective and respectful land use planning.

Early Consultation

Engage with Indigenous communities early in the planning process. Early and meaningful consultation ensures that Indigenous voices are heard and their concerns are integrated into project plans.

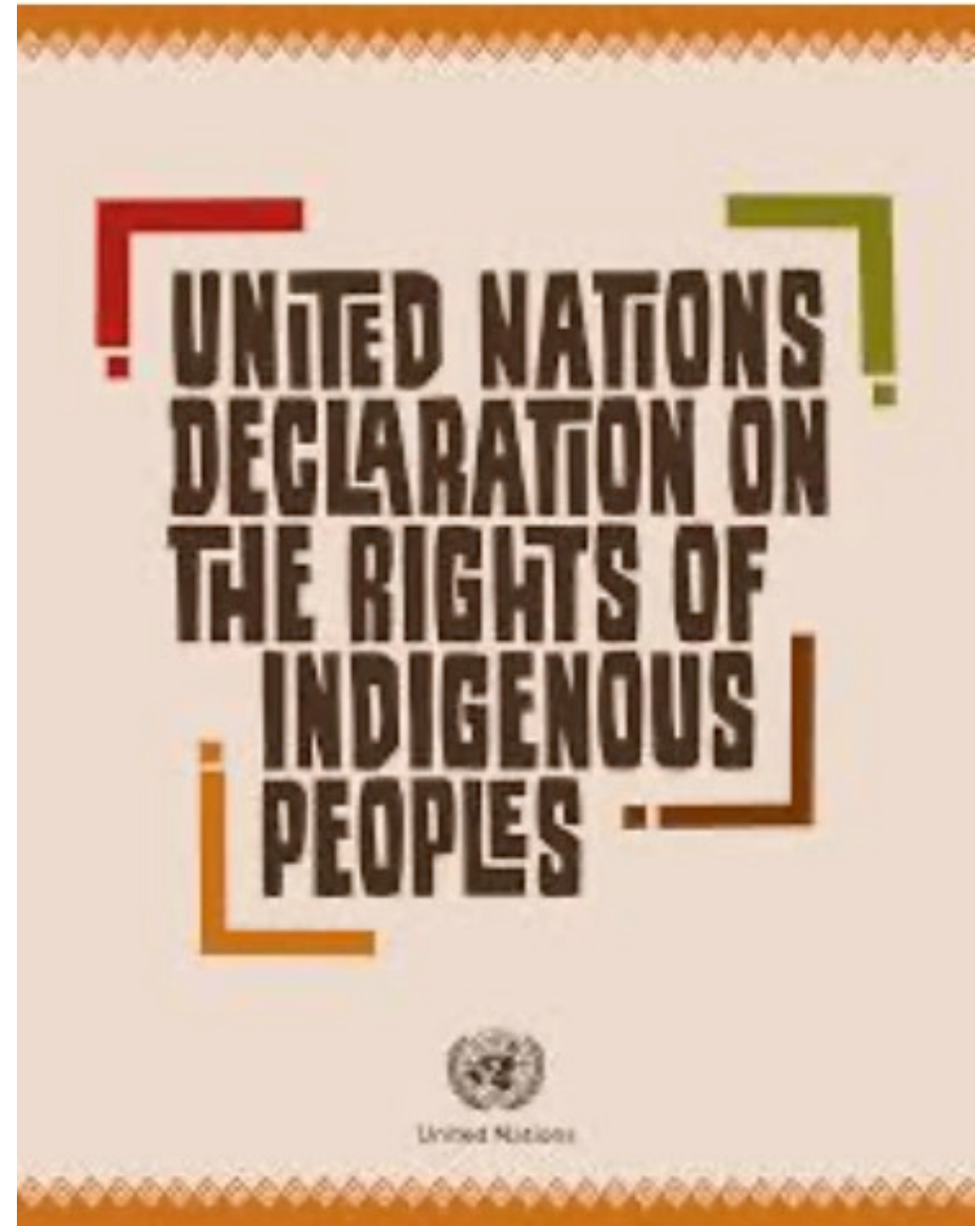
Adoption of International Frameworks

UNDRIP Adoption

Encourage the adoption of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) into provincial law. This framework provides a comprehensive approach to the rights and protections of Indigenous communities globally.

Provincial Law Integration

Integrating UNDRIP into provincial law can strengthen protections for Indigenous cultural sites and support repatriation efforts. It encourages a global standard of respect and recognition for Indigenous rights.



Building Long-term Relationships

Build and maintain long-term relationships

Work towards sustainable engagement

Establish ongoing cooperation



Commitment to Reconciliation



Reconciliation and the Crown

We emphasize the importance of reconciliation and recognize the role of the the Crown in protecting Indigenous heritage and burial sites. A commitment to these principles supports respectful and just land use planning.

Call to Action

Advocate for Change

We encourage participants to advocate for legislative reforms and engage actively with Indigenous communities. Taking these steps ensures the protection of Indigenous cultural heritage and fosters a more inclusive planning process.





Incorporating Indigenous Ways of Knowing

Consider the following:

1. Educate Yourself
2. Community Engagement
3. Land-Based Activities
4. Respect for Mother Earth
5. Cultural Competency Training

Collaborative Planning Strategies

Co-Design Approaches

Adopt co-designed approaches where First Nations and government bodies work as partners, ensuring land use planning reflects the values and knowledge of Indigenous communities.

Pre-Engagement Strategies

Develop pre-engagement strategies to build trust and relationships with Indigenous communities. This should be integrated into the early phases of project planning to ensure mutual respect and collaboration.

Joint Land Use Planning

Engage in joint municipal-First Nation land use planning to create sustainable strategies that respect both municipal and Indigenous rights.

Conclusion



Incorporating Indigenous Knowledge

Incorporating Indigenous knowledge and legal frameworks in land use planning is highly important

There needs to be emphasis on respect for Indigenous rights and cultural values for sustainable development.





MIIGWECH – NIA:WEN – THANK YOU!