

HAS THERE BEEN A TURNING POINT IN ABORIGINAL BURIAL SITE PROTECTION IN BRITISH COLUMBIA? EXAMINING THE SUCCESSES AND FAILURES OF PRESENT- DAY POLICY, PRESERVATION, AND MEDIA TACTICS IN PROTECTING ABORIGINAL BURIAL SITES

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The traditional ancestral land of the Musqueam people, one of Canada's First Nations, has never been ceded. Yet most of this land has been settled and developed by others and referred to as part of the City of Vancouver in British Columbia (BC), Canada. This has resulted in tension as the ownership and rights to protect this land are continuously called into question, especially when challenged by ancient claims. Such is the case near the edge of the present-day Vancouver city limits, where an ancient Aboriginal city named *cəsnaʔəm* (pronounced ts-uh-na/uh-m) once existed. Located on the banks of the Pacific Ocean, it was also the site of a significant burial ground for the nomadic peoples of the area. These ancient peoples are the ancestors of the present-day Musqueam band who live near the site, and their descendants demand protection of their buried family.

This paper investigates whether a modern-day conflict over development on

cəsnaʔəm was a turning point for the protection of Aboriginal burial sites in BC and Canada at large. The 2011 to 2014 conflict on this site acts as a case study into the successes and failures of present-day policy, preservation, and media strategies. After a discussion of the relevant history and policies that led to the modern conflict at *cəsnaʔəm*, I explore five distinct questions to determine whether the future of Aboriginal site protection has been significantly altered by the outcomes of the conflict.

First, a policy analysis is performed to determine whether present legislation is sufficient for protection and whether it can be applied to sites like *cəsnaʔəm*. I then examine the current relationship between the provincial government and indigenous groups: are they able to work well together, and are best practices being cultivated? The analysis turns next to the economics of Aboriginal burial-site preservation and the challenge of protecting what has legally become settled, private land. The role of media and public relations around the conflict are also considered. Finally, I address changing narratives around the site and these stories' applicability to a collective Canadian history.

After analysing these five themes, I conclude that a precedent has been set for the successful protection of Aboriginal burial sites, particularly the challenging subset of sites located on private property in BC. Greater protections at the Provincial level are expected for future claims.

Musqueam History

Before analysis on the site's modern-day conflict is begun, it is necessary to provide context, including a history of the Musqueam peoples in this area and of the early excavation history of the site. This cannot be done without reference to the greater context of Canadian–First Nations relations. This relationship is particularly important in the province of BC, where the land was never ceded and the majority of the relationships were never codified under formal treaties.

To begin, the Musqueam people are the direct descendants of the ancient Coast Salish peoples who used the *cəsnaʔəm* site. There is evidence of Coast Salish occupation of the area as early as 9000 BC. The Musqueam are not the only descendants: Coast Salish peoples extend from Vancouver Island through parts of Washington State (Porter, 1989). The term Coast Salish describes groups of tribes in this area using a related Salishan language. In more recent centuries, however, the Musqueam tribe members were the primary residents of this area and continue to live there today. Their reserve

is about 10 kilometres to the west of the site and is home to more than a thousand citizens. The Musqueam people are formally recognized as an “Indian band” but the term “tribe” is also appropriate to describe this group.

The Canadian government uses two terms to describe ancient peoples in Canada: Aboriginal and First Nations. Canada’s Aboriginal peoples encompass all first inhabitants, including the Inuit and Métis. This term is codified in the Canadian Constitution Act, 1982 under Section 35, the article recognizing Aboriginal rights. Specifically, it states “The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed. In this Act, ‘aboriginal peoples of Canada’ includes the Indian, Inuit and Métis peoples of Canada.” The term First Nations excludes these two additional groups and is generally seen as a replacement for the offensive title of “Indian.” Thus, the Musqueam are both a First Nations and an Aboriginal people. This paper is interested in Aboriginal burial-site protection in BC but recognizes that there are also limited Métis and Inuit histories in this area.

Canada’s relationship with its Aboriginal peoples is contentious at best. Presently the relationship is moving in the direction of reconciliation, but there is a long history of settler colonialism and Aboriginal oppression. The scope of this paper is not suited to a full analysis of this record, and those unfamiliar with the Canadian Aboriginal context might consult a text such as *Aboriginal People and Colonizers of Western Canada to 1900* by Sarah Carter for additional history, as well as Edward J. Hedican’s *Ipperwash: The Tragic Failure of Canada’s Aboriginal Policy*, for insight into modern-day conflicts over land and government (Carter, 1999; Hedican, 2013).

Site History

While the *cəsnaʔəm* site lies somewhat inland today as a result of silt collection over centuries, it used to be where the Fraser River, the primary waterway in the region, met the Pacific Ocean. This location was an important and productive nomadic village, used on a recurring basis (Menzies, 1938, p. 360). Tracing back more than four thousand years, but still in use in the 1700s and 1800s when Western explorers reached the Pacific Coast, these village grounds were called *cəsnaʔəm* in the Musqueam language of *hən̓q̓əmin̓ə*. They were an integral hub of the regional network of Coast Salish peoples in the area (Roy, 2010, p. 16).

As former Musqueam chief Wendy Grant said, “The Musqueam nation considers [*cəsnaʔəm*] to be one of the most meaningful storehouses of the history and culture of our people” (Roy, 2010, p. 17). The early Western narrative

regarding the site, however, has treated it as “a dump site,” “a campsite,” or as “a dumping ground for clam shells and bodies” rather than an important nomadic city (Roy, 2010, p. 113). Such denigration is recorded as early as 1884, during construction on the site, when two members of the Canadian government “removed ancestral remains and gave them to the Natural History Museum of New Westminster” (Smith, 1903). The site was referred to in these earliest recorded descriptions as a shell-heap and pile of discarded artifacts, with no references to its peoples or relatively recent past as a city. These narratives helped to convey the idea that these bodies had been disregarded and not properly buried through spiritual practices; in the Western narrative, therefore, the land was not considered a legitimate funeral ground. As a result of that narrative, the site was allowed to be developed. In 1865, George Garrypie, a settler who was married to a local Musqueam woman, applied to the BC Government to take control of the land on the Fraser river bank, including the Marpole Midden, for farming. Even though the *cəsnaʔəm* and its burial grounds had been identified to the Government by this time, and should have been protected under the Indian Grave Act of 1865, the land request was granted (Roy, 2010, p. 46). The site was not considered a gravesite, but instead treated as “forgotten remains” throughout its early history, which is how it avoided initial protection under this Act. This was likely a deliberate ignorance and oppression of Musqueam claims to further Western settler development on the site, as was common in Canadian–First-Nations relations.

Anthropologic research formally began in the village of Marpole in the 1880s. Continuing the aforementioned narrative, the term “midden” was applied to the site by the first archaeologists who studied it. The term midden is defined by the *Merriam-Webster’s Collegiate Dictionary*, 11th edition, as “1: dung hill; 2a: a refuse heap; 2b: a small pile (as of seeds, bones, or leaves) gathered by a rodent (such as a pack rat).” This term referred exclusively to the shell deposits and refuse found on the site, and the cultural artifacts or burials were ignored (Menzies, 1938, p. 359). The main archaeologist was Charles Hill-Tout, and his research on the site was conducted scientifically—each “item” found was removed, and its exact position and burial depth was documented (Menzies, 1938, April, p. 360).

Because it was not considered a graveyard, there were limited policy resources for its protection for many decades after archaeological research began. No governmental body was responsible for the protection of “salvage” archaeology at dump sites, which these grounds were now considered (Forbis, 1961, p. 257). A paper by Richard G. Forbis from 1961 highlights concerns for the

erosion of Canadian history resulting from a lack of conservation policy for archaeological sites. He notes that the only protection came from designations under what would become the Historic Sites and Monument Act.

The Marpole Midden site received that designation in 1933, prior to the formalization of the act, under a committee led by Parks Canada. However, the initial heritage status of this site came primarily from its archaeological significance rather than the Aboriginal history it contains. A local historian described the designation as “a scientific memorial” that celebrated man’s ability to find “objective truth” from archaeological investigation (Roy, 2010, p. 100). The exclusion of the Aboriginal history was made evident by the lack of Musqueam presence at the designation ceremony (Roy, 2010, p. 102). The status was given primarily as a result of the archeological work undertaken rather than its findings or the site’s origins. Designation as a heritage site meant only commemoration, not conservation or preservation; it confers no formal protections under the law.

After its designation as a historical site, there is limited academic research or media reporting on conflicts over the *c̓əsnaʔəm* land until the present day. Throughout this uncontested period there were additional policies created to protect and restore sites of great importance to the Aboriginal peoples who claim them. An overview of those policies at municipal, provincial, and federal levels is presented prior to the analysis of the modern-day conflict.

Municipal

The City of Vancouver does not presently have any municipal regulations applicable to this case. There is no policy that governs Aboriginal affairs or historic site protection in city legislation. There is presently only a designation for “built heritage” that has architectural significance and is therefore afforded protection from demolition without dedicated review and permission from the city. Although the city did formally acknowledge in city council meetings in June 2014 that the city lies on unceded Aboriginal territory, providing some precedent for greater protection in the future, that occurred after the resolution of the *c̓əsnaʔəm* conflict (Meiszner, 2014).

Provincial

There are multiple policies in place through the provincial government that should be protecting *c̓əsnaʔəm*. First, the 1865 Indian Graves Act, which was replaced in 1867 by an ordinance to prevent the violation of Indian graves, was passed to provide protection to Indian (now First Nations) gravesites and against their appropriation by new settlers to BC. The ordinance created

Policy Overview

The table below summarizes relevant policy that could play a role in the protection of this burial ground, as well as its applicability to the *cəsnaʔəm* site.

POLICY	LEVEL	DESCRIPTION	DATE	APPLICABILITY
Heritage designation	Municipal	Historic preservation status for sites with architectural significance; cannot currently be applied to historic sites	n/a	None
City council ruling	Municipal	Recognition that the city lies on unceded Aboriginal territory	2014	Recognized after the conflict
Indian Graves Act*	Provincial	To protect the appropriation of Indian grave sites by settlers—required provincial approval before disruption of any grave	1865 [1867]	Limited: site was not considered a grave
BC Cemeteries Act	Provincial	Protections for all cemeteries with funerary monuments in British Columbia	1973	Limited: site not privately owned, funerary traditions of the Aboriginal peoples not considered monuments
Heritage Conservation Act	Provincial	Protections for sites containing archaeological or cultural material	1979	High: all heritage sites predating 1846 are to be automatically protected
Historic Sites and Monuments Act	Federal	Commemoration of historic sites valuable to Canada's history	1953	Limited: No protections afforded without Crown purchase of site
Cultural Property Export and Import Act	Federal	Repatriation of artifacts removed from sites to their original owners	1985	Limited: Artifacts removed from <i>cəsnaʔəm</i> can be returned to Musqueam

* replaced by An Ordinance to prevent the violation of Indian Graves

a fine for the removal or destruction of any object from an Indian grave without provincial approval. However, because of the narrative surrounding the *cəsnaʔəm* site, it was not treated as an active grave and was not protected under the ordinance.

Specific to cases involving funerary monuments, the provincial government has the BC Cemeteries Act. Although it should, ideally, provide protection for burial sites, it has tended to be inapplicable to Aboriginal burial grounds for two reasons: first, it does not currently apply to sites not privately owned (Union of British Columbia Indian Chiefs, 2005), and second, as a result of the distinctively different cultural rituals surrounding burial at Aboriginal sites, which often contain many artifacts, the sites are treated more as archaeological remains than as what constitutes a cemetery under the act (Blair, 2005). The lack of the funerary monuments one sees in modern Western traditions has limited the act's applicability.

Finally, and most importantly in this case, the provincial government in BC has the Heritage Conservation Act of 1979 (British Columbia, 1996). It is the most applicable piece of policy to this case. This act codifies the protection of sites containing archaeological or cultural material. Here, even with the "abandoned" narrative surrounding the site, it should be eligible for protection. Specifically, it indicates under Section 13(d) that all heritage sites predating 1846 are to be automatically protected (Blair, 2005, p. 2). It also makes it illegal to damage or change anything from a burial site without permission and permit from the BC Archaeology Branch, the body that a developer must get permits and development permission from to begin construction at any site that has known archaeological value, as occurred at the start of the 2011 *cəsnaʔəm* conflict.

Federal

The government of Canada passed the Federal Historic Sites and Monuments Act in 1953. It was modelled after a similar advisory board that had served under Parks Canada authority since 1919. Its role was to commemorate historic sites across the country. Legally speaking, although it has the authority to designate sites historic, the board has limited protection authority. It may acquire and provide administration and preservation services to historic sites, on behalf of the Crown, through purchase (Canada, 1985b). No discussion of purchasing the Marpole Midden has been made publicly available, and Crown acquisitions are limited.

It is important to note that the federal government has broad jurisdiction

over “Indian Relations” in Canada. This can make provinces hesitant to engage in Aboriginal policy at risk of overlapping authority. One piece of applicable federal legislation is the Cultural Property Export and Import Act, which allows for the repatriation of artifacts found at sites such as *cəsnaʔəm* but does not protect the sites themselves (Canada, 1985a). Under the act, any unearthened artifacts would be returned to the Musqueam people, but the burial site would be disrupted to do so and would not gain protection.

The Modern-Day Conflict

The modern-day conflict at *cəsnaʔəm* began in January 2011 when a developer sought permission to build a five-story condominium building on a private site in South Vancouver. As described above, at the time of the permit application, the historic significance of the area containing the site was known. The developer’s site lay atop a portion of the ancient burial ground, on the designated heritage site of the Marpole Midden. The Musqueam First Nations, who are the most direct descendants of the Coast Salish people who used this site, appealed to the BC Archaeology Branch, asking that the burial site not be disturbed. Despite this, permits were issued for the developer to begin construction. They were issued under the Heritage Conservation Act, as is required by the Provincial Government for any site with previously known archaeological significance (Musqueam Indian Band, 2011).

Construction of the condominium building continued without further noted protests by the Musqueam, until a year later, in January 2012, when a fully intact adult burial was found. The developer again applied for a permit from the BC Archaeology Branch, this time to remove the remains and continue construction (Musqueam Indian Band, 2011). This prompted renewed protests by the Musqueam people. Construction was successfully stopped while the Musqueam band entered legal discussions with the province of BC and the developer. For four weeks, construction remained halted as these parties met, but when no decision was reached, construction resumed (Musqueam Indian Band, 2011). Four months later, two infant burials were found and partially uncovered on the site (Musqueam Indian Band, 2011). This discovery of more human remains led to renewed action by the Musqueam band. Much larger, high-profile protests were organized, and a continuous vigil, meant to last until construction was permanently halted, began at the site. A large number of articles in local and national newspapers covered the protest beginning in April 2012.

The Musqueam not only wanted construction halted, they wanted a permanent resolution that returned ownership of at least this portion of the

c̓snaʔəm site to their tribe. They began negotiations with the city and the province. In initial discussions, they proposed a land swap. They advocated for the approval of increased density for the developer elsewhere in the city of Vancouver, equal to the value of the c̓snaʔəm site. The c̓snaʔəm land would then be returned to the Musqueam, and they would create a public park that celebrates the heritage of the site (Matas, 2012). The province did not approve the land swap, but after more than a hundred days of vigil by the community, the developer's construction permits were revoked (Reynolds, 2012).

Despite the cessation of construction, the situation remained unresolved. The Musqueam were in the position to buy the piece of land, with the help of the province. They were willing to contribute millions of dollars towards the cost, obtained from the sale of other pieces of their land to the provincial government (CBC News, 2012a). The proposal of purchase was deferred for a full year until, in October 2013, the land was finally sold to the Musqueam people for an undisclosed amount (Cole, 2013). It is important to recognize that the ultimate resolution was reliant on Musqueam purchase of unceded land. The successful resolution of this conflict in favour of the protection of the burial site could be seen as a turning point for future protection of Aboriginal burial sites in BC. Through the analysis of the policy and tactics used to come to a successful conclusion, the legitimacy of this claim will be evaluated.

Analysis

1. Policy Successes and Failures

Although there is substantial policy, especially at the provincial level, that should, ideally cover the protection of the c̓snaʔəm site, its application has been limited. Because of the early narrative surrounding the site, what should be applicable is often made inadmissible. For example, the initial lack of application of An Ordinance to prevent the violation of Indian Graves allowed the burial ground to become private land instead of being protected from development.

As the narrative shifts toward being more respectful of the site as a burial ground, already-codified policies can be applied by the government in protection cases. The policies are sufficient in theory but need to be applied in practice. The Heritage Conservation Act is the best example of this; through the act, construction was halted multiple times and eventually ceased permanently. Permits had initially been granted, and the province spent months determining the degree of the act's applicability to private lands; c̓snaʔəm set a precedent for the applicability of the act to such situations.

There is ample discussion by local academics of how present policy is insufficient in practice to successfully protect burial sites. The Scow Institute, in a 2005 article titled “The Non-Protection of Canadian Aboriginal Heritage,” attributes the lack of provincial application of policy to Aboriginal sites to not wanting to step on the federal jurisdiction of Aboriginal affairs (Blair, 2005). The overlapping legal jurisdictions are a major issue. In addition, the Union of British Columbia Indian Chiefs has produced a tool kit for bands to use in heritage preservation (Union of British Columbia Indian Chiefs, 2013). The chapter titled “Village Sites and Burial Grounds” highlights how sites used by nomadic groups such as the Coast Salish peoples have consistently been neglected under BC policy. Both of these papers generally deem the policy sufficient on its face; the policy failure is when it is cannot be applied to Aboriginal burial grounds.

A recent document, titled “Declaration on the Safeguarding of Indigenous Ancestral Burial Grounds as Sacred Sites and Cultural Landscapes,” was produced by a large group of scholars after the Marpole Midden conflict (Anderson, 2014). It called for more robust policy and increased application of present policy to Aboriginal cases. The authors cite BC specifically as an area for concern in Canada, calling for greater protection of intangible heritage and the inclusion of oral traditions as credible evidence toward the need for site protection. This recent academic work, done after the *cəsnaʔəm* conflict, has identified specific policy failures in that case that suggest areas for improvement in the future.

In this specific case, policy did succeed in protecting the site in the end. It was under the Heritage Conservation Act that the BC Archaeology Branch finally halted construction. This use of the Heritage Conservation Act set a precedent for future cases that will, it is hoped, allow for quicker times to resolutions and with less need for protest. Improved relations between government and Aboriginal groups will allow similar policies to provide protection in the future.

2. Government and Aboriginal Relations

The City of Vancouver’s municipal government was firmly in support of the Musqueam’s initial plan for a land swap. The mayor of Vancouver at the time of the conflict, Gregor Robertson, tweeted “Honoured to support Musqueam nation to protect @cusnaum heritage site. B.C. gov’t must enable land swap, respect ancestors” (Howell, 2012a). Unfortunately, the role of the municipal government in heritage conservation is limited, especially when dealing with privately-owned property. The city has a density-transfer program that

is similar to the land swap the Musqueam initially proposed; through this program, the city encourages developers to adapt and reuse historic buildings. The City of Vancouver heritage bylaws only apply protections to built heritage; though it may also identify “Landscape Resources” and “Archaeological Sites,” it does not offer them formal protections like it does “Heritage Buildings”. (Vancouver, 2015). As of June 2017, the Marpole site is listed as an “Archeological Site” on the City of Vancouver’s “Vancouver Heritage Register”, but it is designated as heritage status “F,” which “indicates that the site is identified by the Federal Government as a National Historic Site. However, it is not legally protected unless it also has municipal or provincial designation, or a Heritage Revitalization Agreement” (Vancouver, 2017). The municipal government had no legal grounds to protect the site. The city called on the province to take an assertive role, but without a legal reason not to, they gave the necessary city permits for property owners to begin construction. The Musqueam have applauded the City of Vancouver for its cooperation, but ultimately its role was limited to swaying the provincial government to negotiate (Musqueam Indian Band, 2011).

Much of the policy that is best equipped to provide protection for the *c̓əsnaʔəm* site is under provincial jurisdiction. Here the relationship is less applauded. The Musqueam believed that “the BC Government . . . appointed a dedicated facilitator, but [would] not engage in the process” and that cooperation between the band and the province did not materialize (Musqueam Indian Band, 2011). The weakness of this relationship showed in the struggle to come to a resolution. At multiple points over the course of the conflict, the provincial government was quoted as saying it did not have enough tools to bring to the table in terms of policy. There is too much policy that does too little, preventing the government from acting. The province is hesitant to come to the table when, in its eyes, it has no usable policy solutions, especially on private land. A reporter received this response from the province when questioning the Musqueams’ rights to the land: “Our government recognizes that the Marpole site has great significance to the Musqueam First Nation. This situation is complicated in part by the fact that this is private land. . . . The Province’s jurisdiction on this matter is restricted to the proper administration of the Heritage Conservation Act” (Brauer, 2012). This notion of “proper administration” highlights the difference between policy text and practice. The struggle to apply Heritage Conservation Act policy has further aggravated the relationship between the two parties, who have different understandings of the “proper” administration of this policy. The province seems primarily to be stalling when it comes to resolving these differences, likely because of economic concerns surrounding private land rights.

3. *The Economics of Aboriginal Site Preservation*

The initial proposal from the Musqueam band to the province and developer was to acquire the land and compensate the developer through a land swap. This was outlined in an open letter to the premier of BC and the mayor of Vancouver, stating that the Musqueam would contribute several million dollars from other projects towards the purchase of the site, and the developers would receive an additional economic gain of a density bonus on city or provincial land (Matas, 2012).

There was certainly an understanding by the Musqueam, when initially trying to halt the project, of the need to compensate the developers who owned the property. According to the proposed terms of the land swap, the primary economic burden, though minimal, would then rest with the province. The province, however, eventually sold the land to the Musqueam, placing the economic burden back on the Aboriginal peoples. Either way, the financial burden was at no point placed on the developer, which set a productive precedent for future negotiations. Private land owners should not fear financial burden when such sites are claimed or discovered on their properties.

That said, the developers have said publicly multiple times that they see a ruling in favour of the Musqueam as a threat to private land rights. This is despite the land having been purchased, 50 years before, after it had been designated as a historic site and its history as a burial site was clearly documented. Also, the developer failed to undertake an archaeological dig in 2011 before starting construction, which could have mitigated the issue prior to their incurring any construction costs (Reynolds, 2012). After the development permits were halted, the spokesperson for the developer was quoted as saying, "By removing the permit to alter this site, the province has basically said to private land owners, 'You can't do anything with your site because we believe that there's some archaeological resources on that site,'" as well as, "They have no intention of compensating us," despite the proposals for protection from the very beginning, including compensation for the developer (CBC News, 2012b, para. 6). The dissatisfaction of the developer could be problematic in terms of future projects. The site's history and the applicable heritage designation had both been made clear long before it was purchased and development began. The developers could have anticipated a heritage claim if they had done their due diligence regarding the initial purchase of the site. Although developers should not fear economic burden related to unexpected heritage claims, they should also be responsible for exercising

due diligence to ensure that any claims are made before they spend money on construction, which would minimize overall costs.

There is also the issue of the Musqueam purchasing land that has never been ceded, using money from the sale of other traditional lands to the province. The Musqueam band had sold a portion of its traditional land for provincial road expansion for \$4.8 million (Howell, 2012b). However, that site was another piece of traditional land the rights to which the Musqueam were stripped of, in 1865 when it was allowed to become farmland. The displacement of the Musqueam people from the land in the first place needs to be balanced with the private land rights, yet the province moved to “independent real estate mediation” (Howell, 2012b). This type of mediation is purely economic and does not consider ancestral right to the lands, which should by right confer some economic benefit on the Musqueam beyond a market rate.

The provincial government had the opportunity to “overcome the ‘private property’ issue,” according to commentary by Celia Brauer, by participating in the land swap and returning the heritage site to the Musqueam (Brauer, 2012). An Aboriginal band being required to purchase unceded territory—its own ancestral land—is a common practice; such continuity with previous practices shows that there is still a ways to go.

4. Media and Public Relations

The Musqueam employed two tactics on the site that were very effective in drawing media and public attention. First was the continuous vigil on the site that blocked construction worker access. For more than a hundred days the Musqueam maintained a presence at the site, engaging with passing drivers on the busy commuter streets, as well as with members of the Marpole community. This went a long way toward making the issue widely known and was the most successful tactic used by the Musqueam in the resolution of the conflict.

Second, the Musqueam used protest tactics, such as blocking traffic on the busy, site-adjacent Arthur Laing Bridge. This occurred twice, once in May 2012 and again in August 2012, with about a hundred Musqueam and supporters marching on the bridge. The protests garnered much media attention because of the disruption of traffic, forcing the province into action.

Most of the media covered the protests in a positive light, focusing on how the land was ancestral and a long-time heritage site, as well as on how the Musqueam were planning to turn the land into a park. However, there was

still some coverage of the developers' view that cast the protection of heritage in a negative light, mostly focusing on the economics, as discussed above. An article by Rich Hutchings titled "'Cautionary Tale' and 'Game Changer'—Media Response to Marpole Midden Decision" concludes that large media hegemony reinforced the dominant views of contemporary society: opposed to preservation and in favour of economic development—even though articles may have initially appeared positive in nature (Hutchings, 2012). That was especially apparent in some of the articles regarding the Musqueam purchase of the site. The province is portrayed as "offering to give" the Musqueam money that is already owed to the band per previous agreements from provincial transportation projects on Musqueam land (Howell, 2012b). An editorial by Craig McInnes frames the whole conflict as a scathing attack on private land rights (McInnes, 2012). Although some media coverage reinforced past narratives and neoliberal views on private land rights, most journalists moved in the direction of changing the narrative in favour of the preservation of this ancient burial site.

5. *Changing Narratives*

Overall, it appears that there has been a reframing of the conversation around the site in the mass media and public eye. The article "How could they do that to burial grounds," by Andrea Woo in *The Globe and Mail*, shows how passersby begin to understand the site not as land conflict but as a lack of respect for these gravesites (Woo, 2012). The conversation moved from "forgotten" to "living" heritage and from "buried objects" to a "spiritual ancient grave site." Public opinion has shifted toward better respect for Aboriginal heritage as a living artifact rather than a set of physical objects.

The other important part of this shift in the narrative is that there is greater connection with the broader public. Said Musqueam Chief Campbell, "We all live here and share the history. I think Musqueam history is everybody's history and I hope people recognize that" (Matas, 2012). The Musqueam *cəsnəʔəm* site was framed as more accessible, as part of Canada's national history. As the public more readily considers Aboriginal history as a shared history, protection of sites like this becomes more likely. Thousands of citizens signed a petition to protect the site, and the greater community became involved in keeping vigil, with the mayor and other notable Vancouver citizens stopping by (*CBC News*, 2012a).

The band's desire to turn the land into a public park also resonated with the broader public. Chief Campbell described the area as "a jumbled collection of rundown buildings and car lots" and sold the vision of an interpretive

park providing a new entrance to the city from the South (Matas, 2012). That would require more land being purchased from surrounding sites, although the Musqueam had already purchased the Fraser Arms Hotel, located next door to the modern-day conflict site, in 1991 (Roy, 2010). The idea of creating a park in this space is not new; the “Great Fraser Midden Foundation” had proposed something similar in 1957 (Roy, 2010). But with the changing narrative and increased respect for the Aboriginal history in this area, it looks more likely that the park will finally be built.

A Turning Point?

A spokeswoman for the Musqueam band, Cecilia Point, sees the resolution of this conflict as “precedent setting in giving First Nations equal respect with non-natives” (Reynolds, 2012). The province ultimately halted construction under the Heritage Conservation Act because the “discovery of burial grounds on the property changed its heritage value,” and without Musqueam consent construction could not be authorized by the province. This was precedent setting in that both Musqueam and BC Archaeology Board permissions are now required. What the *cəsnaʔəm* case has really done to mark a turning point is its role in changing the narrative for better Aboriginal relations. The language has moved in a direction of respect for intangible (as opposed to built) Aboriginal heritage, and this is certainly a far cry from a century before at the Marpole Midden’s heritage designation ceremony. In addition, the Musqueams’ use of effective tactics, such as keeping vigil and strategic protest, has created a set of best practices that can be adapted for future situations.

However, looking at governmental bodies and their application of policy, *cəsnaʔəm* does not appear to have been a turning point at all. No significant changes in policy have been made as a result of the conflict, despite clear recommendations. Although the municipal government took a strong stance on the conflict, it did not take steps to create any municipal-level protection policies. There was also no discussion of adding Aboriginal heritage sites, of which there are many in Vancouver, to the local historic register. The municipal level of government wanted to take action and come to the table, but it had no policy through which to do so. On the other hand, the provincial government had the policy but wouldn’t come to the table. It also has not yet used the resolution as an opportunity to adapt the Heritage Conservation Act or to increase the applicability of other policies, such as the BC Cemeteries Act. Specific legal tools are still needed for sites that should have Aboriginal ownership but are currently on private lands.

A big issue preventing changes to policy is private land rights. Economically, although innovative measures were proposed, the Musqueams' purchase of the land did not mark a turning point. A solution to this ideological conflict—ancestral ownership versus what are now private lands—needs to be found, and it was not at *cəsnaʔəm*.

The most measurable way to see if *cəsnaʔəm* was indeed a turning point will be to look at its replicability in similar cases over the coming years. If this case proves itself to have guided future Aboriginal site policy, leading to easier and more productive outcomes, it will indeed have been a turning point.

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