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Anishinaabek



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NORTHERN RECONCILIATION
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Research Report | Fall 2022

A Brief History and Potential Future Vision for Additions to Reserves

Nation Rebuilding Series, Volume 2

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Land Acknowledgement

NPI would like to acknowledge the First Peoples on whose traditional territories we live and work. NPI is grateful for the opportunity to have our offices located on these lands and thank all the generations of people who have taken care of this land.

Our main offices:

- Thunder Bay on Robinson-Superior Treaty territory and the land is the traditional territory of the Anishnaabeg and Fort William First Nation.
- Sudbury is on the Robinson-Huron Treaty territory and the land is the traditional territory of the Atikameksheng Anishnaabeg as well as Wahnapiatae First Nation.
- Kirkland Lake is on the Robinson-Huron Treaty territory and the land is the traditional territory of Cree, Ojibway, and Algonquin Peoples, as well as Beaverhouse First Nation.
- Each community is home to many diverse First Nations, Inuit, and Métis Peoples.

We recognize and appreciate the historic connection that Indigenous peoples have to these territories. We support their efforts to sustain and grow their nations. We also recognize the contributions that they have made in shaping and strengthening local communities, the province, and Canada.

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Animbiigoo Zaagi'igan Anishinaabek

Our people have been present in these lands for time immemorial. Our ancestors were strong, independent people, as we are today, who moved with the seasons throughout a large area of land around Lake Nipigon. We governed ourselves using the traditional teachings we still teach our children today. Now, our community members widely scattered throughout many communities, the majority of which are located in northwestern Ontario in and around the shores of Lake Superior. We are unified by our connection to the environment, our commitment to our traditional values, and our respect for each other.



Bingwi Neyaashi Anishinaabek

The people of Bingwi Neyaashi Anishinaabek – formerly known as Sand Point First Nation – have been occupying the southeast shores of Lake Nipigon since time immemorial. Our community is dedicated to fostering a strong cultural identity, protecting Mother Earth, and to providing equal opportunities for all. Furthermore, our community vision is to grow Bingwi Neyaashi Anishinaabek's economy and become recognized as a sustainable and supportive community where businesses succeed, members thrive, and culture is celebrated.



Lac des Mille Lacs First Nation

The community of Lac des Mille Lacs First Nation is located in Northwestern Ontario, 135 km West of Thunder Bay, and encompasses roughly 5,000 HA of Mother Nature's most spectacular beauty. Our people have held and cared for our Lands and Traditional Territories since time immemorial. To fulfill our purpose and in our journey towards our vision, we, the Lac Des Mille Lacs First Nation are committed to rebuilding a strong sense of community following a holistic approach and inclusive processes for healthy community development.

Partners



Northern Policy Analytics

Northern Policy Analytics (NPA) is a community-inspired applied policy and research consulting firm based in the Yukon and Saskatchewan. Founded by Drs. Ken Coates and Greg Finnegan in response to rapidly changing conditions and opportunities in the Canadian North, NPA recognizes that Northern and Indigenous communities often experience poorer educational outcomes, higher unemployment rates, receive fewer public goods and services, and lack the economic stability needed to optimize community well-being and quality of life. Yet these communities are often located in direct proximity to some of Canada's most valuable natural resources, resulting in both opportunity and conflict.

We address both policy and economic development issues and strive to effectively bridge the gap between Indigenous communities and settler government agencies by supporting community and economic development planning, grant writing, facilitating meetings, and by supporting entrepreneurship and the development of businesses in the region. NPA also helps communities marshal the information and resources they require to improve community and economic outcomes, while mitigating the impacts of colonialism and the over-arching resource extraction sector that dominates the regional economy.



Northern Policy Institute

Northern Policy Institute is Northern Ontario's independent, evidence-driven think tank. We perform research, analyze data, and disseminate ideas. Our mission is to enhance Northern Ontario's capacity to take the lead position on socio-economic policy that impacts our communities, our province, our country, and our world.

We believe in partnership, collaboration, communication, and cooperation. Our team seeks to do inclusive research that involves broad engagement and delivers recommendations for specific, measurable action. Our success depends on our partnerships with other entities based in or passionate about Northern Ontario.

Our permanent offices are in Thunder Bay, Sudbury, and Kirkland Lake. During the summer months we have satellite offices in other regions of Northern Ontario staffed by teams of Experience North placements. These placements are university and college students working in your community on issues important to you and your neighbours.

About the Author

Dr. Ken Coates



Ken Coates is a Professor and Canada Research Chair in Regional Innovation in the Johnson-Shoyama Graduate School of Public Policy. He is also the Macdonald-Laurier Institute's Senior Policy Fellow in Aboriginal and Northern Canadian Issues.

He has served at universities across Canada (UNBC, UNB and Waterloo) and at the University of Waikato (New Zealand), an institution known internationally for its work on Indigenous affairs. He has also worked as a consultant for Indigenous groups and governments in Canada, New Zealand, and Australia as well as for the United Nations, companies, and think tanks. Ken has also served as the past president of the Japan Studies Association of Canada, and in November was inducted into the Royal Society of Canada.

Ken recently published a book called *From Treaty Peoples to Treaty Nation* with Greg Poelzer. He has previously published on such topics as Arctic sovereignty, Aboriginal rights in the Maritimes, northern treaty and land claims processes, regional economic development, and government strategies for working with Indigenous peoples in Canada. His book, *A Global History of Indigenous Peoples: Struggle and Survival*, offered a world history perspective on the issues facing Indigenous communities and governments. He was co-author of the Donner Prize winner for the best book on public policy in Canada, *Arctic Front: Defending Canada in the Far North*, and was short-listed for the same award for his earlier work, *The Marshall Decision and Aboriginal Rights in the Maritimes*.

Ken contributes regularly, through newspaper pieces and radio and television interviews, on contemporary discussions on northern, Indigenous, and technology-related issues.

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Executive Summary

The foundational relationship between land and First Nations peoples has been, and will continue to be, a central tenet in community prosperity. That relationship underlies all of the research and analysis in this Nation Rebuilding Series

The Addition to Reserve (ATR) Policy in Canada and has become a key tool for First Nations communities to pursue sustained, self-determined social and economic development. In short, an ATR is a way for a First Nations community to add land that is either contiguous to or located farther away from their reserve. The location of a non-contiguous addition can be in a rural or urban setting and is usually driven by social need or economic opportunity.

Under the ATR process, the Treaty Land Entitlement option was developed. It has been used by First Nations primarily in Manitoba and Saskatchewan to regain land for a community that did not receive full land allotment.

Although the ATR process enabled First Nations to address legal and economic needs and to provide improved services to members both on and off their original reserves, the process also had significant liabilities and constraints, and carried considerable time and financial costs. Properly done, however, the ATR system gives Indigenous peoples another means of addressing long-standing social and economic needs and emerging opportunities.

By understanding the ATR process, First Nations now have another tool that can be used in the pursuit of sustained socioeconomic development. In the context of the Three First Nations this could mean an ATR of land near the City of Thunder Bay. Such a location, and there are viable land options available, would create economic opportunity for the Three First Nations where very few exist now. It would also provide the opportunity for each community to service their off-reserve population bases in a more effective and efficient manner.



Introduction

Starting before Confederation and continuing through to the present, the Government of Canada established reserves for First Nations peoples. Ostensibly, the intent was to provide them with land for housing and economic development, principally farming—the staple of the 19th century economy. The model did not work well for northern First Nations, whose lands were ill-suited for commercial agriculture. But the government adhered to the strategy for generations, believing that the careful management of Indigenous settlement and control of First Nations' movements would pave the way for constructive relationships. There were major shortcomings with this strategy. Efforts to control movements, which included a 'pass system' that gave Indian agents—government officials tasked with implementing government policy on reserve and managing the affairs of First Nations—the opportunity to regulate Indigenous mobility, failed. Most reserves today do not provide decent economic prospects, in large part because the government did not follow through on promises to support Indigenous agricultural development.

The national reserve strategy was not a benign policy intervention. The approach had a firm ideological foundation. The government sought to achieve three interconnected elements: protection, civilization, and assimilation. The first, protection, was predicated on the belief that the weakened First Nations, suffering from decades of devastating epidemics and dislocated by the arrival and interventions of non-Indigenous peoples, had to be preserved from utter destruction. Civilization, the second element, called on an alliance of church and state to introduce First Nations to Christianity, the 'protestant work ethic,' and the market economy. The final element, assimilation, called for government policy to move Indigenous peoples systematically toward integration with the broader economy and society. None of these elements had the clear endorsement of First Nations. That said, some First Nations individuals and communities shared part of the government's vision, but without an acceptance of the government manipulation embedded in its attempts at social engineering.

The reserve locations reflected the realities of the times during the establishment of the reserves in the 1870s through to the 1920s. First Nations wanted reserves set aside within their traditional territories and in settings that had immediate utility as fishing or hunting grounds, were near trading posts, or were in areas with agricultural promise. For its part, the Government of Canada did not want First Nations peoples living near major centres, if this could be avoided, and hoped to reserve prime agricultural land for commercially minded non-Indigenous peoples. Furthermore, the reserves were allocated on the basis of 640 acres per family of five, although there were many examples of government officials undercounting the number of members eligible for inclusion—deliberately or through neglect. As a result, many of the reserves were too small from the outset and were not sufficient to accommodate growing First Nations populations.

By the early 20th century, if not before, the deficiencies of the Canadian reserve system were well-known. The forced separation of First Nations and other Canadians reinforced and strengthened racial stereotypes and discrimination. Indigenous peoples were blocked from most economic opportunities. The gap in wealth between First Nations and other Canadians, already pronounced as of 1867 and Confederation, widened steadily over time. There were also growing deficiencies in other core elements of Canadian life, such as access to clean water, education, and housing. In the middle and Far North, where the harvesting economy continued through to the 1950s, the reserves were more incidental than central to Indigenous ways of life. Beginning in the 1950s, and reinforced through programs such as mothers' allowances, pensions and welfare payments, state-built homes, and greatly empowered Indian agents, the reserves evolved into centres of poverty, government control, and marginalization. Many of these settlements were located far from major population centres and away from roads and railways, which further exacerbated the challenges of reserve life.



But the reserves, whatever their liabilities, were the only piece of territory over which First Nations had even a modicum of control or influence. And there were some benefits. The land was protected from alienation (transfer) to non-Indigenous peoples. First Nations could secure direct support from the government for local development. And First Nations peoples working on reserves did not, and still do not, have to pay income taxes. But such strengths were also liabilities. Reserve lands, portions of which could be controlled by a First Nations individual, could not be mortgaged. This put a severe constraint on personal entrepreneurship. The ever-present hand of the government, likewise, was a disincentive for individual initiative or collective action.

Without putting too fine a point on it, the reserve system in Canada failed both in meeting Government of Canada objectives and providing a solid foundation for Indigenous economic and social development. Over time, the gap between Indigenous and non-Indigenous peoples expanded, with First Nations paying the lion's share of the personal and collective costs for the shortcomings of the reserve system. As time passed, and as the First Nations population rebounded from the early 20th century nadir, reserves became overcrowded, a challenge complicated by the striking poverty and social challenges that accompanied economic distress.

In the 1960s, First Nations began to demand changes in reserve policy, fighting in the courts against a lengthy series of controversial seizures of reserve lands during World War I and demanding a recalculation of initial reserve allocations made in association with 19th and early 20th century treaties. In other instances, the changes requested were more basic: small additions to an existing residential reserve (i.e., a reserve that is occupied by First Nations families) or an additional reserve that provided enhanced economic opportunity for the community. The government listened, although not with enthusiasm, drafting the Addition to Reserve (ATR) Policy to provide a process for resolving Indigenous aspirations.



The Government of Canada's Addition to Reserve Policy

Under the Indian Act, First Nations reserves are lands held in trust by the Crown (or the Government of Canada) for the exclusive use of a First Nation. The reserves were initially set up in perpetuity, providing First Nations with a specific, typically small, piece of their traditional territories. As the decades passed, it became clear that 'permanent' did not always mean that. In British Columbia and on the prairies, in particular, numerous First Nations had a substantial portion of their reserve 'cut off' for other purposes, particularly during World War I when the government was eager to push marginal or underutilized farmlands into full production.

In the 1970s, the government established a process for Addition to Reserve, in which a First Nation could apply to receive an addition to their land. The additions could be 'contiguous,' as in directly attached to the traditional holdings, or they could be separate or non-contiguous. The policy provided all First Nations with an opportunity to convert a land entitlement or investment capital into an increase in their reserve lands. For urban or near-urban First Nations, the policy allowed for an expansion of commercially valuable property; for remote or isolated First Nations, the Addition to Reserve Policy could give them a foothold in a more economically valuable urban or industrial setting.

The policy, established in 1972 and updated in 2001 and again in 2016, provided a framework for government-First Nations action with regard to specific claim and treaty settlement agreements that included land allocations. It was not a uniform success. Assembly of First Nations (AFN) resolution 14-2011, Additions to Reserve and Economic Development, notes that "the federal government's policy on Additions to Reserve (ATR) contains many barriers to the addition or creation of reserves which frustrate the resolution of claims and impedes First Nation economic and social development." The system had the clear goal of expanding First Nations economic opportunities, particularly by providing First Nations with commercially valuable lands. According to the Government of Canada's policy, additions to reserves could be one of three types:

1. A federal government response to a specific legal obligation or commitment to a First Nation that referenced reserve creation or the expansion of a reserve.
2. A response to a First Nations' request regarding the need for land to address local population growth and/or to ensure that culturally significant sites are included in reserve lands or otherwise protected.
3. A federal government response to a situation wherein a Specific Claims Tribunal awards compensation to a First Nation with the expectation that the funding will be used to add to land holdings.



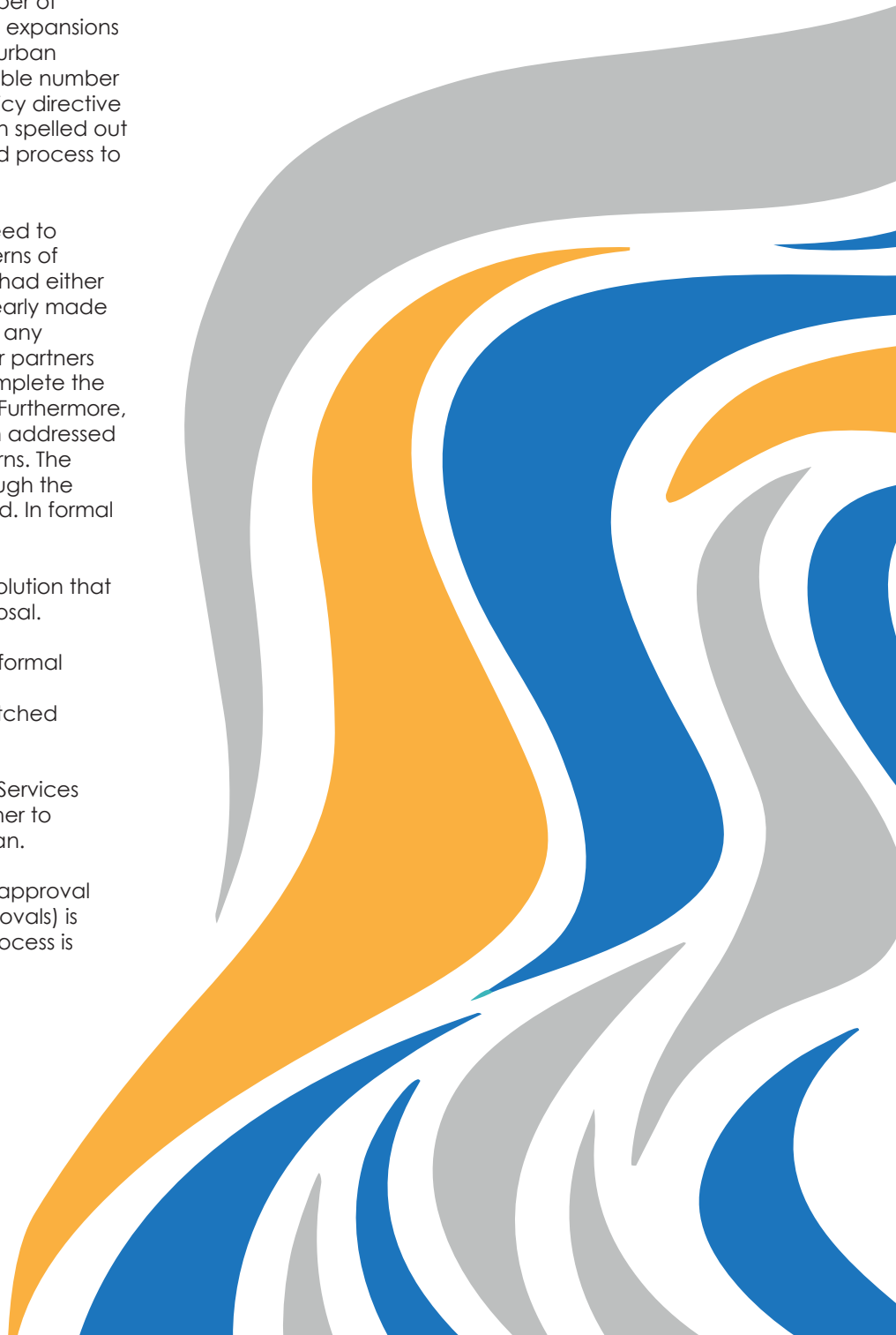
Under the updated 2016 Addition to Reserve Policy, the Government of Canada enumerated a series of principles governing the Addition to Reserve process. Specifically, the principles included the understanding that:

- a. Nothing in this Policy constitutes a guarantee that any Reserve Creation Proposal will ultimately result in a particular parcel of land being set apart as Reserve. The final decision to set apart land as Reserve rests with the Governor in Council or the Minister of Indigenous and Northern Affairs Canada (INAC). See clause 5.0 (Context).
- b. INAC will consider the potential or established Aboriginal or Treaty rights of First Nation, Métis, and Inuit peoples before setting apart lands as Reserve.
- c. The views and interests of provincial, territorial and Local Governments will be considered, and collaboration between the First Nations and those governments will be encouraged on issues of mutual interest and concern.
- d. Options to address third party interests or rights on lands will be identified when considering Reserve Creation Proposals.
- e. Reserve Creation Proposals will make cost effective use of financial resources.
- f. The environmental condition of land proposed for Reserve Creation will be acceptable for its intended use and will comply with applicable federal requirements.
- g. Reserve Creation Proposals will comply with applicable federal requirements for land acquisition and management.
- h. The use and development of community and land use planning tools is encouraged to assist First Nations in planning for land acquisition and Reserve Creation, and to facilitate land management after Reserve Creation.
- i. INAC encourages accountability and transparency through the entire Additions to Reserve process. This can be achieved by communicating key milestones and decision points, where appropriate, to community members using tools such as the First Nations Gazette.

The intergovernmental processes of adding to reserves are as complicated as would be expected given the extensive legal issues, complexities, and emotional entanglements of the Indian Act; the involvement of multiple levels of government; and the need to satisfy both the Government of Canada and First Nations authorities. As initially construed, the Addition to Reserve process was expected to be used sparingly and usually in specific legal circumstances. After the 1980s, as First Nations economic activities and legal authority spiked upward, the number, variety, and urgency of the reserve adhesions grew dramatically. While the number of additions is large, many are small contiguous expansions of holdings. But there are now more than 50 urban reserves in Saskatoon alone, with a comparable number now under negotiation. This led to a new policy directive governing Additions to Reserve in 2016, which spelled out a more comprehensive, Indigenous-engaged process to expanding reserve holdings.

In general, the Government of Canada agreed to requests for additions to reserves if the concerns of local, provincial, and territorial governments had either been addressed or if the First Nations had clearly made a concerted and good faith effort to resolve any outstanding issues. The First Nations and other partners had to have allocated sufficient funds to complete the process, which can take years to complete. Furthermore, environmental challenges had to have been addressed as well as any outstanding third-party concerns. The requirements are fairly straightforward, although the process can be convoluted and complicated. In formal terms, the stages are simple:

1. A First Nation submits a band council resolution that includes a formal Reserve Creation Proposal.
2. Indigenous Services Canada provides a formal evaluation of the proposal and a formal endorsement of the submissions that matched federal requirements.
3. With an approved proposal, Indigenous Services Canada and the First Nation work together to develop a mutually acceptable work plan.
4. With these elements in place, ministerial approval (and, if necessary, Order in Council approvals) is provided and the Addition to Reserve process is complete.



As more First Nations considered the Addition to Reserve/urban reserve process, suggestions and criticisms about the existing processes followed. Following extensive national consultations, the Government of Canada released a modified Addition to Reserve Policy in 2016 that provided clearer assessment and implementation guidelines, offered greater assurance to external and third-party interests (including encouragement of consultation), and offered a more expedited process. Additionally, the amended policy provided for an early-process indication of Indigenous Services Canada support; greater awareness of environmental considerations; and supportive materials and processes for community members likely to be affected by the reserve expansion. Significant changes in the 2016 policy included an allowance for greater flexibility in the identification and selection of lands for addition and particular attention to the economic development aspects of an reserve addition application.

Table 1: Addition to Reserve Agreements in Canada, 2010-2019

Location	First Nation	Category	Size of Allocation (Ha.)	Size of Allocation (Ac.)	Urban or Rural	Date? Approved or Signed
Atlantic	Metepenagiag Mi'kmaq Nation	Legal Obligation		49.27	Urban	Q1 2019
Atlantic	Madawaska Maliseet First Nation	Legal Obligation		3.21	Urban	Q2 2019
Atlantic	Metepenagiag Mi'kmaq Nation	Community Addition		8.85	Urban	Q2 2019
Atlantic	Membertou	Community addition	0.809	2	Urban	Q2 2017
Atlantic	Madawaska Maliseet First Nation	Community addition	3.027	7.48	Urban	Q2 2017
Atlantic	Acadia	Legal obligation	4.872	12.04	Urban	Q2 2017
Atlantic	Membertou	Community addition	38.59	95.37	Urban	Q1 2012
Atlantic	Oromocto	Legal obligation	4.287	10.59	Urban	Q2 2012
Atlantic	Millbrook	Community addition	0.001	0	Urban	Q3 2012
Atlantic	Madawaska Maliseet	Legal obligation	14.45	35.71	Urban	Q4 2012
Atlantic	Shubenacadie	New reserve	54.799	135.36	Urban	Q1 2011
BC	Songhees First Nation	Community addition	0.53	1.31	Urban	Q3 2018
BC	Semiahmoo	Community addition	0.5	1.24	Urban	Q3 2018
BC	Tlowitsis Tribe	New reserve	256.814	634.6	Urban	Q4 2017
BC	Musqueam	Community addition	15.67	38.7	Urban	Q1 2016
BC	Musqueam	Community addition	3.14	7.76	Urban	Q1 2016
BC	Tzeachten	Legal obligation	11.62	28.71	Urban	Q2 2016

Table 1: Continuation

Location	First Nation	Category	Size of Allocation (Ha.)	Size of Allocation (Ac.)	Urban or Rural	Date? Approved or Signed
BC	Penticton	Community addition	2.258	5.58	Urban	Q4 2016
BC	Metlakatla	Legal obligation	8.34	20.61	Urban	Q1 2015
BC	Lax Kw'alaams	Legal obligation	10.2	25.2	Urban	Q1 2015
BC	Campbell River	New reserve/ Other	14.16	35.28	Urban	Q4 2014
MB	Gambler First Nation	Community Addition		7.57	Urban	Q2 2019
MB	Peguis	Legal Obligation		3.71	Urban	Q3 2019
MB	Rolling River	Legal Obligation		77.51	Urban	Q3 2019
MB	Sapotaweyak Cree Nation	Legal Obligation		0.21	Urban	Q2 2018
MB	War Lake First Nation	Legal obligation	0.057	0.14	Urban	Q4 2017
MB	War Lake First Nation	Legal obligation	0.077	0.19	Urban	Q4 2017
MB	War Lake First Nation	Legal obligation	0.057	0.14	Urban	Q4 2017
MB	War Lake First Nation	Legal obligation	0.081	0.2	Urban	Q4 2017
MB	War Lake First Nation	Legal obligation	0.077	0.19	Urban	Q4 2017
MB	War Lake First Nation	Legal obligation	0.093	0.23	Urban	Q4 2017
MB	War Lake First Nation	Legal obligation	0.089	0.22	Urban	Q4 2017
MB	War Lake First Nation	Legal obligation	0.085	0.21	Urban	Q4 2017
MB	War Lake First Nation	Legal obligation	0.085	0.21	Urban	Q4 2017
MB	War Lake First Nation	Legal obligation	0.085	0.21	Urban	Q4 2017

Table 1: Continuation

Location	First Nation	Category	Size of Allocation (Ha.)	Size of Allocation (Ac.)	Urban or Rural	Date? Approved or Signed
MB	War Lake First Nation	Legal obligation	0.085	0.21	Urban	Q4 2017
MB	War Lake First Nation	Legal obligation	0.093	0.23	Urban	Q4 2017
MB	War Lake First Nation	Legal obligation	0.089	0.22	Urban	Q4 2017
MB	War Lake First Nation	Legal obligation	0.15	0.37	Urban	Q4 2017
MB	War Lake First Nation	Legal obligation	0.21	0.52	Urban	Q4 2017
MB	War Lake First Nation	Legal obligation	0.045	0.11	Urban	Q4 2017
MB	War Lake First Nation	Legal obligation	0.057	0.14	Urban	Q4 2017
MB	War Lake First Nation	Legal obligation	0.057	0.14	Urban	Q4 2017
MB	War Lake First Nation	Legal obligation	0.057	0.14	Urban	Q4 2017
MB	War Lake First Nation	Legal obligation	0.057	0.14	Urban	Q4 2017
MB	War Lake First Nation	Legal obligation	0.117	0.29	Urban	Q4 2017
MB	War Lake First Nation	Legal obligation	0.117	0.29	Urban	Q4 2017
MB	War Lake First Nation	Legal obligation	0.057	0.14	Urban	Q4 2017
MB	Nisichawayasihk Cree Nation	New Reserve	1.7	4.21	Urban	Q2 2016
MB	Long Plain	Legal obligation	1.14	2.71	Urban	Q2 2013
MB	Red Sucker Lake	Legal obligation	10.887	26.9	Urban	Q4 2011
NWT	Salt River First Nation #195	Legal obligation	#####	37264.3	Urban	Q2 2011
ON	Fort William	Community addition	17.895	44.22	Urban	Q1 2011

Table 1: Continuation

Location	First Nation	Category	Size of Allocation (Ha.)	Size of Allocation (Ac.)	Urban or Rural	Date? Approved or Signed
QC	Mohawks of Kahnawa:ke	Community Addition		141.32	Urban	Q2 2018
QC	Mohawks of Kahnawa:ke	Community Addition		173.19	Urban	Q2 2018
QC	Nation Huronne Wendat	Legal obligation	0.095	0.24	Urban	Q2 2017
QC	Kahnawake	Community addition	90.981	224.82	Urban	Q3 2017
QC	Nation Huronne Wendat	Legal obligation	59.08	146	Urban	Q1 2016
QC	Kitigan Zibi Anishinabeg	Legal obligation	0.206	0.51	Urban	Q2 2016
QC	Kitigan Zibi Anishinabeg	Community addition	2,582.00	6380.26	Urban	Q2 2016
QC	Innu Takuaikan Uashat Mak Mani-Utenam	Community addition	98.378	243.1	Urban	Q1 2012
QC	Kitigan Zibi Anishinabeg	Legal obligation	0.3	0.74	Urban	Q4 2011
SK	Yellow Quill	Legal obligation	0.188	0.46	Urban	Q3 2018
SK	Star Blanket Cree Nation	Legal obligation	13.152	32.5	Urban	Q3 2018
SK	Thunderchild First Nation	Legal obligation	0.104	0.26	Urban	Q3 2018
SK	Treaty 4	Legal obligation	40.67	100.49	Urban	Q2 2016
SK	Treaty 4	Legal obligation	19.79	48.91	Urban	Q2 2016
SK	Treaty 4	Legal obligation	0.88	2.17	Urban	Q2 2016
SK	Day Star	Legal obligation	40.667	100.49	Urban	Q2 2016
SK	Day Star	Legal obligation	17.272	42.68	Urban	Q2 2016
SK	Day Star	Legal obligation	2.521	6.23	Urban	Q2 2016

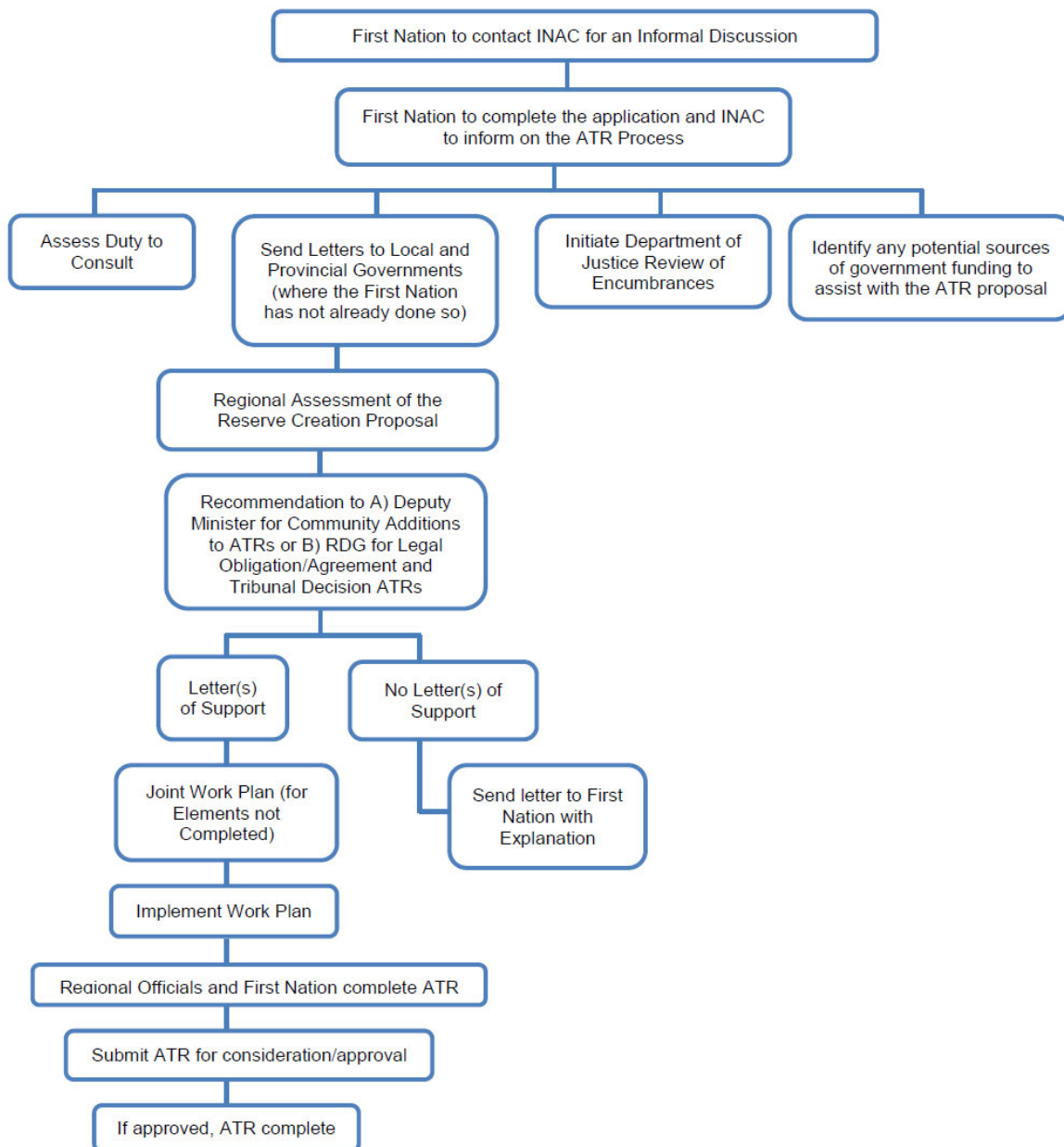
Table 1: Continuation

Location	First Nation	Category	Size of Allocation (Ha.)	Size of Allocation (Ac.)	Urban or Rural	Date? Approved or Signed
SK	Day Star	Legal obligation	0.879	2.17	Urban	Q2 2016
SK	Yellow Quill	Legal obligation	0.2	0.49	Urban	Q3 2014
SK	English River First Nation	Legal obligation	1.133	2.8	Urban	Q2 2013
SK	Lac La Ronge	Legal obligation	2.94	7.26	Urban	Q3 2013
SK	Peter Ballantyne Cree Nation	Legal obligation	0.217	0.54	Urban	Q3 2013
SK	Peter Ballantyne Cree Nation	Legal obligation	0.234	0.58	Urban	Q1 2012
SK	English River First Nation	Legal obligation	1.136	2.8	Urban	Q2 2012
SK	Star Blanket Cree Nation	Community addition	0.551	1.36	Urban	Q2 2012
SK	Treaty Four	Legal obligation	0.8	1.98	Urban	Q3 2012
SK	Nekaneet	Legal obligation	2.606	6.44	Urban	Q1 2011
SK	Carry the Kettle	Legal obligation	322.222	796.23	Urban	Q3 2011
SK	Muskeg Lake	Legal obligation	0.222	0.55	Urban	Q4 2011

Source: Indigenous Services Canada, 2020.

As the chart demonstrates, the additions to reserves ranged from large (15,000 hectares for the Salt River First Nation in the Northwest Territories) to small (0.2 hectares for Yellow Quill, Saskatchewan). Most of the additions are contiguous to existing reserves, but several established new reserves and a growing number are a considerable distance from existing First Nations lands.

Figure 1: Process for initiating Additions to Reserve Creation Proposals in Canada



Source: Indigenous Services Canada, 2016

Treaty Land Entitlement Processes

In light of First Nations legally challenging the legitimacy of their reserve land allocations in the 1990s, the governments of Canada, Saskatchewan, and Manitoba developed a new process referred to as 'treaty land entitlement' (TLE). This has become a primary means of establishing and expanding reserves in the prairie provinces and is of growing importance in other parts of the country. Given that Crown lands are under the constitutional control of the provincial governments, their involvement in the settlement process has been pivotal.

The process started when several First Nations demonstrated to the satisfaction of the courts that the Government of Canada had allotted too little land to the First Nations when the reserves were set up. The misallocation was deliberate in some instances and an oversight in others. Regardless, the initial reserves were significantly short of the full allotment. Individual First Nations in Manitoba and Saskatchewan then negotiated formal treaty land entitlements, often involving hundreds of additional acres. The process extended to Ontario. The Chapleau Cree First Nation argued that they did not get their full land allocation under Treaty 9 (1906). After extensive negotiations, the First Nation received \$21.5 million from the Government of Canada, more than \$350,000 from the Government of Ontario, and 4,000 hectares of Crown land. Comparable resolutions are being sought elsewhere in the country.



Table 2: Treaty Land Entitlement, Manitoba, 2017

Entitlement First Nation	Crown Land (no minimum)	Other Land Entitlement (acres)	Total Treaty Land Entitlement	Acres Converted to Reserve as of Oct. 2017
Barren Lands	66,420	-	66,420	-
Brokenhead	4,344	10,137	14,481	679.46
Buffalo Point	3,432	607	4,039	2,450.90
Bunibonibee	35,434	-	35,434	31,342.34
God's Lake	42,600	-	42,600	16,310.04
Manto Sipi	8,725	-	8,725	5,540.90
Mathias Colomb	217,364	-	217,364	175,346.34
Nisichawayasihk	61,761	-	61,761	33,816.01
Northlands	94,084	-	94,084	14,595.84
Norway House	104,784	-	104,784	42,045.53
Opaskwayak	47,658	8,410	56,068	29,685.30
Rolling River	2,356	44,756	47,112	5,931.60
Sapotaweyak	108,134	36,045	144,179	99,701.87
War Lake	7,156	-	7,156	486.19
Wuskwi Sipi	44,168	14,722	58,890	26,618.54
TOTAL	848,420	114,677	963,097	484,550.86

Source: modified from Treaty Land Entitlement Committee of Manitoba Inc., 2018.

Given that little valuable land is currently available for reallocation, the governments had to provide other opportunities for the exercise of the First Nations treaty land entitlements. First Nations could do a direct addition to their reserves if the land was in government hands and available for selection, increasing the size of their land holdings and making up for a historical injustice. If the land was not controlled by government, First Nations could receive a sum of money that would allow them to purchase the land needed to make up the shortfall. The land, however, need not be contiguous to their existing reserve. It could be in a distant location—some of the TLE lands are hundreds of kilometers away from the home reserve—and could be selected for purely commercial purposes. First Nations could also take their compensation in cash and use that to establish a community trust, cover planned investments, or allocate it among their members.

The TLE process provided dozens of First Nations with money, land, or both, and afforded them the opportunity to select land for additions to reserves and urban reserves if they so wished. The claims, negotiations, and court challenges are ongoing. The land allotments have been large. For example, they are anticipated to total approximately 1.4 million acres in the case of Manitoba. Most of the land has been taken up through additions to reserves, but numerous urban reserves have also been created or proposed. The TLE allocations of money and land provided many First Nations with the resources they needed to convert their plans and ideas for reserve expansion, including urban reserves, into reality. A sizable number capitalized on the opportunity; many more have plans under active consideration. Most of the new reserves were located near towns or on the outskirts of larger centres.¹ The Addition to Reserve process in Canada, 2005-2012, shows the dominance of First Nations from Manitoba in popularizing and implementing the policy.

¹ Gregory Mason, "Urban Reserves are a Test of Reconciliation," The Conversation, April 2, 2019, <https://theconversation.com/urban-reserves-are-tests-of-reconciliation-114472>.

Evolution of Formal Reserves

It is important to understand how the role, function, and utility of formal First Nations reserves evolved over time. In a few instances, the original reserves ended up in areas of substantial economic activity. Most often, however, the reserves were assigned in isolated locations, often many miles from a railway or road, and with limited opportunities for work or business. Although there were exceptions (e.g., the Six Nations reserves in Southern Ontario, the Squamish First Nation reserves in the Vancouver region) most of the original reserves provided a limited base for commercial activity. The Government of Canada's 19th century plan to separate Indigenous peoples from newcomers, to support a slow adaptation to commercial agriculture or industry, and to allow its Christian partners to accelerate assimilationist efforts. First Nations reserves evolved with little reference to the surrounding society and economy. They were areas of government control and domination of Indigenous peoples typically under the administration of local Indian agents.

During the 150 years following Confederation, reserves became synonymous with First Nations hardship and marginalization. As a result, they were seen in unflattering terms by most Canadians, as few had actual experience with First Nations communities. High profile media accounts of difficult, even desperate, community conditions came to represent the entire First Nations reserve experience nationwide. At the same time, the systematic and widely acknowledged underfunding of First Nations' physical infrastructure (e.g., roads, water, sewage and related maintenance systems, and now the internet) and serious housing issues meant that a sharply negative view of reserve lives became embedded in the national consciousness.



Table 3: First Nations Reserve Land Base in Canada

Region	Bands	Reserves	Land Base (ha.)	Average Area (ha.)
Atlantic	32	68	29,561.6	434
Quebec	26	31	77,131.5	2488
Ontario	113	189	709,985.8	3756
Manitoba	53	104	214,803.7	2065
Saskatchewan	69	143	616,815.9	4313
Alberta	40	100	668,880.1	6688
British Columbia	200	1606	353,324.2	217
NWT	1	2	562.1	281
Yukon	7	24	499.6	83
TOTALS	551	2267	2,671,564.5	1176

Source: Indigenous Services Canada, n.d.

Accordingly, the urban reserve is an increasingly attractive option. First Nations have actively explored the idea of extending reserves, with almost 1,700 additions to reserve between 1969 and 2017. Of that number, only 119 were considered urban reserves.

It is important, finally, to understand how much is in flux in terms of First Nations reserve and land entitlements. Formerly landless First Nations have, through extensive legal and political struggles, secured recognition of their right to an appropriate allocation of land. Long-standing disputes over reserve arrangements have resulted in additional land being made available to First Nations. When First Nations secure financial resources through other means—a specific claim settlement or a resource revenue-sharing arrangement, for example—they can use, and have used, a portion of the funds to purchase lands that were then converted to reserve lands through the Addition to Reserve policy.

Reporting on its experience with land claims resolution since 2007, the Government of Ontario indicated that it has resolved 22 outstanding First Nations claims, transferred over 19,000 hectares of land to First Nations control, provided over \$130 million in compensation to resolve land rights claims, and greatly improved the time needed to complete settlements. The government contrasted the 145 years it took to resolve the Lac des Mille Lacs claim arising from flooding of Indigenous lands with the five years it took to achieve a resolution of the Mishkosiminiziibiing First Nation and the Ojibways of Onigaming in Northwestern Ontario.



Conclusion

The Addition to Reserve process has proven to be rather uncontroversial. One of the key requirements of this process is that third-party interests be protected or not infringed. Furthermore, most of the additions are to existing reserves, meaning that the changes have little impact on the surrounding population. Furthermore, the reserve expansion process—involving a tiny portion of Canada's land mass and Crown lands—has been part of a broader effort at Indigenous re-empowerment, entrepreneurship, and community assertiveness. The resolutions are designed to address long-standing injustices and, often, government errors or manipulations. Additions to reserve, in sum, represent a belated effort to set history right and to provide a greater measure of fairness and equity to First Nations peoples.

The key transformation in First Nations affairs during the past few decades has been the addition of tools and supports for Indigenous communities seeking to improve their conditions. These include a series of Supreme Court decisions that define and clarify First Nations legal authority; improved relations with provincial and territorial governments that give access to subnational programs; greatly enhanced federal government funding for local improvements, education and community services; recognition of Indigenous land and resources, and policy tools such as the Addition to Reserve Policy. No single initiative, funding arrangement, legal decision, or government commitment can or will quickly set right more than a century of injustice and mistreatment at the hands of government and society at large. But each instrument of self-control, exercised with caution and foresight, can help First Nations rebuild their economies and communities.

Gaining control of and expanding reserve lands remains a high priority. The starting point is remarkably modest. There are currently fewer than 2,300 official reserves in Canada, plus settlement lands related to modern treaties—the vast majority of the latter being in the northern territories. These lands represent 2.6 million hectares or 0.2 per cent of all the land in Canada, divided into hundreds of small land holdings and often located in non-economic zones. As Indigenous populations continue to grow rapidly and to diversify through migration to larger towns and cities, the need for land for residential, harvesting, and commercial purposes expands in lockstep.

Based on the options discussed in this paper, there is a recommended order in which to secure the additional land for one or more First Nations communities:

1. Treaty Land Entitlement
2. Purchase an area of land and then proceed through the Addition to Reserve process
3. Addition to Reserve application

The Addition to Reserve policy, particularly when the Government of Canada and the appropriate local and provincial authorities are supportive, is a vital tool available to First Nations. Communities have used ATR to revitalize their communities, protect traditional land use and cultural practices, and expand economic opportunities. They have used urban reserves (which are explored in depth in the third paper in this series) to gain a foothold in the more commercially active large towns and cities. First Nations have taken advantage of a legal process to solidify community engagement, add to their economic options, and respond to a rapidly changing world.



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