

Treaty Land Entitlement In Manitoba

TLE Webinar with the Association of Manitoba Municipalities

Presentation to: Manitoba Municipalities

July 12, 2023



We acknowledge that we are presenting from our office in Winnipeg on Treaty 1 Territory and that Manitoba is located on the Treaty Territories and ancestral lands of the Anishinaabeg, Anishininewuk, Dakota Oyate, Denesuline and Nehethowuk Nations.

We acknowledge Manitoba is located on the Homeland of the Red River Métis.

We acknowledge northern Manitoba includes lands that were and are the ancestral lands of the Inuit.

We respect the spirit and intent of Treaties and Treaty Making and remain committed to working in partnership with First Nations, Inuit and Métis people in the spirit of truth, reconciliation and collaboration.

Presentation Overview

- The Department of Indigenous Reconciliation and Northern Relations
- Historical Perspective
- TLE in Manitoba
- TLE in Municipalities
- Municipal Development and Service Agreements (MDSAs)
- FAQs
- Questions

Indigenous Reconciliation and Northern Relations (IRNR)

Consultation and Agreements Branch:

- Negotiates and implements settlement agreements, which includes land, financial compensation and resource co-management.
 - **i.e. Treaty Land Entitlement Agreements**
- Negotiates and implements other land and self-government agreements.
- Supports Duty to Consult / Section 35 Crown Indigenous Consultation.

Treaties & Land in Manitoba

- Canada entered into the Numbered Treaties with First Nation Bands in Manitoba between 1871-1910 (Treaties 1-6 [Treaty 5 Adhesion] and Treaty 10)
- Treaties provided that Canada would set aside a certain amount of land as reserve (based on populations at the time).
- Not all First Nation Bands received their full amount of land under the terms of the Treaties.

What is Treaty Land Entitlement (TLE)?

- First Nations, who **did not receive** all the land they were entitled to under Treaties can file a TLE claim with the Government of Canada.
- Once a claim is approved by the Government of Canada, a TLE Settlement Agreement is negotiated, approved, signed and implemented.

What is Manitoba's role in TLE?

- In 1930, the Government of Canada passed a series of **Natural Resources Transfer Acts (NRTA)** which transferred federal control of lands and natural resources to the prairie provinces, including Manitoba.
- The NRTA included a **legal requirement** that Manitoba must provide Crown land to the Government of Canada to assist in fulfilling its outstanding land-related Treaty requirements to First Nations.
- TLE is a **constitutional obligation** and a provincial priority.

What is in a TLE Settlement Agreement?

- Includes the amount of land that a First Nation may either purchase on a willing-buyer-willing-seller basis (**acquisition**) or **select** from Crown land, as well as financial compensation.
- It also outlines the principles and processes for:
 - selecting and/or acquiring land
 - considerations for eligibility
 - identifying and resolving interests
 - dispute resolution
 - reserve creation

Which TLE Settlement Agreements exist in Manitoba?

- 21* Entitlement First Nations under the 1997 **Manitoba Framework Agreement (MFA)**
- Eight Entitlement First Nations under **Individual TLE Settlement Agreements**:
 - Island Lake First Nations (Wasagamack, Red Sucker Lake, Garden Hill, and St. Theresa Point) in 1994
 - Long Plain First Nation in 1994
 - Swan Lake First Nation in 1995
 - Roseau River First Nation in 1996
 - Peguis First Nation in 2006

How many acres are included in TLE Settlement Agreements?

- **Under the MFA:**
 - 985,949 acres of Crown land
 - 114,677 acres of acquisition land
- **Under Individual TLE Settlement Agreements:**
 - 55,038 acres of Crown land
 - *Up to** 167,446 acres of acquisition land

Total entitlement = **1.432 million acres**

Who is involved in TLE?

Manitoba Framework Agreement

- Entitlement First Nations
- Government of Canada
- Government of Manitoba
- Treaty Land Entitlement Committee

Individual TLE Settlement Agreements

- Entitlement First Nations
- Government of Canada
- Government of Manitoba

What does the TLE process look like?



- **Note:** Manitoba does not create reserves. Administration and control of land is transferred from Manitoba to Canada, who ultimately designates land as reserve status.

TLE Current Status

- EFNs have selected and acquired **~971,524** acres.
- Manitoba has transferred **~706,172 acres** to Canada.
 - This is **~50%** of Manitoba's total requirement.
- Canada has set apart **~678,063 acres** as reserve.

TLE Land in Municipalities

- Under TLE Settlement Agreements, there are provisions that allow an Entitlement First Nation (EFN) to select or acquire land within the boundaries of a Rural Municipality or Municipality.
 - MFA – Sections 3.06 & 3.07
 - Peguis Treaty Entitlement Agreement – Sections 3.06 & 3.07
- EFN notifies a Municipality and begins the process of discussion, including services. There are defined timelines outlined in TLE Settlement Agreements.

Municipal Development and Services Agreement (MDSA)

- If an EFN requires services on the land, they may enter into a MDSA with a Municipality, which may include:
 - New or continuation of services (road, water, waste, etc.)
 - Land use planning
 - Dispute resolution process
- Best efforts must be made by both parties to conclude an MDSA, if required.
- Manitoba can support discussions and negotiations, but discussions are primarily between the EFN and Municipality.

Municipal Considerations

- This is a partnership. Both parties should engage in discussions in good will and faith.

- While Municipalities must be notified in accordance with TLE Settlement Agreements, Reserve creation will not be withheld due to:
 - The failure or inability of an EFN to satisfy a municipality's concerns.
 - The failure of the EFN and municipality to enter an MDSA.
 - Claims of municipal or school tax losses.

FAQs

Why do First Nations wish to have reserve land within municipalities? How to municipalities benefit?

- The historical and traditional lands of First Nations coincide with modern day municipalities.
- These lands provide economic development opportunities.
- This is an opportunity to advance Reconciliation through relationships.

FAQs

How is reserve land different from other land in Manitoba?

- There are ownership and jurisdictional differences. The *Indian Act* applies on reserve. Reserves are defined under the *Indian Act* as “a tract of land, the legal title to which is vested in His Majesty that has been set apart by His Majesty for the use and benefit of a Band.”
- A Land Code is a comprehensive law created by a First Nation to replace the 32 sections of the *Indian Act* that relate to land management, and the Government of Canada no longer has a role in how the community’s reserve lands are managed.

FAQs

What roles and responsibilities do Municipalities have in the TLE process?

- TLE is an obligation between the First Nation, Manitoba and Canada. TLE Settlement Agreements outline specific principles and a notification process for Municipalities to express any concerns about the land being set apart as reserve, and for First Nations to confirm if they will require services or not from the Municipality.
- As part of the process to set apart land as reserve, there is a transition whereby any previously existing municipal jurisdiction is replaced by First Nation and federal jurisdiction.

FAQs

Does a Municipality have the authority to tax reserve land that, prior to being set apart as reserve, was located within the boundaries of the municipality?

- No, Municipalities do not have the authority to tax reserve land. First Nations have jurisdiction and taxation authority on reserve land.

FAQs

What are recommended best practices for Municipalities to follow with respect to the TLE process?

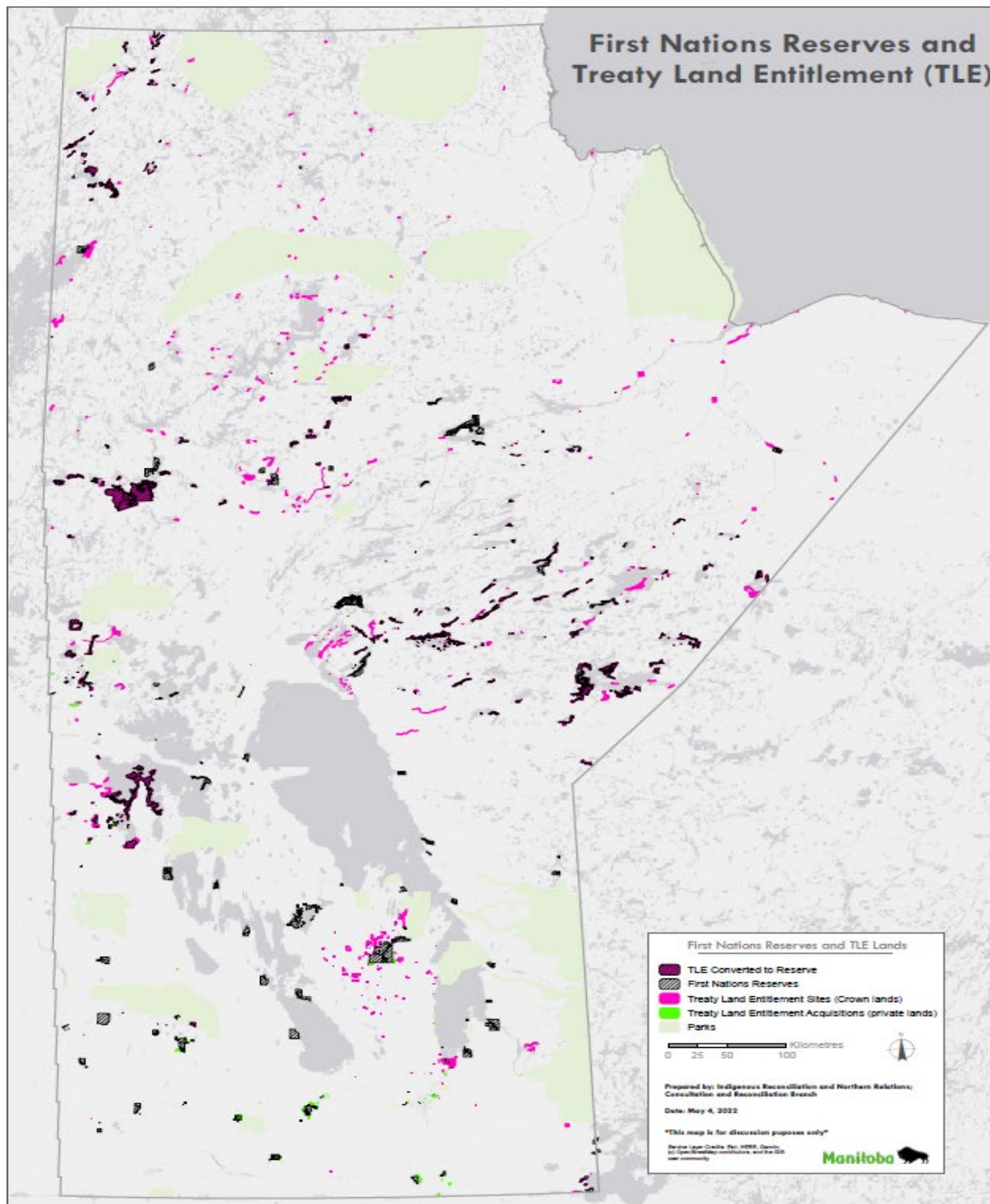
- Respond in a timely manner.
- Be willing to meet with First Nations.
- View it as an opportunity to partner with another government for the betterment of your respective communities.
- Understand the scope of the discussion.
- Reach out to IRNR with questions or for support.

Example MDSA – Long Plain First Nation & City of Winnipeg

- The first MDSA in Winnipeg.
- Agreed to maintain all existing services on the parcel located at 490 Madison Street from 2013.
- The parcel became Reserve in 2013, and a Petro-Canada opened at the location in 2015 (one of the busiest in Canada).
- The site hosts the Wyndam Hotel, Yellowquill College, and a retail cannabis store.
- By-law and planning compatibility are addressed as part of the agreement.

Example – Gambler First Nation and the City of Brandon

- Property at the corner of 18th Street N. and Clare Avenue.
- The parcel is being converted to Reserve under the Government of Canada’s Addition to Reserve policy, in support of economic development.
- The MDSA includes standard “hard” services (infrastructure, water, etc.) and some “soft” services.
- The MDSA recognizes the First Nation’s existing governance and administrative structure and excluded these elements from the service fee at 75% of the property tax rate.



Map of TLE land in Manitoba

Current Reserves

First Nation	Municipality/Rural Municipality
Treaty 1, Naawi-Oodena	Winnipeg
Gambler First Nation	Brandon
Waywayseecappo First Nation	Elton (near Brandon)
Long Plain First Nation	Winnipeg
Long Plain First Nation	Portage La Prairie
Sapoteweyak Cree Nation	Swan River
Fox Lake Cree Nation	Gillam
Dakota Tipi First Nation	~30 KM away from Portage La Prairie
Long Plain First Nation	~30 KM away from Portage la Prairie
Dakota Plains Wahpeton Oyate	~30 KM away from Portage La Prairie
Sioux Valley Dakota Nation	~40 KM away from Brandon
Peguis First Nation	Winnipeg
Swan Lake First Nation	Headingley
Nisichawayasihk Cree Nation	Thompson
Rolling River First Nation	Headingley
Wuskwi Sipiik First Nation	Swan River
Brokenhead Ojibway Nation	East St. Paul

Future/Potential Reserves

First Nation	Municipality/Rural Municipality
KRW First Nation (Keeseekoowenin, Waywayseecappo, Rolling River First nations)	RM of Elton
Brokenhead Ojibway Nation	East St. Paul
Brokenhead Ojibway Nation	Winnipeg (360 Broadway)
Opaskwayak Cree Nation	Thompson
Opaskwayak Cree Nation	The Pas
Opaskwayak Cree Nation	RM of Kelsey
Peguis First Nation	Selkirk
Peguis First Nation	Winnipeg (1386 Main Street)
Peguis First Nation	Winnipeg (Warman Road)
Peguis First Nation	Winnipeg/Headingley (Assiniboia Downs)
Peguis First Nation	Dauphin
Wuskwi Sipiik First Nation	The Pas
Sioux Valley Dakota Nation	Brandon

Thank You Questions?

If you require further information, please contact
Indigenous Reconciliation and Northern Relations
at (204) 945-2510 or CAB.General@gov.mb.ca

