First Nation Successes: Developing Urban Reserves in Canada

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EXECUTIVE SUMMARY

Over the past 30 to 40 years First Nations in Canada have overcome much of the injustice that colonialism caused them in terms of loss of land and rights, and have fought for their rights and self-determination.

Unfortunately, regardless of their right to self-determination and increased involvement in planning their own communities, many First Nations in Canada still face a poor quality of life on-reserve, which includes living in unaffordable, inadequate, and unsuitable housing (core housing need), poor education opportunities, lack of employment and income opportunities, and various physical and mental health concerns.

The purpose of this report was to investigate urban reserve development in Canada to assess how these reserves contribute to First Nation economic development and to determine whether or not urban reserves increase the quality of life and social well-being of First Nation communities. Specifically, the Additions to Reserve (ATR) federal policy that establish urban reserves was reviewed, and case studies were analyzed to illustrate lessons learned.

The research questions that were addressed in this report are:

1. What are urban reserves?
2. What is the Additions to Reserve federal policy? How is the ATR implemented and what are the implications of urban reserves for municipal planning and relationships with First Nations?
3. Has the creation of urban reserves through the ATR policy contributed to improved economic and social well-being for First Nations in Canada?

Urban reserves are defined “as a reserve within or adjacent to an urban centre” and are created in one of two ways: (1) When an existing municipality (urban centre) expands into an existing reserve; or (2) When a brand new urban reserve is newly established that boarders or is developed within an existing municipality.

The ATR policy allows for Crown land to be converted into reserve status for a particular FN, where the FN may exercise partial jurisdiction. Often these newly designated reserve lands are urban reserves.

The two main methods used in this report are case study analysis and a literature, policy, and document review. This information was supplemented with key informant interviews. Three case studies of urban reserve development were chosen, which allowed for an in-depth understanding of urban reserve development in Canada. The three case studies in the report are:
Westbank First Nation urban reserve in Kelowna, British Columbia
Muskeg Lake Cree Nation urban reserve in Saskatoon, Saskatchewan
Long Plain First Nation in Winnipeg, Manitoba

Each First Nation and municipality took a different approach to urban reserve development and this research suggests that all three approaches have been successful. As urban reserve development has been occurring for almost 30 years, there are now many examples of how to have successful relationships between First Nations and municipalities in terms of procedures, development, tactics, compensation, and so on.

Literature presented in this report showed that urban reserve development creates benefits and challenges for both First Nations and municipalities in Canada. Key findings include:

- Benefits for First Nations include increased job opportunities, revenue generation, jurisdiction over new reserve land, increased economic self-sufficiency, and increased quality of life.
- Benefits for municipalities include revenue from urban reserve service provisions, job opportunities, and positive relationships with First Nation peoples.
- Challenges for the First Nation include high financial risk, limited financial resources, fragmentation of band members as some move closer to urban centres and away from the parent reserve, and discrimination in urban centres.
- General challenges include:
  - An unclear ATR policy;
  - A long and drawn out process from land purchase to urban reserve creation that often spans several years;
  - Negotiation of land purchase prices from the municipality to the First Nation;
  - and friction during the negotiation of municipal service agreements between the First Nation and municipality.

These findings raise a broader question: Do the benefits of urban reserve development outweigh the challenges?

The current ATR policy contains many gaps, which causes extreme time inefficiencies and decreases its effectiveness in processing applications to convert land to reserve status. While there is evidence that the ATR policy does benefit First Nations and surrounding municipalities, in its current form, it is an “outdated and inappropriate tool” that hinders First Nation economic progress.

Some key issues with the policy are:
There are many steps to the ATR policy from start to finish, and the First Nation is responsible for initiating the steps (as shown in Figure 12);

The three categories under which a First Nation can submit an ATR proposal are restrictive and competitive in nature;

Due to poor management of the ATR policy by the federal government, discretion is left up to regional AANDC offices in the processing of ATR applications, and their interpretations of the policy appear to vary.

This report has shown that once implemented, the ATR policy does enhance First Nation economic self-sufficiency. Based on the literature and case study analyses, one can infer that First Nation quality of life is also positively affected by urban reserve development.

However, while the creation of urban reserves may help the current situation by increasing the well-being of First Nations peoples, it is not the answer in and of itself. Simply obtaining land and converting it to reserve status is no guarantee of economic success for a First Nation.
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1 INTRODUCTION

“Cities exist on traditional territory, whether that be ‘claimable’ under non-Indigenous legal regimes or not. Indigenous people whose traditional territory is now urban continue to exert a connection to their country in rich and diverse ways that represent the changing cultural expressions of that connection. Yet we rarely grapple with what it means to recognize coexistence in cities and the kinds of challenges – conceptual and practical – to which such recognition gives rise” (Porter, 2013, p. 294).

1.1 INDIGENOUS PEOPLES IN CITIES

There are two types of urban Aboriginal populations, which include: (1) Aboriginal peoples who have moved from their reserves into cities and now live within the jurisdiction of the city; and (2) Aboriginal peoples who have moved into cities and now live in urban reserves, land under jurisdiction of their First Nation. It is important to clarify this point as these are distinct lenses for which to address Aboriginal populations within cities.

Historically, western colonial governments took upon themselves the “power and ultimate right to determine” the planning future of Indigenous populations, which became “a weapon brandished to erase/eradicate Indigenous peoples or at least contain them in rural enclaves or urban ghettos” (Matunga, 2013, p. 4). Indigenous populations have responded to this archaic colonial misguided power by fighting for their right of self-determination and to take back their right to plan for their own futures (Matunga, 2013, p. 5).

“Self-determination encompasses spiritual, territorial, social, cultural, economic, and political dimensions, and refers to the inherent right of Aboriginal peoples to govern their own affairs as original occupants through the reformulation of settler state-Aboriginal society relations” (Walker & Belanger, 2013, p. 198).

Beginning in the 1980s, Indigenous rights were broadened to an international context as the United Nations (UN) began to recognize Indigenous people’s rights. The list below outlines various UN created establishments regarding these rights:

- 1985: Voluntary Fund for Indigenous Populations
- 1989: ILO Convention No. 169 on Indigenous and Tribal Peoples in Independent Countries
- 1993: International Year of the World’s Indigenous People
Additionally, Canada’s Constitution Act, 1982 officially recognized and protected Aboriginal rights, after “Aboriginal groups in Canada successfully fought to have [these] rights enshrined and protected” (Hanson, 2009, para. 1). Hanson (2009) states that it was not until Aboriginal issues were brought to the international audience of the UN and British Parliament that Canada finally agreed to include the rights of Aboriginals in its constitution.

This recognition of Aboriginal rights has improved the relationship between the Canadian Government and Aboriginal population in Canada and has reframed and restructured planning for Canadian cities, and arguably First Nation people have more influence and power in decisions regarding their state of affairs (Porter, 2013). However, it does not appear that Aboriginal self-determination has reached cities to a large degree, where Porter (2013) argues that Aboriginal peoples “have not been able to sufficiently shake colonial assumptions about where Indigeneity is seen as legitimate” (p. 284).

This report investigates urban reserves specifically. Urban reserves fit into this larger picture of urban Indigenous populations and are the focus of this report.

1.2 Quality of Life for First Nations in Canada

As noted above, First Nations have come a long way in the past few decades in having their rights protected. However, many First Nations in Canada still face a very poor quality of life on-reserve. This section delves into some of these issues in order to set a framework for the rest of the report.

First Nations have been voicing their concerns about the social and economic conditions in their communities for several decades. For example, in his keynote presentation at the conference on Aboriginal Governance in Urban Settings, Grand Chief of the Grand Council of the Crees, Matthew Coon Come outlines the sad state of affairs for First Nations people on-reserve. He states that housing, water, sanitation, and other basic services are severely lacking and the situation is desperate (Aboriginal Council of Winnipeg, et al., 1998). These conditions on-reserve have caused a “mass migration” from traditional lands to urban centres in hopes of finding a better life, “where [First Nation members] face a de facto loss of Aboriginal status and rights and the lack of an effective political voice to advocate for services and programs” (Aboriginal Council of Winnipeg et al., 1998, p.3).

“[I]t is no wonder that our people are dying violent deaths, deaths from illness and poverty, deaths from incarceration, deaths from suicides and substance abuse – both on and off reserve” (Grand Chief Coon Come, as cited in Aboriginal Council of Winnipeg et al., 1998, p. 3).
Innumerable reports and studies have demonstrated the shortfalls in housing conditions, education, employment and incomes, and health for First Nations peoples. As well, the migration of First Nations peoples to urban centres has not led to the hoped for improvements in their quality of life.

“Indigenous peoples ... continue to be among the most marginalized, oppressed, discriminated against, poverty-stricken, dispossessed, and exploited communities in the world today” (Matunga, 2013, p. 16).

1.2.1 Housing

All Canadians have a fundamental right to affordable, adequate, and suitable housing. Canada Mortgage and Housing Corporation (CMHC, n.d.a.) considers a household to be in core housing need if it falls below one or more of the following three benchmarks:

- **Affordability:** Dwelling costs are more than 30% of residents’ pre-tax income
- **Adequacy:** Housing is in need of major repairs according to its residents
- **Suitability:** Housing does not have enough bedrooms relative to the number of occupants based on National Occupation Standards (NOS)

Quality of life hinges on social factors such as housing for all Canadians, including Aboriginal populations whether they live on or off-reserve (Anderson, 2013).

MacTavish et al. (2009) state that “First Nation (Indigenous) on-reserve housing in Canada is in crisis due to severe shortages, high reported instances of mould contamination, overcrowding and structural deficiencies” (p. 207). Aboriginals off-reserve face home overcrowding and homes in need of major repair to a greater extent than those compared to non-Aboriginal populations (Walker, 2008a, p. 5).

Aboriginal urban populations are overrepresented in terms of housing affordability, often because private Aboriginal households’ incomes are below the poverty line and therefore these households end up paying more than 30 percent of their income towards housing (Walker, 2008a; Peters, 2011). Due to the above factors Aboriginals in Canada are 25% more likely to become homeless than non-Aboriginals (Devine, 2004).

Overcrowding and dilapidation of homes on-reserve has caused many First Nation members to become socially and psychologically detached, exacerbating social and health related crises in First Nations communities (MacTavish et al., 2009). Similarly, poor housing conditions on-reserve are unsafe and create an unhealthy environment to raise children (AANDC, 2010b), and poverty experienced in childhood “can have serious long-term consequences for that person’s ability to find economic stability and a satisfying life” (Abele, 2004, p.4).
1.2.2 Education

Educational attainment by First Nations people is substantially less than that of the Canadian population in general (Health Canada, 2009). For example, in 2006, 51.6% of First Nations 15 years and over completed high school, compared to 76.9% of non-First Nations in Canada (NAEDB, 2013d). Additionally, only 40.2% of First Nations living on-reserve completed high school, in comparison to 60.1% of First Nations living off-reserve (NAEDB, 2013d).

1.2.3 Employment & Income

Employment rates are lower for First Nations living on-reserve than for those living off-reserve, and even less than the Canadian population in general (Health Canada, 2009; NAEDB, 2013b). Unemployment rates for Aboriginal people are more than double unemployment rates from non-Aboriginal people (NAEDB, 2013b). Employment held by Aboriginals is less likely to be in professional, management, or supervisory roles because Aboriginals are much less likely to hold a university degree than non-Aboriginals (Devine, 2004; NAEDB, 2013b; Peters, 2011). Therefore, First Nation people are more likely to hold primary industry, food service, and construction positions (NAEDB, 2016b), which tend to be lower paying jobs, and which negatively affects their economic and social well-being.

Income of Aboriginals in urban centres is substantially more than on-reserve Aboriginals (NAEDB, 2013c); however, in general Aboriginal incomes are approximately 60% of the Canadian median income (Anderson, 2013). Due to the lower employment rate and higher unemployment rate of Aboriginal people, incomes are lower than non-Aboriginal people (NAEDB, 2013c). In Canada’s 12 largest cities Aboriginal people experience poverty between two and four times more than non-Aboriginal people in Canada (Abele, 2004).

1.2.4 Health

Health disparities exist in Canada, particularly between Aboriginal and non-Aboriginal populations, whereby the latter are burdened to a higher degree with health issues and higher mortality rates (Park, Tjepkema, Goedhuis, & Pennock, 2015). First Nation individuals suffer from health issues related to poor diet, smoking, alcohol abuse, diabetes, drug use, and obesity to a higher degree than non-First Nation individuals (Park et al., 2015). For example, according to Health Canada (2009) the rate of smoking among First Nations living on-reserve is 58.8%, compared to 24.2% for the Canadian rate; and the percentage of overweight First Nation individuals is 73%, compared to 48% for the
rest of Canada. Additionally, “young first Nations men are five times more likely to die by suicide than any other Canadians” (Abele, 2004).

1.2.5 Migration of First Nation Peoples

Canada is seeing a trend of in-migration from rural areas into urban areas, of which First Nations are a big part of (Peters, 2011). Grand Chief Come outlined that the main cause of Aboriginal migration to urban centres is because reserves are no longer viable, meaning that Aboriginals often have “no choice but to move to cities” to escape the “desperate conditions on reserves” (as cited in Aboriginal Council of Winnipeg, et al., 1998, p. 3).

Migration of Aboriginal peoples has been debated on greatly within academic literature; however, general arguments suggest that more Aboriginals are living in urban areas than ever before (Anderson, 2013). Reasons for migration from traditional reserves to urban centres include both push and pull factors, which are often related to quality of life (Anderson, 2013) as First Nations simply cannot meet housing, employment, and community demands (INAC, 2014).

On one hand, factors “pushing” Aboriginals out of reserves and into urban centres include poor living and housing conditions on-reserve, limited opportunities for education, employment, or any personal advancement, addiction issues, and depression (Anderson, 2013). Factors “pulling” them into urban centres include increased employment and education opportunities, greater mental and physical health well-being, social support in the form of friends, family, and community services, as well as better housing conditions (Anderson, 2013, p. 38).

However, is the grass really greener on the other side? Peters (2011) states that “Aboriginal people are part of the wave of ‘in-migration,’ but municipal governments have no explicit responsibility to serve them” (p. 5). This movement of First Nations’ into urban areas without the support of urban reserves has often been detrimental, especially due to the loss of connection with First Nation culture and family (Aboriginal Council of Winnipeg, et al., 1998). Extensive literature outlines the deplorable conditions and poor socio-economic characteristics of First Nation people living within urban centres (Peters, 2011; Walker, 2008a). Specifically, that unemployment rates in most cities are at least double for Aboriginal versus non-Aboriginal populations (Peters, 2011).

Unfortunately, out-migration of First Nation members occurs from urban centres back to reserves for as well, though Anderson (2013) argues at a rate less than that of Aboriginals entering cities from reserves. Urban Aboriginals leave urban centres due to poor well-being caused from expensive housing markets, crime, racism, and a feeling of disconnect.
from their home and culture; and are pulled back to reserves by culture, friends and family, access to “free” services, acceptance, and no taxation (Anderson, 2013).

On the surface, it would appear that the creation of urban reserves could increase opportunities, stability, and quality of life for First Nations peoples.

### 1.3 Purpose of Report

The purpose of this report was to investigate urban reserve development in Canada to assess how these reserves foster First Nation economic development and potentially increase the quality of life and social well-being of First Nation communities. Specifically, the Additions to Reserve (ATR) federal policy to establish urban reserves was reviewed, and case studies were analyzed to illustrate lessons learned.

The research questions that were addressed in this report are:

1. **What are urban reserves?**
2. **What is the Additions to Reserve federal policy?** How is the ATR implemented and what are the implications of urban reserves for municipal planning and relationships with First Nations?
3. **Has the creation of urban reserves through the ATR policy contributed to improved economic and social well-being for First Nations in Canada?**

### 1.4 Scope (or Coverage) of the Research

This research will look at urban reserve development only and the First Nations living and adapting to these situations. It is beyond the scope of this paper to study First Nation populations living within Canadian cities in general.

This report will review one federal policy, the Additions to Reserve policy, to determine how it has been used to create urban reserves and assist in the generation of economic sustainability and increased quality of life for First Nations communities.

The research includes a literature review and analyses of selected case studies. As this is a federal policy, the policy analysis was conducted at the national level. However, a case study approach was required to assess the impacts of the policy at the local level.

There are currently more than 120 urban reserves that have been created under this federal policy. The scope and limited time frame of this report does not allow for the analysis of each urban reserve in Canada. Therefore, three case study examples were selected to illustrate how the policy has been applied at the local level.
Similarly, the scope and limited time frame of this report did not allow for direct contact and key informant interviews with First Nation representatives. Primary data was obtained only from planning professionals or academics who are knowledgeable about urban reserves.

1.5 **Outline of Report**

The report contains seven chapters. A brief outline of each chapter is noted below:

- **Chapter 1** provides background information regarding First Nations in Canada, states of the purpose of this report, and outlines the research questions;
- **Chapter 2** outlines the methods used in obtaining information and notes how it will be discussed through a case study analysis;
- **Chapter 3** defines what urban reserves are, and what benefits and challenges their creation presents for First Nations and municipalities;
- **Chapter 4** summarizes the Additions to Reserve federal policy, which is the main avenue of creating urban reserves in Canada;
- **Chapter 5** outlines three case studies of urban reserve development from three different provinces to provide context of the federal ATR policy at the local level;
- **Chapter 6** provides an analysis of the case studies and discussion of the research and how it relates to the original research questions; and
- **Chapter 7** concludes the paper with an overall assessment of the research and notes potential next steps of research on the topic.
2 METHODS

2.1 RESEARCH METHODS & DATA SOURCES

Two main methods, or investigative techniques, of obtaining data were used in this research report. All methods used were qualitative in nature, and included:

1. Literature, Policy, and Document Review
2. Case Study Analysis including online research and key informant interviews.

Multiple sources of data were used to develop "converging lines of inquiry," to triangulate findings, making them more accurate and credible to readers, as the “findings will have been supported by more than a single source of evidence” (Yin, 2014, p. 120-121). This method increased the reliability of conclusion from the study (Yin, 2014).

2.1.1 Literature, Policy, and Document Review

Academic literature provided the foundation for this report. While there is academic literature available that addresses urban reserves, there does not appear to be substantial information regarding whether or not urban reserves can substantially benefit First Nations economically or in terms of quality of life. Therefore, academic literature was supplemented with archival records, online web documents, policy documents, and key informant interviews.

The document review was helpful to provide background and supplementary information during the literature review process, and as the basis for the case study analysis. Archival records, in the form of Canadian census data and First Nation and municipality organizational records, were used to a great extent during the research of each case study.

The Additions to Reserve policy was reviewed. The current ATR policy is in the midst of being updated, with the last draft revision released in 2013. The last official update, completed in 2001, is the current approved and effective document (AANDC, 2016b). The proposed updated policy is called Additions to Reserve/Reserve Creation and was drafted in 2013. Both documents were reviewed and compared for this report.

Both the current and proposed draft policies can be found on the Aboriginal Affairs and Northern Development Canada (AANDC) website. Other literature and documents were obtained from Queen’s University library, government websites, non-government websites, First Nation websites, and through various news sources.
2.1.2 Case Study Analysis

Yin (2014) defines case study research as an:

“empirical inquiry that investigates contemporary phenomenon (the ‘case’) in depth and within its real-world context... [that] relies on multiple sources of evidence...[and that] benefits from the prior development of theoretical propositions to guide data collection and analysis” (p. 16-17).

An in depth investigation of urban reserves and the ATR policy was conducted for this research report to analyze urban reserves in their real-world contexts. This was completed through case study research. The three case studies reviewed were:

1. Westbank First Nation urban reserve in Kelowna, British Columbia
2. Muskeg Lake Cree Nation urban reserve in Saskatoon, Saskatchewan
3. Long Plain First Nation in Winnipeg, Manitoba

The criteria for choosing these three case studies was based on preliminary research, availability of information, and differing locations. Literature and reports are publicly available for the three case studies chosen.

Choosing only three case studies allowed for an in-depth understanding of urban reserve development in Canada. Similarly, investigating multiple cases, as opposed to a single case, added to the robustness of the research findings as “multiple case studies provide a broader basis for exploring theoretical concepts and explanations of phenomena” (Baxter, 2010, p. 90). It was important to document case studies from different provinces, as not all provinces have the exact same experiences with urban reserve development and adoption of the ATR policy.

Qualitative case studies allow for analytic (theoretical) generalizations, or transferability, where findings from the analysis may be transferred to the same phenomenon in other contexts (Baxtor, 2010). In this case, the findings in this research paper on urban reserve development can be transferred to other cities and provinces.

2.1.3 Key Informant Interviews

Obtaining primary data from key informant interviews helped the researcher understand the level of knowledge regarding urban reserve development and its benefits and challenges from planning professionals. The first interview was conducted using asynchronous computer-mediated communication, or e-mail, (Dunn, 2010) with a planning consultant who is very familiar with First Nation policies. The second interview was a semi-structured interview (Dunn, 2010) conducted with a municipal official within the City of Kelowna.
Both participants were provided with three documents. A letter of information was given to each participant prior to the interview which summarized the purpose of the report. A copy of the interview questions was sent to participants prior to the interview so they understood the nature of the interview and questions prior to commencing. Finally, each participant was given a consent form which explained the confidentiality protocol regarding their answers, and allowed participants to accept or deny usage of their names in the report.

As key informant interviews with professionals were to be conducted, internal ethics approval was obtained prior to commencing the interviews. Since this study did not include direct contact with First Nations representatives, approval through Queen’s University’s Ethics Board was not required.

Also, this study did not include direct observation or onsite analyses; therefore, safety approval through Off Campus Activity Safety Policy (OCASP) was not required.

### 2.2 Limitations and Bias

There are several limitations to this research.

First, the limited time frame of this research did not allow for interviewing First Nation representatives directly, due to the long process of obtaining approvals from the First Nation band councils, as well as through Queen’s Ethics Board. Therefore, First Nation perspectives were drawn from available documentation that is publicly available information.

Secondly, although information regarding urban reserves exists, the extent of the information appears to be limited and was difficult to obtain.

Thirdly, although findings of this research include “lessons learned” regarding urban reserve development, not all findings will be generalizable to every urban reserve currently existing, or any which may be developed in the future.

The researcher grew up in West Kelowna, alongside the Westbank First Nation urban reserves. Therefore, she brings personal experience in seeing a reserve develop in an urban setting. However, all data obtained in this research has been presented regardless of whether it is consistent with the researcher’s perceptions, thereby mitigating potential researcher bias. (Yin, 2014, p. 76).
3 CONTEXT FOR URBAN RESERVES

3.1 WHAT ARE URBAN RESERVES?

Urban reserves are defined “as a reserve within or adjacent to an urban centre” (AANDC, 2010a, Section 1, para 1) and are created in one of two ways:

1. When an existing municipality (urban centre) expands into an existing reserve; or,
2. When a brand new urban reserve is newly established that boarders or is developed within an existing municipality (AANDC, 2014a).

A brand new urban reserve is often created upon the settlement and implementation of outstanding land claims, at which time First Nations are given cash payments from the federal government (AANDC, 2010a). It is from these cash payments that many urban reserves are created, as First Nations use these cash payments to purchase land. First Nations, as with any individual or corporation, may purchase land from a willing seller (AANDC, 2010a). Prior to purchasing the land, the First Nations apply to the federal government to give the land “reserve” status, which can be done after many steps are taken that assess municipal and environmental impacts (AANDC, 2010a).

Under the federal Indian Act, officially designated urban reserves follow the same exact rules and policies as those of a rural reserve; that is, they are “controlled and administered by an Indian band” (Barron & Garcea, 1999, p. 2).

In a document last modified in 2013, Aboriginal Affairs and Northern Development Canada [AANDC] (2013a) noted that there are over 120 urban reserves in Canada. However, it is unclear how many officially designated urban reserves currently exist in Canada or where these urban reserves are all located.

3.2 BENEFITS OF URBAN RESERVES

At a basic level, urban reserves created through the ATR "are an important way for First Nations to address historic loss of reserve and treaty land [and] to accommodate growing populations” (Paul, 2015, p. 4). According to AANDC (2010a) and the City of Saskatoon (n.d.), urban reserves are one of the best ways that First Nation communities can increase economic self-sufficiency and secure financial resources; something that many rural First Nation communities are lacking due to geographic isolation.
Urban reserve creation and development are expected to create benefits for both First Nations and surrounding municipalities. Garcea (2004) outlines some of these benefits which are summarized in Table 1.

Table 1: Benefits in Creating Urban Reserves.

<table>
<thead>
<tr>
<th>Benefit</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Benefits for Band Members</td>
<td>Band members benefit from “tax exempt status” and access to funding “that are contingent on living or working on reserve” (p. 33); Urban reserves see residential development which can foster safer, healthier, more affordable, and culturally inclusive communities.</td>
</tr>
<tr>
<td>Benefits for Band Councils</td>
<td>Urban reserves give band councils: “extensive controls over many … planning and development matters that have implications for both them and for their members” (p. 34); A central location to locate community organizations and service to both on-reserve and off-reserve members; The ability to generate revenue.</td>
</tr>
<tr>
<td>Benefits for Municipalities</td>
<td>Financial benefits include revenue from service provisions; Political benefits include positive relationships between First Nations and the City; Social benefits are that “the City stand(s) as a symbol that First Nations people are making a positive contribution to the community” (Sully &amp; Emmons, 2004 as cited in Garcea, 2004, p. 35)</td>
</tr>
</tbody>
</table>

Source: Garcea, 2004. ¹

According to Peters (2007), urban reserves present an opportunity for First Nation communities to increase economic self-sufficiency in a sustainable way, reduce dependence on the federal government, increase the standard of living on the parent reserve, and create employment opportunities. Through successful development of urban reserves, there is potential to provide revenue and improve quality of life for First Nations on-reserve. Additionally, according to Garcea (2004), the creation of an urban reserve provides an opportunity to expand housing infrastructure from the parent reserve to this newly developed urban reserve as a means of developing more adequate and affordable housing for First Nations.

First Nation development of businesses and infrastructure created in the urban reserve, which cannot be done in the rural reserve, benefits the reserve as a whole (Peters, 2007).

¹ Garcea (2004) focuses his research on “residential” urban developments which is housing of First Nations. However, his research can be applied to urban reserve development in general.
Peters (2007) states that there are various economic, social, and political benefits to First Nations in the creation of urban reserves, which include, but are not limited to: the creation of revenue, employment opportunities, and owned businesses. These new opportunities lead to a reduction of First Nation dependence on funding from the federal government, an increase in the standard of living on-reserve, and a greater likelihood of meeting the cultural and service needs of the First Nation community both on and off-reserve (Peters, 2007, p. 4).

Expanding tourism and industry through “jointly fostering opportunities for economic development” benefits both First Nations and municipalities (MAACCP, 2002). Urban reserves improve the urban centre in which they are situated by providing training for both First Nations and non-First Nations, renewing existing businesses, and creating new businesses, which stimulates overall economic development (AANDC, 2010a; City of Saskatoon, n.d.). Additional benefits for municipalities include increased service provision revenues, the creation of employment of professional services during the creation of the reserve, strengthening First Nations – municipality relationships, and positive impacts on the real estate market (Garcea, 2004; Peters, 2007).

3.3 CHALLENGES OF URBAN RESERVES

Although urban reserves are beneficial, there are also many challenges in their creation for both the First Nation and the municipality. Garcea (2004) outlines some of the challenges faced with urban reserve development, which are summarized in Table 2.

Negotiating between First Nation members and leadership is only one step. Should the First Nation internally approve applying to establish a new reserve or expand an existing reserve, they must undergo a very complicated, in-depth process. This process encompasses several stages and negotiations with different levels of government, including the Band Council (stage 1), provincial and municipal governments (stage 2), and the federal government (stage 3) (Peters, 2007).

The onus is on the First Nation to make connections with the different levels of government and begin the conversation about their goal of establishing an urban reserve (AANDC, 2013b; AFN, 2012). Additionally, there is a strong stigma regarding First Nations and blatant racism is still prevalent in many people’s minds when First Nation people and development are proposed, which acts as a barrier to urban reserve development. For example, a public meeting in 2015 regarding converting a vacant army base in Winnipeg to an urban reserve is being strongly questioned by City residents worried about their property values and safety (Fontaine, 2015).
Table 2: Challenges in Creating Urban Reserves.

<table>
<thead>
<tr>
<th>Challenge</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fiscal Capacity</td>
<td>Many First Nations have limited financial resources to both purchase land and develop infrastructure.</td>
</tr>
<tr>
<td>Cost Versus Benefits</td>
<td>“The estimation of costs and benefits [of urban reserve development] is very difficult because there is a vast array of variables which could impinge on any calculations of the same” (p.41).</td>
</tr>
<tr>
<td></td>
<td>The financial risk of failed development on-reserve can be substantial.</td>
</tr>
<tr>
<td>Band Member Consensus</td>
<td>Urban reserve development fragments band members geographically, as some live on the parent reserve and some in the urban reserve, and socioeconomically, as income of members can vary drastically;</td>
</tr>
<tr>
<td></td>
<td>Fragmentation can cause “a lack of consensus among leadership and membership…” (p. 42) about where and how to invest money.</td>
</tr>
<tr>
<td>Discrimination &amp; Inequality</td>
<td>Development of an urban reserve within municipality can create a “we” versus “them” mentality, an “uneven playing field” in terms of working and living, and a preconceived notion that urban reserves will establish “ghettos” within the city.</td>
</tr>
</tbody>
</table>


Challenges of urban reserve development exist for municipalities, as well as First Nations. These challenges include bylaw compatibility, tax revenue loss, the provision of municipal services, and dispute resolution (Dust, 1995; Peters, 2007, p. 13). To address such challenges, municipal service agreements are made. A service agreement “is an agreement (either formal or informal) between a First Nation and a municipality for one party to purchase specified local services from the other” (FCM, 2011, p. 4).

Service provision is the most common agreement between First Nations and municipalities and generally includes the provision of: “water and wastewater management, recycling, street maintenance, fire suppression, policing, animal control, recreation, library, and/or emergency planning” (Garcea, 2004, p. 28). In terms of urban reserve development, municipalities often provide services to the First Nation; though, Garcea (2004) notes that not every First Nations requires services as sometimes service provision comes directly from the First Nation.

Other agreements between First Nations and municipalities include bylaw compatibility, taxation, development, and land-use agreements which are used to coordinate and harmonize “regulatory matters of mutual interest and importance” between both parties (Garcea, 2004, p. 28).
Interestingly, however, while municipalities in most provinces must negotiate for tax revenue loss, in 1995 the municipalities in Ontario did not require this as the “Province of Ontario already exempts non-reserve aboriginal-owned land from urban taxation, therefore there is no loss to compensate when the land is given reserve status” (Dust, 1995, p. viii). This suggests that different provincial laws affect urban reserve negotiation.

Once land is shifted from municipal land to First Nation reserve land the jurisdiction changes, which has substantial effects. The First Nation retains jurisdiction and becomes responsible for administering taxing and bylaws; however, the land is still under federal Criminal Code laws (City of Saskatoon, n.d.). While the First Nation benefits from tax breaks, self-governing rules, and a competitive edge in the local business economy, the municipality often takes issue with these changes (Peters, 2007).

Mike Hennessey of the Joint Economic Development Initiative in New Brunswick states “... political fighting hinders economic development” (as cited in Peter-Paul, 2012). Therefore, consultation and negotiation between the First Nation and the municipality are required to ensure coordinated planning and services provision with ease.

This chapter has outlined what urban reserves are. Chapter four will outline how urban reserves are created through the *Additions to Reserve* federal policy.
4 POLICY OF URBAN RESERVES

An in-depth comprehensive analysis of the ATR policy is beyond the scope of this paper. This chapter summarizes the main points of the ATR policy and includes:

- What is the ATR policy?
- Categories for which an ATR proposal can be made;
- The ATR process from proposal to approval;
- Summary and assessment of the 2001 ATR policy directive; and
- 2013 proposed ATR policy revisions (yet to be implemented).

4.1 ADDITIONS TO RESERVE POLICY

Adding to existing reserves or creating new reserves was not addressed in any federal legislation, including the Indian Act. Therefore, the ATR federal policy was created in 1972 in response to this gap in federal legislation (AANDC, 2013a).

The ATR policy allows for Crown land to be converted into reserve status for a particular First Nation, where the First Nation may exercise partial jurisdiction (AFN, 2012). This newly created reserve land is subject to the Indian Act and has the exact same status as any existing urban or rural Indian reserve (Barron & Garcea, 1999). Under this policy there are two types of applications for reserve land:

- **Addition to reserve**, includes “… a proposal for the granting of reserve status to land which is within the service area of an existing reserve community” (INAC, 2003, p. 8). That is, adding land to a reserve that is located within the service area of the existing reserve, which is a “generally contiguous” geographic area from the existing reserve. Service area is the area “within which existing on-reserve programs and community services can be delivered, infrastructure extended and installations shared, at little or no incremental cost” (INAC, 2003, p. 8); and,

- **New reserve**, “means the granting of reserve status to land which is not within the service area of an existing reserve community” (INAC, 2003, p. 8).

Based on the 2001 ATR policy, there are three reasons (or categories) under which a First Nation can apply to add land to their reserve (AADNC, 2013a). These three categories are outlined in Table 3.
Table 3: Categories for adding to reserves by First Nations.

<table>
<thead>
<tr>
<th>Category</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Legal Obligation</strong></td>
<td>Canada is required to fulfill its legal obligations to First Nations. This category addresses proposals to add to reserve land (additions to reserve or new reserves) in five situations:</td>
</tr>
<tr>
<td></td>
<td>1. <strong>Claims settlement agreements</strong>, including <strong>Treaty Land Entitlement (TLE) claims</strong> where a provision of the settlement is to propose new reserve land;</td>
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<tr>
<td></td>
<td>2. <strong>Court orders</strong> include ATR proposals reviews by order of the court (and are extremely rare);</td>
</tr>
<tr>
<td></td>
<td>3. <strong>Legal reversions</strong> of land previously classified as reserve land, that are no longer needed for purpose for which they were taken (example – railways or roads);</td>
</tr>
<tr>
<td></td>
<td>4. <strong>Land given in exchange for lands being expropriated or transferred</strong> under s.35 of the <strong>Indian Act</strong>.</td>
</tr>
<tr>
<td><strong>Community Additions</strong></td>
<td>This category does not address establishing a new reserve, where land is added to the reserve outside of the service area. Proposals for additions to reserve for this category include:</td>
</tr>
<tr>
<td></td>
<td>1. <strong>Community growth additions</strong> for increased population, including “housing, schools, churches, recreational areas, community buildings, community economic projects, etc.” (p. 13).</td>
</tr>
<tr>
<td></td>
<td>2. <strong>Geographic additions</strong> including land returned after road right-of-way corrections, increased land from geographic in-filling, and “natural accretions of land” to reserve adjacent to body of water;</td>
</tr>
<tr>
<td></td>
<td>3. <strong>Unsold surrendered land additions</strong> within the existing reserve service area only.</td>
</tr>
<tr>
<td><strong>New Reserves/Other Policy</strong></td>
<td>The category is a catch-all for all proposals outside of legal obligations and community additions and is “highly restrictive and/or requires extensive analysis and ‘justification’ of proposals” (p. 14). Proposals covered in this category are:</td>
</tr>
<tr>
<td></td>
<td>1. <strong>Social and/or commercial development</strong>, including residential, institutional purposes and only where benefits cannot be achieved by some other means;</td>
</tr>
<tr>
<td></td>
<td>2. <strong>Unsold surrendered land additions</strong> outside of the existing reserve service area;</td>
</tr>
<tr>
<td></td>
<td>3. <strong>Move bands or provide for landless bands</strong>;</td>
</tr>
<tr>
<td></td>
<td>4. <strong>Legal obligation</strong> outside of original commitment of agreement;</td>
</tr>
<tr>
<td></td>
<td>5. <strong>Community additions</strong> “with unresolved questions of community need, funding source, etc.” (p. 14).</td>
</tr>
</tbody>
</table>


Of 1,275 ATR projects started between 2005 and 2012, 88.9% were for legal obligations; 10.9% were for community additions; and 0.2% were for new reserves/other (Standing Senate Committee on Aboriginal Peoples, 2012). Therefore, only small numbers of applications have fallen in the category for ‘new’ urban reserves.
4.1.1 Treaty Land Entitlement

Treaty Land Entitlement (TLE) is a framework for “claims that are intended to settle the land debt owed to those First Nations who did not receive all of the land they were entitled to under the historical treaties…” (AANDC, 2010b, para. 1).

Historical treaties regarding land were signed by the Crown and First Nations of Canada (AANDC, 2010b). These treaties were first established in Manitoba in 1871; boundaries of which extended into Saskatchewan upon its creation in 1905 (Martin-McGuire, 1999). Approximately 90% of today’s TLE claims occur in Manitoba and Saskatchewan (AANDC, 2010b).

In 1875, land in Canada was surveyed for First Nation reserve creation based on the aforementioned signed treaties, and was supposed to abide by set calculations in determining how large the reserve land should be (Martin-McGuire, 1999). However, for several reasons, reserves ended up being far smaller than they should have been as “some reserves did not include all band members as stipulated in the terms of the treaty,” which created substantial land debt to First Nations (Martin-McGuire, 1999, p. 54).

Regarding TLEs, the AANDC (2010b) states:

As well as providing funding to First Nations for the acquisition of lands, TLE settlements provide First Nations with the option of asking the Government of Canada to transfer lands they have acquired into reserve status, thus creating an Addition to Reserve. TLE agreements have specific provisions that may allow the First Nation to purchase lands located in an urban or rural setting or select Crown lands (para. 8).

Therefore, TLE claims simply act as a reason to submit a legal obligation claim for an ATR proposal.

4.1.2 The ATR Process

The ATR process includes several steps from start to end. The 2001 ATR policy outlines 12 steps in total. A brief summary of the ATR process and these 12 steps is shown in Figure 1.
All land to be converted to reserve status, whether it is urban or rural, must go through the ATR policy process. This includes when a First Nation wants to expand their reserve and when a First Nation applies for and becomes an official Band, as federal policy dictates that a Band is required to have a reserve land base (RRBG, 1997).

The current ATR Policy in effect is from 2001. This policy contains several amendments from the preceding ATR policy (1991). With regard to the amendments, the 2001 policy directive states that:

“… this directive does not change the basic, underlying framework of the 1991 policy or create new policy precedents… Rather, this directive is intended to clarify
the current policy to achieve consistent interpretation and implementation across the country…) (ATR, 2001, p. 6).

Figure 2 summarizes the policy direction taken in 2001.

Figure 2: Summary of 2001 ATR Policy Directive
The focus of this 2001 ATR directive is on short-term improvements. Input on this directive was obtained from three stakeholder groups: (1) municipal, provincial, and First Nation governments; (2) practitioners of the ATR policy from across Canada; and (3) First Nation peoples directly through focus groups (INAC, 2003).

Between January 1 and March 31, 2016, the Federal Government approved 23 ATR proposals across British Columbia, Saskatchewan, Manitoba, Ontario, and Quebec, of which five are classified as urban (AANDC, 2016a).

4.2 ASSESSMENT OF THE ADDITIONS TO RESERVE POLICY

Currently, the process of adding reserve land under the ATR policy is very inefficient and is too restrictive, often taking a very long time, sometimes decades (AFN, 2012; AFN, 2011). Impediments in the ATR policy restrict First Nations from increasing economic and social development, thereby decreasing self-sufficiency, which the Government of Canada has acknowledged (AFN, 2011). These impediments include:

- Completely unacceptable timeframes and delays that inhibit and significantly diminish economic potential and benefit from claim settlements;
- Land purchase prices and transaction costs that can exceed the appraised land value (based on a multiplier of one acre);
- The impacts of Provincial and Municipal governments that do not have a veto over a First Nation’s ATR but that often frustrate the timely conversion of land; and
- Land selections policies/practices for commercial development purposes that are unduly restrictive and/or ineffective.

(AFN, 2011, p. 1).

In their study investigating the economic benefits of urban reserves, the NAEDB (2015) determined that ATRs take approximately 4.2 years on average to complete, with many taking much longer. This length of time is approximately four to eight times longer than an extension of municipal boundaries, which takes only six months to one year to complete (Paul, 2015).

The process often takes so long because the First Nation is responsible for “identifying and resolving third party issues on selected lands” which is problematic when third party interests are unregistered (AFN, 2012, p. 12). Delays in completing and approving an ATR are due to concerns by the municipality during service negotiations and a generally very complex policy process (Paul, 2015).

While the federal government considers a Municipal Service Agreement (MSA) a “pre-condition to a proposal going forward,” the federal government is not required to be a part of the final agreement reached by the First Nation and the municipality. This is perceived
as non-supportive given the federal government’s fiduciary relationship with First Nations (AFN, 2012, p. 10). Additionally, there is little consistency across Indigenous and Northern Affairs Canada regional offices regarding what these MSAs should encompass and First Nations are often left frustrated (AFN, 2012).

Different regions have different experiences with the ATR policy, suggesting that Indigenous and Northern Affairs Canada has provided too much discretion to each regional office, all of which are to support one single ATR federal policy (Standing Senate Committee on Aboriginal Peoples, 2012; AFN, 2012). For example, the “definition of ‘contiguous land’ … may differ across regional AANDC offices, depending on that office’s interpretation of the ATR policy” (Standing Senate Committee on Aboriginal Peoples, 2012, p. 13).

First Nations from across Canada argue that provincial governments do not successfully cooperate with the ATR policy and that “competing legal obligations" between the provincial and federal governments cause inefficiency (AFN, 2012, p. 11). In order to increase efficiency, better coordination between the provincial and federal government is required, both to identify what Crown land is available and the services the province is to provide to said land (AFN, 2012).

Another time delay is caused from completing Environmental Site Assessments (ESA’s). ESAs conducted as part of the ATR policy requirements become complicated as “AANDC will not undertake an ESA based on speculation,” whereas the First Nation often does an ESA to be proactive in the ATR process, but then has trouble receiving back the funds from the AANDC (AFN, 2012, p. 13). “In Ontario, AANDC will not reimburse First Nations who undertake their own ESA,” but will, however, review the report to check for compliance (AFN, 2012, p. 14). Another issue is that ESA’s are only valid for 5 years, and the ESA often expires before the ATR process has been completed, making another ESA required (AFN, 2012).

The process of ATR has impeded the economic advancement of many First Nations as economic opportunities have been lost due to the prolonged process of the policy and uncertainty of investors and financial partners while the First Nations are waiting in “limbo” (AFN, 2012). Unfortunately, the costs of delaying this process are substantial. It is predicted that “a potential $50 billion of economic opportunity for Canadian communities across the country” is being wasted by the very slow process is adopting ATRs (Paul, 2015, slide 11).

ATRs need to be completed quicker, so the benefits of the newly developed urban reserves can be realized sooner for both First Nations and local governments (Paul, 2015).
4.3 **Additions to Reserve Policy – 2013 (Proposed Revisions)**

To summarize, the main gaps in the 2001 ATR policy include substantial time delays in processing and ATR proposal, inconsistent federal government management practices at both a national and regional level, ineffective dealings with municipal and third-party interests, and lack of support for First Nation negotiations with municipalities and third parties (Standing Senate Committee on Aboriginal Peoples, 2012).

As part of the “Federal Framework for Aboriginal Economic Development,” released in 2009, the Government of Canada established plans to revise the 2001 ATR policy to speed up the process in order to enhance First Nation people’s access to land and resources and foster economic opportunities (AANDC, 2014a). The AFN has been collaborating with Indigenous and Northern Affairs Canada through their Joint Working Group (JWG) to re-evaluate the ATR policy to review policies, legislation, and processes to amend the ATR policy to improve efficiency and effectiveness of converting land to reserve land (AFN, 2012).

In response to the call for change, a revised ATR policy was drafted on May 31, 2013 and released for comment between July and October, 2013. The revised ATR policy aims to:

- Streamline the ATR proposal and remove duplication;
- Clarify roles and responsibilities; and
- Facilitate economic development

(AANDC, 2016b, Section: Proposed New Policy)

The 2001 ATR categories are too restrictive. Of these ATR categories, the AFN (2012) states that:

> “Many First Nations view Canada’s policy Categories as highly restrictive and find that proposals do not fall easily into separate and distinct categories. There is typically a fine line between economic ATR (job creation) and community development ATR (housing), yet these Categories are competitive rather than complementary under Canada’s interpretation of its policy and its interpretation of Category 2” (p. 8).

A major proposed revision to the 2001 policy is that “economic development” is to be included under the Community Additions category, which will alleviate the competitive nature of ATR proposals in the future.

As of July, 2016, neither the new policy, nor the input/comments regarding the proposed policy had been released. The expectation is that the new policy will address many of the concerns regarding the 2001 policy. However, it is unclear whether the proposed policy will fill the substantial gaps of the existing 2001 ATR policy as the revision have not been
finalized or released (beyond a draft stage) yet. Additionally, AANDC (2016b) notes that other revisions may be implemented to the existing policy, however these potential revisions have not been specified.

The following section provides case studies of urban reserves in three communities to illustrate the processes for creating ATRs, the outcomes of the processes and some of the lessons learned.
5 CASE STUDIES OF URBAN RESERVES

This chapter discusses how the ATR policy has been used for urban reserve development. Three case studies of urban reserves were selected to illustrate the effects of the ATR policy for First Nations, municipalities, and the relationships between them. The three cases are: Westbank First Nation in British Columbia; Muskeg Lake Cree Nation in Saskatchewan; and Long Plain First Nation in Manitoba.

Each province has had different experiences with First Nation urban reserve development, therefore it is imperative to discuss development from different provinces to show different perspectives.

Each case study includes four sections:

1. **Summary description** of the First Nation itself, where it is located, and population statistics.
2. **Development on urban reserve land**.
3. **Results of urban reserve development**, the relationships with surrounding governments, and impacts for the First Nation.
4. **Lessons learned and the challenges** faced by the First Nation and the local government in the creation of the urban reserve.

5.1 CASE STUDY ONE: WESTBANK FIRST NATION, BRITISH COLUMBIA

5.1.1 Summary Description:

**Location:**

Westbank First Nation (WFN) is located in the Okanagan Valley of Southern BC near Kelowna and is different from most First Nations in that it does not have a single traditional reserve. It was established as a First Nation in 1963 when it formally separated from the larger regional Okanagan Indian Band. At that time, WFN was comprised of the Txinstikeptum Indian Reserve #9, Txinstikeptum Indian Reserve #10, and Mission Creek Indian Reserve #8 (WFN, 2011).
WFN Land:

Today, WFN includes five separate pieces of land, its reserves. As of January 2015, the five reserves of WFN land totalled 5,340.68 acres (AANDC, 2014b). Table 4 shows a breakdown of name, location, and size of each WFN reserve.

Table 4: Westbank First Nation Reserves.

<table>
<thead>
<tr>
<th>Reserve</th>
<th>Location</th>
<th>Size (Acres)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mission Creek (#8)</td>
<td>3.22 km south of Kelowna</td>
<td>4.94</td>
</tr>
<tr>
<td>Txinstikeptum (#9)</td>
<td>West shore of Okanagan Lake, West of Kelowna</td>
<td>838.43</td>
</tr>
<tr>
<td>Txinstikeptum (#10)</td>
<td>West shore of Okanagan Lake, 9.66 km southwest of Kelowna</td>
<td>1,585.92</td>
</tr>
<tr>
<td>Medicine Hill (#11)</td>
<td>15 km southeast of Kelowna</td>
<td>1,274.32</td>
</tr>
<tr>
<td>Medicine Creek (#12)</td>
<td>10 km southeast of Kelowna</td>
<td>1,637.07</td>
</tr>
<tr>
<td><strong>TOTAL LAND AREA</strong></td>
<td></td>
<td><strong>5,340.68</strong></td>
</tr>
</tbody>
</table>

Source: AANDC, 2014b. Note: Numbers 8-12 represent the Government of Canada’s Reserve Numbering Classification System.

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2 Indigenous and Northern Affairs Canada was formally referred to as Aboriginal and Northern Development Canada (AANDC) and Indian and Northern Development Canada (INAC). For the purposes of this paper, any formal references made to AANDC or INAC (based on the government title at the time of the referenced report development) corresponds to today’s Indigenous and Northern Affairs Canada.
These reserves are surrounded by three distinct government jurisdictions including the City of Kelowna, the City of West Kelowna, and the Regional District of the Central Okanagan (RDCO). See Figure 3. WFN is considered a “residential urban reserve,” which is located immediately adjacent to an urban centre, consists of both First Nation and non-First Nation populations, and includes residential, commercial, institutional, and industrial functions (Garcea, 2004).

Figure 3: Locations of Westbank First Nation Reserves. Base Map


In the 1980s, a land claim was settled for reserve land taken away from the First Nation in the early 1900s, as well as for land taken away to widen Highway 97 (WFN, 2011). WFN used money from this land claim settlement to purchase land in two additional areas. In 2001 these two areas of land became the official reserves of Medicine Hill Indian Reserve #11 and Medicine Creek Indian Reserve #12 (WFN, 2011). To be granted
reserve status, these two areas would have gone through the ATR policy process. However, no information on these ATR processes was available. These two additional reserves significantly increased the WFN land area by approximately 120%.

**Population:**

According to the WFN community plan, total band membership of WFN was 681 people as of 2010, of which approximately 388 (or 57%) lived on reserve (WFN, 2011). Statistics Canada population statistics include all First Nation and non-First Nation living on WFN land. See Table 5.

*Table 5: WFN versus British Columbia Population Statistics.*

<table>
<thead>
<tr>
<th>Statistic</th>
<th>Westbank First Nation</th>
<th>Province of BC</th>
</tr>
</thead>
<tbody>
<tr>
<td>Population</td>
<td>7,010</td>
<td>4,324,455</td>
</tr>
<tr>
<td>Average Yearly Income Per Person</td>
<td>$24,581</td>
<td>$39,415</td>
</tr>
<tr>
<td>Unemployment Rate</td>
<td>11.7%</td>
<td>7.8%</td>
</tr>
<tr>
<td>Education: Less Than High School Diploma</td>
<td>19.0%</td>
<td>16.7%</td>
</tr>
<tr>
<td>Education: High School Diploma</td>
<td>30.8%</td>
<td>27.7%</td>
</tr>
<tr>
<td>Education: Post-Secondary Certificate, Diploma, or Degree</td>
<td>50.2%</td>
<td>55.6%</td>
</tr>
</tbody>
</table>

*Source: Statistics Canada, 2013e, 2013f, 2013g.*

**Self-Government:**

In 2005 WFN became self-governing through the Westbank First Nation Self-Government Act. In terms of Aboriginal Self-Government, INAC states:

*Self-government agreements [between First Nations and the Government of Canada] are one means of building sound governance and institutional capacity that allow Aboriginal communities to contribute to, and participate in, the decisions that affect their lives and carry out effective relationships with other governments. Self-government agreements give Aboriginal groups greater control and law-making authority over a comprehensive range of jurisdictions, including*

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3 Statistics Canada provides data for all residents living on WFN land, including First Nation and non-First Nation members. Therefore, this data does not represent WFN members alone.
governance, social and economic development, education, health, lands and more.

Lands and resources under the control of these Aboriginal governments are more attractive to investors, and this facilitates partnerships between Aboriginal governments, other governments and the private sector. As a result, greater prosperity for Aboriginal people and a more promising future for all Canadians may be achieved (INAC, 2015, para. 2 & 3).

Self-government enables WFN to process lease agreements for band land with outside developers quickly (Porrelli, B.M., n.d.). Otherwise, leases for land held by Her Majesty The Queen, or the “Crown,” can take many years due to various agreements, approvals, voting, and assessments within the First Nation and Federal Government (Porrelli, B.M., n.d.).

As an autonomous functioning government body, WFN has strong relationships with a variety of surrounding municipalities, First Nations, and provincial and federal governments for areas such as: economic development, social growth, highways, parks, waterways, environmental issues, and fishing and hunting rights (WFN, 2011). Specifically, WFN has an ongoing service agreement with the RDCO in which WFN pays RDCO for regional upkeep of transit, parks, watershed, sewage, emergency services, and landfill maintenance (WFN, 2011).

First Nations are able to exercise tax jurisdiction within their community, only if self-government agreements have been reached between the First Nation and Canada, and only in the form of property and sales tax, not personal income tax of its members (Graham & Bruhn, 2009). WFN has created such an agreement, and is therefore able to create substantial revenue through the taxation of real property and through the First Nation Sales Tax on tobacco, liquor, and fuel sold on band land (WFN, 2011). This tax revenue allows WFN to provide government services, expand on the urbanization of the WFN land, fund Member programs, and continue economic development and successful growth (WFN, 2011).

WFN maintains an elected Advisory Council made up of Non-Members to provide input and opinions regarding First Nation law, development, tax revenue, and advice in matters pertaining to their interests on WFN land (WFN, 2011).

5.1.2 Development on Urban Reserves:

Surrounded by extensive growth within Okanagan Valley, WFN first began to seek development strategies to bolster their economic vitality in 1973 through the creation of land use development plans (WFN, 2011). These land use plans paved the way for a
framework of bylaws “to ensure consistency and to create certainty for investors” and provide guidelines for local residents, developers, and band council (WFN, 2011, p. 35).

Development aims to follow the pillars of “Smart Growth,” an idea that aims to “enhance … quality of life, preserve the natural environment, and save money over time” by creating responsible development and land use policies that are “fiscally, environmentally, and socially responsible” (SmartGrowthBC, n.d., para. 1). WFN uses the guiding principles of Smart Growth to allow for compact communities and many residential type developments, thereby increasing the amount of housing available, and decreasing the reliance of vehicles (WFN, 2011).

While this may be WFN’s aim, much of the development on WFN has been big box construction of stores including Wal-Mart, Canadian Tire, Home Depot, Mark’s Work Warehouse, Canadian Superstore, etc. Figures 4 & 5 show current development along the Highway 97 corridor in West Kelowna.

*Figure 4: Westbank First Nation Urban Reserve.*

*Source: Holli Poholka*
### Table 6: Example of Development on WFN Reserve Land

<table>
<thead>
<tr>
<th>Date</th>
<th>Development Type</th>
<th>Developments &amp; Outcomes</th>
</tr>
</thead>
<tbody>
<tr>
<td>1974</td>
<td>Housing</td>
<td>177.3 acres of Txinstikeptum Indian Reserve #10 land was leased in a 99-year agreement for the residential development of Lakeridge Park</td>
</tr>
<tr>
<td>1998-2009</td>
<td>All Property</td>
<td>Assessed property values on WFN land increased from $264.4 million in 1998 to $1,166 million in 2009 (WFN, 2010)</td>
</tr>
<tr>
<td>2006-2012</td>
<td>Housing</td>
<td>WFN approved $202 million in residential permits</td>
</tr>
<tr>
<td>2006-2012</td>
<td>Commercial</td>
<td>WFN approved $120 million in commercial building permits</td>
</tr>
<tr>
<td>2006-2010</td>
<td>Institutional</td>
<td>WFN approved $13 million in institutional building permits</td>
</tr>
<tr>
<td>As of 2010</td>
<td>Txinstikeptum</td>
<td>Txinstikeptum Indian Reserves #9 and #10 are fully developed with services and utilities</td>
</tr>
<tr>
<td>As of 2010</td>
<td>Mission Creek</td>
<td>Mission Creek #8, Medicine Hill #11, and Medicine Creek #12 remain unpopulated and undeveloped</td>
</tr>
</tbody>
</table>

In 1974, immediately following the creation and implementation of WFN’s land use development plans, 177.3 acres of Txinstikeptum Indian Reserve #10 land was leased in a 99-year agreement for the residential development of Lakeridge Park (WFN, 2011). To overcome the Indian Act’s hurdle of disallowing “non-Indian investors from owning an interest on reserve lands” (McKibbon, n.d.), this original 177.3 acres was surrendered to “Her Majesty in right of Canada” and was leased back to WFN’s Westbank Indian Band Development Company Limited (DEVCO) in a head-lease agreement (INAC, 2011). Each lot was then re-leased by DEVCO to homeowners wishing to develop the lots for residential purposes in a 99-year sub-lease agreement, which could then be negotiated for an additional 50 years (McKibbon, n.d.).

Between January, 2006 and July 2012, WFN approved $202 million in residential permits, $120 million in commercial building permits, and $13 million in institutional permits (WFN, n.d.b.). It is unclear who the developers in this area are, but it appears they are non-First Nation developers according to WFN’s (2011) Community Plan and references to development outside of “WFN enterprises” as denoted in WFN’s Community Economic Development Plan (WFN, 2010).

As of 2010, 40% of WFN reserve land, Txinstikeptum Indian Reserves #9 and #10 (Refer to Figure 3) was fully developed with all service and utilities (WFN, 2011). The other three
WFN reserves, Mission Creek #8, Medicine Hill #11, and Medicine Creek #12 remain unpopulated and undeveloped (WFN, 2010).

On-Reserve services include social services, health services, day-care, pre-school, elementary schools, churches, housing, banking, commercial and retail services, and intergovernmental affairs.

5.1.3 Results of Urban Reserve Development:

Investing in WFN urban reserve development has created economic and fiscal benefits for both WFN and surrounding local governments (NAEDB, 2014). Economic benefits include job creation for both First Nation and non-First Nation members, as well as on and off-reserve spending by First Nation and non-First Nation members (NAEDB, 2014). Fiscal benefits for WFN include property and sales tax, leasing, water and sewer servicing, development cost charges, and permit revenues (NAEDB, 2014). Fiscal benefits for surrounding local governments include property tax and service agreement revenues (NAEDB, 2014).

According to WFN (2011) WFN funds 80% of their $35 million annual operation budget, with only 20% coming from federal transfer payments from Indigenous and Northern Affairs Canada. Fiscal Realities Economists (2011) estimate that in 2010 WFN generated $49.4 million and $29.6 million in annual tax revenues for the federal and provincial governments, respectively (p. 16). WFN’s GDP increased from an estimated $100 million in 2003 to $458 million in 2009, with most growth occurring after 2005 when WFN became self-governing (Fiscal Realities Economists, 2011). See Table 7.
Currently non-profit, below average market rental units are available for WFN Members and plans to develop more such units are a goal (WFN, 2011). WFN purports that a Housing Strategy has been developed and will work towards implementing said plan (WFN, n.d.a.), however the document is not publicly available. New housing developments are located in the core of Txinstikeptum Reserve #9, close to the WFN Community Centre and elementary school. Many housing developments consist of suburb housing development of single family homes such as Crown Town Estates and Elk Ridge Estates. See Figure 6.
Current FN housing still has some challenges; however, from what I can see, having grown up in Westbank, the appearance of FN housing has improved substantially over the past two decades. Statistics regarding quality of housing, overcrowding, etc is not available specifically for WFN.

Source: Holli Poholka
5.1.4 Lessons Learned and/or Challenges:

WFN is recognized as a pillar of success in terms of economic and urban reserve development and acts as a guide and end goal for other First Nations across Canada. Fiscal Realities Economists (2011) argue that “maintaining and expanding this investment and extending this model [that was used by WFN] to other First Nations should be a priority for both [the provincial and federal] governments” (p. 17).

Due to its close proximity to other municipalities, WFN has continually worked with other jurisdictions to establish infrastructure on par with that of surrounding municipalities, including roads, sidewalks, sewers, public spaces, transit, etc. (WFN, 2011), which can be expensive.

Recognizing the success that development has had for their community, WFN continues to purchase land. In 2009 WFN entered into an agreement with BC’s Ministry of Transportation and Infrastructure in which WFN reserve land was given to the Province to complete the Westside Road Interchange project (Indigenous Business & Finance Today, 2015). In 2012 the Ministry of Transportation and Infrastructure replaced lands for this project at a value of six million dollars (WFN, n.d.c.). As of 2016, seven parcels of land were purchased by WFN with this compensation and negotiations have begun to convert these lands into reserve status (McDonald, 2016). This new land consists of 751 acres, located within the City of Kelowna, City of West Kelowna, and Regional District of the Central Okanagan (McDonald, 2016).

While the process of development has been successful, the creation of new urban reserves themselves, through the ATR Policy remains a mystery to planners within surrounding jurisdictions. There is a strong limitation of knowledge about the ATR Policy from non-First Nation jurisdictions surrounding the WFN (Municipal Official, personal communication, March 23, 2016). For example, it is unclear what the rights of the municipalities or regional districts are versus the rights of the First Nations, how to navigate the ATR policy, which level of government should be included (provincial or federal), and how much input, if any, municipalities can have in WFN development (Municipal Official, personal communication, March 23, 2016).
5.2  **CASE STUDY TWO: MUSKEG LAKE CREE NATION**

5.2.1  **Summary Description:**

**Location**

Muskeg Lake Cree Nation (MLCN) is located in Southern Saskatchewan near Saskatoon. See Figure 8.

*Figure 8: MLCN Parent Reserve in Relation to the City of Saskatoon.*

*Source: Google Maps, 2016a.*
MLCN Land

MLCN is a band that “owns and manages” 35,123 acres of land, which consists of urban, rural, recreational, and agricultural lands (MLCN, n.d.a.). However, according to the Government of Canada, only 26,502.18 acres, split up into 15 land parcels, is currently in reserve status (AANDC, 2015b). MLCN’s home reserve, Muskeg Lake Cree Nation #102, is located 93 km north of Saskatoon and is the largest reserve parcel at 17,903.77 acres (City of Saskatoon, 2015). See Table 8.

Table 7: Muskeg Lake Cree Nation Reserves.

<table>
<thead>
<tr>
<th>Reserve</th>
<th>Location</th>
<th>Size (Acres)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Asimakaniseekan</td>
<td>Within Saskatoon</td>
<td>35.33</td>
</tr>
<tr>
<td>Askiy 102A</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Asimakaniseekan</td>
<td>Within Saskatoon</td>
<td>0.49</td>
</tr>
<tr>
<td>Askiy 102B</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lake Pitikhkwakew</td>
<td>35 km NW of Blaine Lake</td>
<td>2,755.23</td>
</tr>
<tr>
<td>102B</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Muskeg Lake 102B</td>
<td>67 km N of Blaine Lake</td>
<td>2,395.93</td>
</tr>
<tr>
<td>Muskeg Lake 102C</td>
<td>22 km N of Blaine Lake</td>
<td>774.43</td>
</tr>
<tr>
<td>Muskeg Lake 102D</td>
<td>43 km SW of Shellbrook &amp; 58 km NW of Rosthern</td>
<td>324.20</td>
</tr>
<tr>
<td>Muskeg Lake 102E</td>
<td>55 km NW of Rosthern &amp; 49 km S of Shellbrook</td>
<td>400.31</td>
</tr>
<tr>
<td>Muskeg Lake 102F</td>
<td>41 km SW of Shellbrook &amp; 54 km NW of Rosthern</td>
<td>34.35</td>
</tr>
<tr>
<td>Muskeg Lake 102G</td>
<td>27 km N of Blaine City</td>
<td>318.27</td>
</tr>
<tr>
<td>Muskeg Lake 102H</td>
<td>13 km NE of Blaine Lake</td>
<td>479.14</td>
</tr>
<tr>
<td>Muskeg Lake 102J</td>
<td>Not specified</td>
<td>320.00</td>
</tr>
<tr>
<td>Muskeg Lake 102K</td>
<td>21 km N of Blaine Lake</td>
<td>15.81</td>
</tr>
<tr>
<td>Muskeg Lake 102L</td>
<td>Not specified</td>
<td>636.54</td>
</tr>
</tbody>
</table>

Chronology – Key Dates

- **1988**: MLCN developed first urban reserve in Saskatoon
- **2011**: MLCN developed second urban reserve in Saskatoon
In 1988 MLCN established Canada’s first urban reserve within the City of Saskatoon, which was created through the ATR policy (FCM, 2011). It took just over four years from the time MLCN placed their claim with the Government of Canada to when this parcel of land was made reserve status (NAEDB, 2015). An additional urban reserve was added in 2011 (City of Saskatoon, 2015). MLCN currently holds approximately 36 acres of urban reserve land within the Saskatoon region (AANDC, 2015b). Figure 9 shows the locations of the urban reserves within Saskatoon.

*Figure 9: Muskeg Lake Cree Nation Land Holdings City of Saskatoon and Region.*

Source: City of Saskatoon, 2015, p. 2.
**Population**

As of February, 2015, 81.8% of MLCN members live off-reserve (AANDC, 2015a). Table 9 outlines population statistics for both MLCN and the Province of Saskatchewan.

Table 8: MLCN versus Saskatchewan Population Statistics.

<table>
<thead>
<tr>
<th>Statistic</th>
<th>Muskeg Lake Cree Nation</th>
<th>Province of Saskatchewan</th>
</tr>
</thead>
<tbody>
<tr>
<td>Population</td>
<td>438</td>
<td>1,008,760</td>
</tr>
<tr>
<td>Average Yearly Income Per Person</td>
<td>$18,802</td>
<td>$40,798</td>
</tr>
<tr>
<td>Unemployment Rate</td>
<td>21.1%</td>
<td>5.9%</td>
</tr>
<tr>
<td>Education: Less Than High School Diploma</td>
<td>50.9%</td>
<td>24.7%</td>
</tr>
<tr>
<td>Education: High School Diploma</td>
<td>22.8%</td>
<td>28.1%</td>
</tr>
<tr>
<td>Education: Post-Secondary Certificate, Diploma, or Degree</td>
<td>26.3%</td>
<td>47.2%</td>
</tr>
</tbody>
</table>

Sources: Statistics Canada, 2013c; Statistics Canada, 2013d.

5.2.2 Development on Urban Reserves:

MLCN has two operational urban reserves. The first is Asimakaniiseeken Askiy 102A (Sutherland), which was established in 1988 and is approximately 35 acres in size (MLCN, n.d.a.). Currently, 15 acres of the Sutherland urban reserve land remains undeveloped (City of Saskatoon, 2015). The second urban reserve is Asimakanieekan Askiy 102B (22nd Street), which was established in 2011, is half an acre in size, and is fully developed (MLCN, n.d.a.).

In 1991, the land on the Sutherland urban reserve was leased to Aspen Developments Inc., "a development company wholly owned by the MLCN" (NAEDB, 2015, p. 53). Aspen Developments Inc. holds three headleases and nine subleases (NAEDB, 2015). In total, MLCN urban reserve land contains about 40 businesses, which consists of commercial and institutional enterprises and includes commercial centres, a property management office, an educational institution, service stations, retail stores, a bank, and other businesses (NAEDB, 2015).
Table 9: Examples of Development on MLCN Reserves

<table>
<thead>
<tr>
<th>Reserve</th>
<th>Development</th>
<th>Usage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sutherland “Asimakaniseekan Askiy”</td>
<td>McKnight Commercial Centre</td>
<td>35,000 sq.ft. leasable area</td>
</tr>
<tr>
<td>Sutherland “Asimakaniseekan Askiy”</td>
<td>Cattail 1 Commercial Centre</td>
<td>44,000 sq.ft. leasable area</td>
</tr>
<tr>
<td>Sutherland “Asimakaniseekan Askiy”</td>
<td>Cattail 2 Commercial Centre</td>
<td>11,000 sq.ft. leasable area</td>
</tr>
<tr>
<td>Sutherland “Asimakaniseekan Askiy”</td>
<td>Creeway Gas East</td>
<td>Gas Station &amp; Convenience Store</td>
</tr>
<tr>
<td>22nd Street “Asimakaniseekan Askiy”</td>
<td>Creeway Gas West</td>
<td>Gas Station &amp; Convenience Store</td>
</tr>
</tbody>
</table>

Figure 10: MLCN Urban Reserve Development: Top Left (Creeway Gas West); Top Right (Creeway Gas East); Bottom (McKnight Commercial Centre).

Source: http://www.muskeglake.com/
Agreements were made between the City and MLCN regarding municipal services, tax loss compensation, protocols, and land use compatibility (FCM, 2011; City of Saskatoon, 2016).

The City builds all basic infrastructure and provides all services including policing, water, fire, snow removal, sewer, wastewater, repair to infrastructure, etc. to the MLCN (FCM, 2011; City of Saskatoon, 2016). In return, the MLCN pays an annual fee-for-service which equals what other residents would pay for property taxes (City of Saskatoon, 2016); and enters a separate agreement with the School Board regarding education (City of Saskatoon, n.d.).

Additionally, the MLCN develops and provides services that match the City; that is, MLCN land use development completely aligns to the City’s land use, zoning, and building bylaws (City of Saskatoon, 2016).

5.2.3 Results of Urban Reserve Development

Development is open to both First Nation and non-First Nation businesses, and employment is open to both First Nation and non-First Nation members (City of Saskatoon, 2015). Both MLCN urban reserves employ approximately 635 people in a full-time, part-time, and seasonal capacity (City of Saskatoon, 2015). As such, the Federation of Canadian Municipalities (FCM, 2011) deems urban reserve creation beneficial for both the City and MLCN in terms of economic development, job creation, and increased amenities in response to new businesses. NAEDB (2015) estimates that approximately 30% of jobs are held by MLCN members.

A main goal of MLCN is “to become economically self-sufficient and to provide resources for community programs and services that will enhance the lives and well-being of [their] members” (MLCN, n.d.b., para. 6). This goal becomes more attainable as business revenues and opportunity for employment for First Nation members’ increase. In 2013, MLCN generated $397,835 in property tax revenue, the majority of which was derived from their Sutherland urban reserve sublease tenants (NAEDB, 2015). MLCN does not collect tax on the sale of alcohol or tobacco (NAEDB, 2015).

An important result of urban reserve development between the City and MLCN is the positive relationship that has been established between both parties. The FCM (2011) reports that both the MLCN and City attribute urban reserve development a success due to communication, support, knowledge and understanding of each other’s communities, commitment, and trust.
5.2.4 Lessons Learned and/or Challenges:

Urban reserve development has been occurring for almost 30 years, with the MLCN marking the first urban reserve in Canada. Relationship building and communication between the First Nation and local level of government is of paramount importance to successful urban reserve development (Gibbons & Sully, 2014).

In order to avoid conflict, the City Mayor and MLCN Chief continue to have an “open door policy” and lines of communication are kept between both offices (FCM, 2011); and both parties continue to discuss how to increase economic development for all parties. To alleviate communication challenges the City plans to establish a communication strategy over the next two years (City of Saskatoon, 2016).

Facilitation of the revised municipal service agreement was met with relative ease during negotiations as the MLCN wanted their urban reserve development to look the same as the City’s land (FCM, 2011). The “pay-per-service” agreement means the value of the services is based on the value of the land, which has caused issues as the City evaluated the MLCN land at a rate higher than the FN deemed truthful. However, negotiations and revisions were completed and mutually agreed upon without the need of the provincial Arbitration Board (FCM, 2011).

Establishing a relationship, creating municipal service agreements, communicating effectively, and maximizing efficiency for all involved stakeholders has been learned through experience in urban reserve development. The MLCN and Saskatoon has succeeded at all of these aspects and therefore acts as a good model of urban reserve development across Canada.
5.3 Case Study Three: Long Plain First Nation

5.3.1 Summary Description:

Location

Long Plain First Nation (LPFN) is located 15 km outside of the City of Portage La Prairie in Manitoba (INAC, 2014) and 117 km from the City of Winnipeg. See Figure 11.

Figure 11: Map of Southern Manitoba, Canada.

Source: Google Maps, 2016c.

LPFN Land:


As a result of this monetary compensation, LPFN was able to purchase land, which was then converted to reserve status through the ATR policy (INAC, 2014). Currently, LPFN has two urban reserves located in the City of Portage La Prairie and the City of Winnipeg (INAC, 2014). The focus of this case study will be on the City of Winnipeg urban reserve. See Figure 12.
Figure 12: Location of LPFN urban reserve.

LPFN’s urban reserve in Winnipeg is the first urban reserve to be created in Winnipeg and is 2.81 acres in size (INAC, 2014). The land was purchased in 2006 for $1.1 million, used from the TLE claim settled in 1994 (Swystun, 2008). This reserve took almost seven years to process from the purchase of the land from Winnipeg Hydro in 2006 to its approval as reserve status in 2013 (NAEDB, 2015; Paul, 2013).

**Population:**

52.7% of LPFN members currently live off reserve (AANDC, 2015c). Table 11 outlines Statistics Canada population statistics for both LPFN and the Province of Manitoba.
Table 10: LPFN versus Manitoba Population Statistics.

<table>
<thead>
<tr>
<th>Statistic</th>
<th>Long Plain First Nation</th>
<th>Province of Manitoba</th>
</tr>
</thead>
<tbody>
<tr>
<td>Population</td>
<td>1,078</td>
<td>1,174,345</td>
</tr>
<tr>
<td>Average Yearly Income Per Person</td>
<td>$10,242</td>
<td>$36,696</td>
</tr>
<tr>
<td>Unemployment Rate</td>
<td>38.7%</td>
<td>6.2%</td>
</tr>
<tr>
<td>Education: Less Than High School Diploma</td>
<td>67.1%</td>
<td>25.1%</td>
</tr>
<tr>
<td>Education: High School Diploma</td>
<td>18.6%</td>
<td>27.7%</td>
</tr>
<tr>
<td>Education: Post-Secondary Certificate, Diploma, or Degree</td>
<td>14.3%</td>
<td>47.2%</td>
</tr>
</tbody>
</table>

Sources: Statistics Canada, 2013a; Statistics Canada, 2013b.

5.3.2 Development on Urban Reserves:

LPFN’s first urban reserve in Portage la Prairie contains a gas station, conference centre, and office complex (INAC, 2014). Tim Daniels, the Economic Development Officer of LPFN, outlines that the establishment of the first urban reserve in Portage la Prairie paved the way to knowledge and experience to establish the second urban reserve in Winnipeg (INAC, 2014). Revenue from the Portage la Prairie reserve is helping to finance development on the Winnipeg reserve (NAEDB, 2015).

In 2008, LPFN members voted to establish the First Nations Governance House and Economic Service Centre on the Winnipeg urban reserve, which was to be run by the Assembly of Manitoba Chiefs (NAEDB, 2015; Swystun, 2008). Unfortunately, this project did not materialize as planned, so LPFN planned their own commercial development in the existing refurbished building, which includes leasable office space, Yellowquill College, a First Nation education centre, and a gas bar and convenience store (INAC, 2014; NAEDB, 2015; Peters, 2010). Figures 13 and 14 show the LPFN Winnipeg urban reserve land.

In 2013 AANDC announced they would contribute $185,400 for infrastructure of LPFN’s Winnipeg reserve (NAEDB, 2015).
Figure 13: LPFN Urban Reserve Satellite Image.

Source: Google Earth as cited in NAEDB, 2015.

Figure 5: Conceptual Drawing of LPFN Urban Reserve Development in Winnipeg.

Source: LPFN, 2014.
5.3.3 Results of Urban Reserve Development:

Both First Nation and non-First Nation members benefit economically from this urban reserve in terms of job creation (NAEDB, 2015). NAEDB (2015) estimate that approximately 250 permanent jobs will be created to operate the commercial and education centres, of which 30% could be held by LPFN members, and temporary jobs will continue to be created during the construction phases of development.

NAEDB (2015) suggest that while development would have occurred at this location even if an urban reserve was not developed, more revenue is generated by having the urban reserve at this location because LPFN members are not taxed, and therefore have additional money to spend in Winnipeg. LPFN revenue generated from other sources, for example through taxation, leasing, and business operations is unavailable for the Winnipeg urban reserve (NAEDB, 2015).

LPFN does not collect tax on the sale of alcohol or tobacco (NAEDB, 2015).

5.3.4 Lessons Learned and/or Challenges:

In 2008 LPFN Chief Dennis Meeches expected the Municipal Development and Services Agreement (MDSA) to be signed with the City of Winnipeg “within the next few months” (Swystun, 2008). However, it was not signed until 2010 (INAC, 2014), and the ATR in Winnipeg was not approved until 2013. Under the MDSA agreement, the City of Winnipeg provides General and Specific services, which include police and fire protection, public health, building inspection, infrastructure maintenance, water supply, and sewage collection (NAEDB, 2015). The value of this MDSA “is equal to the property taxes and the business taxes which would have been payable to the City if its occupants were taxable” (NAEDB, 2015, p. 104).

Having already established one urban reserve, benefitted the creation of their second urban reserve, especially in terms of financial help.
6 Key Findings of the Study

Based on the above three case studies and summary Table 11, it appears that there are substantially more beneficial outcomes of urban reserve development than challenges. Realistically it is easier to see the benefits of urban reserve creation by assessing results and seeing the development results.

Table 11: Summary of Key Findings of Case Study Analysis

<table>
<thead>
<tr>
<th>Benefits</th>
<th>Challenges</th>
<th>Lessons Learned</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Westbank First Nation</strong></td>
<td></td>
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<tr>
<td>There are economic &amp; fiscal benefits for FN and surrounding municipalities from commercial, residential, and institutional development.</td>
<td>The ATR policy remains unclear and vague to FN and surrounding municipalities regarding their roles, rights, and input in urban reserve creation.</td>
<td>Self-government increases the growth and success of urban reserve developments.</td>
</tr>
<tr>
<td>FN experience self-sufficiency as only 20% of the WFN operation budget relies on federal transfer payments.</td>
<td>The ATR process poses challenges that are not made clear to the public.</td>
<td>WFN is a success and should be viewed as a guide and end goal for other FN in Canada regarding urban reserve development.</td>
</tr>
<tr>
<td>Positive relationships with surrounding municipalities stem from land and service agreement negotiations.</td>
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</tbody>
</table>

| **Long Plain First Nation** | | |
| Urban reserve development has created commercial and institutional enterprises, employing both FN and non-FN members. | The first urban reserve took over 4 years to implement. | Keeping and “open door” policy and continual communication between the FN and municipality fostered successful service agreement negotiations. |
| Development is open to both FN and non-FN businesses. | | Experience of urban reserve creation leads to more success the next time. |
| Additional amenities have been established as a result of additional business development on the urban reserve. | | |
| A municipal service agreement was successfully negotiated between the City of Saskatoon and the LPFN. | | |
A solid relationship was built between City of Saskatoon and LPFN based on communication, support, knowledge, understanding, commitment, and trust.

**Muskeg Lake Cree Nation**

Both FN and non-FN benefit economically by urban reserve creation in terms of permanent and temporary job creation. Urban reserves arguably create more revenue than non-urban reserve development as FN members are not taxed and have additional income to spend within the City.

Very limited information is available for Portage la Prairie urban reserve. Much more information is available for Winnipeg urban reserve. Winnipeg urban reserve creation through the ATR policy took almost seven years to complete. The municipal service agreement took a couple of years to negotiate, when it was thought it would only take a few months.

MLCN’s first urban reserve paved way for creation of second urban reserve in Winnipeg through experience and revenue generated from the first. The federal government contributes to development on urban reserves.

However, the majority of this information provided in this report is from publicly available information only. It would be interesting to learn the “real” challenges both First Nations and Municipal Officials faced (and continue to face) during urban reserve development in Canada.

### 6.1 SUMMARY OF KEY FINDINGS

#### 6.1.1 Case Study Findings

WFN is recognized as a pillar of success in terms of urban reserve development. However, its approach and context are different from those in many other First Nations. First, WFN is located adjacent to several municipalities where economic development was already occurring and this helped pave the way for successful development on WFN land. Professional opinion states that if the WFN was not so close to surrounding municipalities, it likely would not be as successful. However, WFN’s forward thinking, outstanding business sense, and initiative played a major role in its ability to take advantage of this favourable position to become one of Canada’s most affluent First Nations. At a public meeting regarding urban reserve development in Winnipeg, Chief Glen Hudson described WFN as the place “where development melds with Kelowna and provides jobs and economic opportunities for all” (Fontaine, 2015, para. 36).
The information available for each First Nation reviewed is different. Several challenges emerged in the research, including the following:

- The information available for the WFN and LPFN urban reserves is largely based from the First Nation’s point of view, while the MLCN is based on a case study analysis by the FCM, and information provided by the City of Saskatoon. The amount of information provided for each case is extremely varied and each source of information has potential biases. WFN has the most extensive literature regarding community plans, economic development, policies, and intergovernmental relations, due in large part to its self-governing status. Similar information was not readily-available for MLCN or LPFN.

- Information from the Government of Canada and the First Nation is not always consistent. For example, MLCN (n.d.b.) specify that they “own and operate” 35,123 acres of land whereas AADNC (2015b) specifies that MLCN has 26,502.18 acres of land. This paper used Government of Canada values from AANDC and Statistics Canada.

- Municipalities have not always provided information about urban reserves in their areas. While the City of Saskatoon has embraced the urban reserve development for MLCN and provided publicly-accessible information, the surrounding municipalities of the WFN and LPFN do not appear to have done the same.

Each First Nation and municipality took a different approach to urban reserve development and this research suggests that all three approaches have been successful. As urban reserve development has been occurring for almost 30 years, there are now many examples of how to have successful relationships between First Nations and municipalities in terms of procedures, development, tactics, compensation, and so on. For example, St. Mary’s First Nation in Fredericton, New Brunswick is another successful example of urban reserve development and municipal service agreement negotiations (FCM, 2013).

Communication appears to be the key to negotiating municipal service agreements and at least in part to speed up the ATR process (FCM, 2011; FCM, 2013; City of Saskatoon, 2016). While talks and negotiations were initially difficult between First Nations and municipalities because this was uncharted territory, First Nations and municipalities have been able to learn from their successes and failures (Gibbons & Sully, 2014).
6.1.2 Urban Reserve & Policy Findings

Literature presented in this report shows that urban reserve development creates benefits and challenges for both First Nations and municipalities in Canada. Key findings include:

- **Benefits for First Nations** include increased job opportunities, revenue generation, jurisdiction over new reserve land, increased economic self-sufficiency, and increased quality of life.
- **Benefits for municipalities** include revenue from urban reserve service provisions, job opportunities, and positive relationships with First Nation peoples.
- **Challenges for the First Nation** include high financial risk, limited financial resources, fragmentation of band members as some move closer to urban centres and away from the parent reserve, and discrimination in urban centres.
- **General challenges** include:
  - An unclear ATR policy;
  - A long and drawn out process from land purchase to urban reserve creation that often spans several years;
  - Negotiation of land purchase prices from the municipality to the FN;
  - and friction during the negotiation of municipal service agreements between the FN and municipality

These findings raise a broader question: Do the benefits of urban reserve development outweigh the challenges?

Based on the results of this study, it appears the answer is “yes.” The benefits of urban reserves created in the three case studies seem to clearly outweigh the many challenges involved.

What remains unclear, however, is the role of the ATR policy in the development of the WFN, MLCN, and LPFN urban reserves. The information available for these three case studies covers only the urban reserves themselves, the development on these reserves, the MSAs, and the benefits and challenges of urban reserve development. There was not sufficient information to assess how the ATR policy itself affected the experiences of the parties involved.

The ATR policy is a vehicle for additions to reserve land. The literature and document review for this paper showed that while the ATR policy has been successful in enabling urban reserves in Canada, the policy itself is problematic.

The current ATR policy contains many gaps, which causes extreme time inefficiencies and decreases its effectiveness in processing applications to convert land to reserve status. Some key issues with the policy are:
There are many steps to the ATR policy from start to finish, and the First Nation is responsible for initiating the steps (as shown in Figure 12);

The three categories under which a First Nation can submit an ATR proposal are restrictive and competitive in nature;

Due to poor management of the ATR policy by the federal government, discretion is left up to regional AANDC offices in the processing of ATR applications, and their interpretations of the policy appear to vary.

Many of the shortcomings of the 2001 ATR policy have been recognized by both the federal government and First Nation organizations such as the Assembly of First Nations. In response to the issues with the ATR policy, steps have been taken to revise the ATR policy to make it more effective and efficient. Based on publicly-available information, this process stopped short of creating the new draft ATR policy in 2013.

For all intents and purposes, the 2001 ATR is the current policy and remained the focus of this paper.

6.2 ADDITIONS TO RESERVE POLICY VERSUS OTHER OPTIONS

6.2.1 Why Urban Reserves?

As previously mentioned, there are many challenges in creating and developing urban reserves. In addition, there are benefits for First Nations to keep land they have purchased as non-reserve status. Band corporations can purchase land in the same way as any other person or corporation and “can receive economic benefits from urban development through avenues that do not require the creation of urban reserves” (Peters, 2007, p. 2).

Additionally, Garcea (2004) states that First Nations can generate revenue off-reserve, which can be accomplished:

“through investments in residential and commercial properties off reserve which they could make available to some of their members in various ways. This option would provide them with investments in residential and commercial properties that would not be encumbered in the same way in which such properties on reserve are encumbered by virtue of the fact that bands cannot sell them without ministerial or cabinet approval (p. 35).

Given the extensive challenges to creating urban reserves and given the aforementioned benefits to keeping purchased land under municipal jurisdiction, why do First Nations still seek reserve status for their urban development?

First Nations do so for a variety of reasons (Peters, 2007, p. 3), including:
First Nation owned properties are exempt from taxes on-reserve and “are exempt from paying school levies;”

First Nations peoples working on-reserve are not charged income tax;

Band council has jurisdiction over bylaw creation on-reserve;

On-reserve First Nation businesses are eligible for federal government funding and “have access to various sources of First Nations investment capital.”

Additionally, if urban reserve development is the avenue chosen, more than one band can work together to accomplish successful urban reserve development (Garcea, 2004). Several bands would increase financial capacity, increase member usage, and create benefits for more of the Aboriginal population in terms of housing and other aspects of quality of life.

Another option for increasing economic development and quality of life for First Nations peoples would be to focus on the creation of policies and programs for those living both on-reserve, as well as for those who have migrated to urban centres. Analyses of such policies, existing and potential, are beyond the scope of this paper.

Choices among the options depends on the First Nation’s goals for their communities. Broader strategies can be more holistic, linking economic development to human capacity, expanding education opportunities and skills development. For example, NAEDB (2013d) states that “higher educational attainment increases employability and is correlated with higher income” (p. 3). At a very basic level, resources need to be given to increase education opportunities by First Nations at all levels (NAEDB, 2013d). Improved education and skills help increase economic well-being. To make urban reserve development successful, the First Nation must have the “human capacity” to make it happen. “The education level must fit the scope of the economical objectives,” which may mean training from within or hiring outside, potentially non-First Nation help (Hennessey, as cited in Peter-Paul, 2012).
“Leadership is about empowering others, not taking power from them. Leading from behind, facilitating a path, developing a shared vision – these are key leadership attributes in a community development context” (Aboriginal Council of Winnipeg, et al., 1998, p. ii).

Matunga (2013) argues that communities need to plan for themselves, based on their values and community processes and needs, taking into consideration improved “environmental, social, economic, cultural, [and] even political outcomes” (p. 22). This is likely harder to achieve within existing municipalities where Aboriginal populations do not necessarily have power. However, Walker & Belanger (2013) argue that agreements between Aboriginal groups and municipalities is of utmost importance in achieving cooperation and partnership and site previous case studies including the City of Edmonton and Powell River about how to build these relationships.

This report shows one aspect of Canadian First Nation people’s right to self-determination. While urban reserve development is still entangled in Western non-Indigenous government policies, First Nations are recognizing and utilizing the benefits that urban reserve development can create. Additionally, they are fighting for more efficient, unrestricted policies relating to urban reserve development as a means to ensuring First Nation success.

Socioeconomic conditions for First Nation peoples “reveal an increased need for employment and economic development opportunities” in Aboriginal communities (MAACCP, 2002). “[Urban reserves…represent an opportunity to create economic wealth for the First Nation” which will “benefit everybody” by increasing job and education opportunities and increasing overall quality of life (Chief Dennis Meeches of Long Plain First Nation as cited in INAC, 2014).

In light of background information regarding First Nations peoples in Canada, this report considered three research questions, and overall conclusions are provided below.

What are urban reserves?

First Nation urban reserves are reserves located adjacent to or within an existing municipality and are created when a newly established reserves develops alongside or within an existing municipality, or when a municipality grows into a reserve (AANDC, 2014a).

What is the Additions to Reserve federal policy? How is the ATR implemented and what are the implications of urban reserves for municipal planning and relationships with First Nations?
The ATR policy is the federal policy under which reserve land can be expanded or newly created. The implications for municipal planning and relations with First Nations are wide-ranging. As the case studies for this report showed, the specific examples of urban reserves varied considerably depending on local circumstances.

_Has the creation of urban reserves through the ATR policy contributed to improved economic and social well-being for First Nations in Canada?_

This report has shown that once implemented, the ATR policy does enhance First Nation economic self-sufficiency. Based on the literature and case study analyses, one can infer that First Nation quality of life is also positively affected by urban reserve development. For example, in his article for CBC News, Fontaine (2015) notes that due to the success that Swan Lake First Nation has had with their urban reserve in the rural municipality of Headingley (just outside of Winnipeg), 95% of SLFN’s housing has been renovated.

While some argue the move of First Nation members to urban centres causes First Nations peoples to lose connections to their culture (Aboriginal Council of Winnipeg, et al., 1998), others argue just the opposite. Over half of Canada’s Aboriginal peoples are living in cities; however, most maintain a strong connection to their parent reserve or territory through “family, law, culture, and politics” (Adele & Graham, 2011, p. 34). The creation of urban reserves has the ability to connect Aboriginals on the parent reserve to those within urban centres, while maintaining tradition and culture. Therefore, urban reserve creation helps maintain tight bonds between those living on the parent reserve and those living in urban centres. Similarly, the extension of a reserve into urban centres allows First Nation members to reap the benefits associated with urban centres, without having to choose to leave their cultural and familial connect of the parent reserve.

### 7.1 Recommendations for Future Studies

While there is evidence that the ATR policy does benefit First Nations and surrounding municipalities, in its current form, it is an “outdated and inappropriate tool” that hinders First Nation economic progress (NAEDB, 2013a). The NAEDB (2013a, Page 5) notes that the _Indian Act, Canadian Environmental Assessment Act, Species at Risk Act_, federal government bureaucracy, insufficient resources, and inadequate service standards from the AANDC all act as barriers to First Nation economic development on-reserve.

While the creation of urban reserves may help the current situation by increasing the well-being of First Nations peoples, it is not the answer in and of itself. Simply obtaining land and converting it to reserve status is no guarantee of economic success for a First Nation (Peters, 2007). For example, if looking at housing as a quality of life indicator, and poor housing options for Aboriginals both on and off-reserve, it is unlikely that the creation of
urban reserves alone will create enough housing to “fix” the housing crisis. For example, Anderson (2013) argues that “Aboriginal housing agencies in the city [Saskatoon] are of the impression that there is a constant if not increasing backlog of between 1,500 and 2,000 units” (p. 73). Nevertheless, the creation of additional housing in urban reserves could help to address some of the need.

There is considerable literature on past and present urban Aboriginal policies. However, the concept of urban reserves is not prevalent as an option in most cases (Peters, 2011; Walker, 2008a). While there are books and articles on urban reserves (Barron & Garcea’s, 1999), many are focused on one particular area and are outdated. For example, Barron & Garcea’s edited book on the topic is focused on the context of Saskatchewan and was published in 1999. Additionally, aspects of the ATR policy, such as MSAs are often not well documented because relationships between First Nations and municipalities regarding urban reserve development are often more “informal” in nature (MAACCP, 2002, p. 5).

Urban reserves are simply not well documented. Considering that Canada currently has more than 120 urban reserves (AANDC, 2010a), it is unclear why they are not being discussed in greater depth and why they appear to be shrouded in secrecy. This raises broader questions, such as:

- Has the ATR policy failed to meet expectations?
- Do First Nations want or know how to expand their reserves?
- Are the impediments (inefficient, costly, extremely time consuming) of securing additions to reserve land through the ATR policy so high that it is a disincentive to use the policy?
- Why does the Government of Canada not promote the ATR policy?
- How could understanding of urban reserves among local planners be improved?

Studies on the impacts of the ATR policy across Canada could be helpful. Specifically, studies of urban reserve development should be completed to determine to what extent the economic benefits of this development increase First Nation community well-being. Additionally, failed economic development and its impacts should be investigated to provide a well-rounded account of urban reserves. The investigation should also include a breakdown of how the revenue generated through urban reserve development is used to help First Nation communities.

These studies would need to involve First Nations peoples and consider the larger questions about the implications of the development for First Nations, surrounding municipalities, planning in general, and federal policies.
While academic and official knowledge regarding urban reserve development is minimal, knowledge does appear to be gaining momentum in very recent years. There has been a surge of news articles, conferences, and YouTube videos created about the topic. Therefore, while urban reserve development has been continually building over the past few decades, the last few years have seen a foundation of knowledge come to light to combat common stereotypes regarding First Nation peoples, and reserve development.

The urban reserves developed in the past 28 years may represent the “pioneers” of urban reserve development and show how this “new” model has unfolded. However, the potential for further development to help improve the well-being of First Nations people remains unclear.
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