



# BASIS FOR URBAN RESERVES

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## > OUTLINE OF PRESENTATION

- Historical Perspective
- TLE in Manitoba
- General Steps in the Process
- Urban Reserves

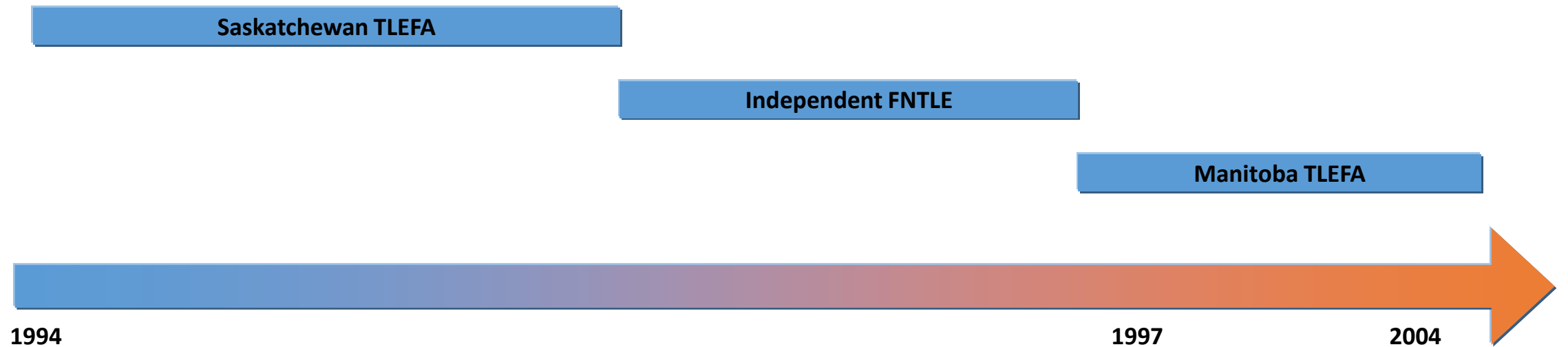
## > HISTORICAL PERSPECTIVE

- Canada entered into various treaties with First Nations in Manitoba between 1871 and 1910. These treaties provided that Canada would set aside a certain amount of land as reserve land based on Band populations at the time of the original reserve surveys.
- In general terms “Treaty Land Entitlement” (TLE) refers to land Canada owes to specific First Nations under the terms of the original Treaties. Not all First Nations received their full amount of land creating a “shortfall”.
- Provincial participation in TLE results from provincial obligations to Canada under the 1929/30 Manitoba Natural Resources Transfer Agreement (MNRTA).

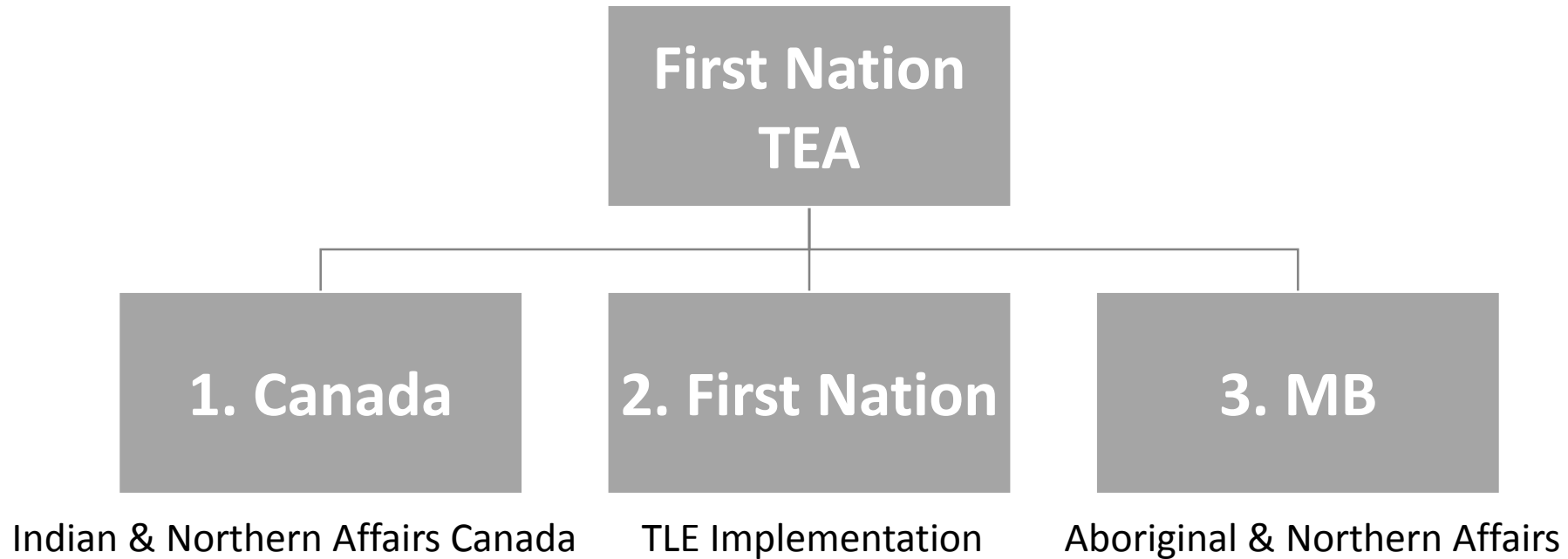
## ➤ BACKGROUND ON TLE IN MANITOBA

- Currently in Manitoba there are 31 First Nations (Bands) with outstanding TLE claims, or approximately 50% of Manitoba's 63 First Nations.
- Canada has validated (confirmed) the outstanding TLE of 27 of these First Nations. Seven (7) of the First Nations with validated claims have signed individual TLE settlement agreements, including Peguis.
- 7 of these First Nations have signed individual TLE Claims include: Island Lake First Nations (1994), Long Plain First Nation (1994), Swan Lake First Nation (1995) & Roseau River Anishnabe Nation (1996).
- The Treaty Land Entitlement Committee of Manitoba Inc. (TLEC) signed the TLE Framework on behalf of 19, now 21, Entitlement First Nations on May 29, 1997.
- Peguis signed their TEA in 2008.

## > OVERVIEW OF MANITOBA TLE PROCESS



## > TREATY ENTITLEMENT AGREEMENTS (TEA)



## > PRINCIPALS FOR LAND ACQUISITION

- First Nation may Acquire Other Land from within:
  - (a) the area comprising its Treaty Area; or
  - (b) the area outside its Treaty Area, but within the Province of Manitoba where, on a case by case basis, the Entitlement First Nation can establish a reasonable social or economic development objective for the Acquisition.
- Land must be purchased on a willing seller and willing buyer basis.

## > SPECIFIC PRINCIPALS FOR SELECTION OF CROWN LAND AND ACQUISITION OF OTHER LAND

- Land affected by Third Party Interests
- Land in a Municipality
- Land in a Provincial Park
- Land in a Northern Affairs Community
- Land in a Wildlife Management Area
- Surplus Provincial Land
- Land in a Forest Plan
- Surplus Federal Land
- Land in a Urban Area



## > PROCESS STEPS

- Other Land – First Nation forwards BCR, a legal description of the land identifying the Acquisition to Canada, copy of the certificate of title and or a binding offer to purchase.
- Canada acknowledges the BCR and forwards it to Manitoba (MB) for their review and comments, must be forwarded to Manitoba within 7 days.
- Canada and MB have 60 days to respond to First Nation on eligibility.

## > THIRD PARTY INTERESTS (TPI) IDENTIFIED

- Encumbrances or Third Party Interests on selected or acquired lands are identified;
- Encumbrances or TPI's include Mines and Minerals, Access Issues, Provincial Concerns, Municipal Concerns, Forestry, Hydro, Highways, Other;
- The First Nation must then resolve any competing encumbrances or TPI's.

## MUNICIPAL DEVELOPMENT SERVICES AGREEMENT (MDSA)

- Certain sections of the TEA require notification to the local municipality and or city;
- Notice to Manitoba, Canada and the City of intention to set apart land as reserve;
- To provide notice for negotiation of a servicing agreement for any development and municipal services if required.

## ➤ STARTING POINT – KEY TO SUCCESSFUL FIRST NATION – MUNICIPAL RELATIONSHIPS – NEGOTIATION

- Urban Reserve land is specifically excluded from municipal land.
- Municipal bylaws are *not applicable* on urban reserve land. Do not pay municipal or school taxes.
- Municipalities are a *'third party'* but First Nation needs to make effort to resolve interests' issues/concerns.
- Most efficient way – Municipal Development and Servicing Agreement
- In order to set conditions for success, both First Nations and municipalities understand that there needs to be, as much as possible, seamless integration.
- Integration is negotiated including servicing, land use and development. The municipality does not have veto.



## > WHAT IS A MUNICIPAL DEVELOPMENT SERVICES AGREEMENT (MDSA)

- **Municipal Development and Services Agreements are negotiated agreements that usually set out:**
- Arrangements for the provision of, and payment for, municipal services
- Provisions for by-law application and enforcement on the Urban Reserve and
- A joint consultative process for matters of mutual concern, such as land use planning and development
- Dispute resolution process
- **Both parties need to act in good faith. If agreement cannot be reached Federal Government can impose an agreement. Highly unlikely scenario.**

## > WHAT MIGHT BE COVERED?

- **Servicing** – First Nation *may* want to purchase services from the municipality
- **Infrastructure** - Maintenance and improvement of infrastructure; future development of infrastructure – who pays for what?
- **Land Use and Development Compatibility** – Negotiated. Compatibility does not mean that the by-laws of a Municipality and First Nation must be the same:
  - Mechanisms for joint planning – not the prevue of the municipality, unless First Nation wants municipality to oversee planning and development.
- **Reciprocal Consultation and Dispute Resolution**



## > IS A DEVELOPMENT PLAN REQUIRED?

- **No** – but in best interest if looking for successful economic development.
- Success will depend on market alignment – needs to be reflected in development plan.
- Development plan would be adopted in by-law by the First Nation and municipality.
- Plan administration needs to be considered – amendment and approval mechanisms – what entity will determine if development complies?
- Joint administrative committee is an option. Or First Nation can purchase planning services from municipality.





## > MOVING FORWARD

- Relationships matter
- Understand roles and agreements
- Respect that First Nation is not like every other developer – very different
- Plan important if conditions of success are going to be met – predictability and certainty
- Integration necessary







Thank You