

## What are Section 91(24) Lands?

Section 91(24) lands are lands reserved for “Indians” within the meaning for Section 91(24) of the *Constitution Act, 1867*, but not necessarily set aside as reserves under the *Indian Act*.

To create Section 91(24) lands, the Province must transfer land to the Government of Canada. The Government must then enact legislation designating the lands as “reserved for Indians” under Section 91(24) of the *Constitution Act, 1867*.

### **First Nations which hold Section 91(24) lands include:**

- The Mohawks of Kanesatake; and
- West Bank First Nation.

## What are the Pros and Cons of Section 91(24) lands?

### **Pros**

- Provincial laws which directly affect lands reserved for “Indians” would likely not apply to Section 91(24) lands;
- Section 91(24) lands could be set aside without-prejudice to our position that we have never surrendered our Aboriginal title and rights; and
- Unlike a reserve, the lands would not need to be held by a “band” within the meaning of the *Indian Act*, and therefore could be held by the Teme-Augama Anishnabai as a whole.

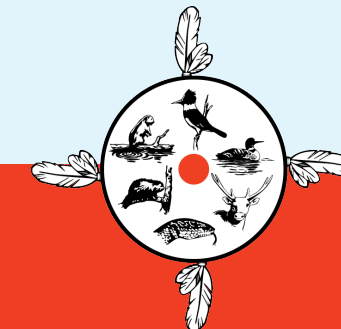
### **Cons**

- Band members’ activities on Section 91(24) lands would not benefit from taxation exemptions available under the *Indian Act*;
- Our authority over the lands would need to be the subject of further negotiations with the federal and provincial governments; and
- Federal legislation may be required to clarify our ability to control the use and development of the lands.

## Land Tenure Options

Joint Council is engaged in negotiations with Canada and Ontario. These negotiations contemplate transfers of land from the Crown. We may hold these lands in Fee Simple, as an Addition to a Reserve, or as Section 91(24) lands. Any one or a combination of all options may apply.

Information provided by First People’s Law  
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## What are Fee Simple Lands?

Fee Simple is a legal term that means full and irrevocable ownership of land. First Nations which hold lands in Fee Simple may use, sell, or transfer the land as they wish, subject to applicable legislation.

### **First Nations which hold land in Fee Simple include:**

- Tla'amin Nation;
- Tsawwassen First Nation; and
- Maa-nulth First Nation.

## What are the Pros and Cons of Fee Simple Lands?

### **Pros**

- We would have flexibility as to how to use and develop the lands, including the ability to sell or grant interests in the lands to third parties;
- The value of lands would appreciate in a manner comparable to similar lands in the same area;
- We would hold title to the lands, therefore federal control over the use and development of the lands would be limited;
- The lands could be held by an entity of our choosing – they would not need to be held by the First Nation or “Indian Band”; and
- Restrictions relating to the use and occupation of reserve lands by unregistered members of the First Nation do not apply to lands held in Fee Simple.

### **Cons**

- Lands held in Fee Simple are not tax exempt under Section 87 of the *Indian Act*. Federal and Provincial taxes may continue to apply on these lands.

## What is an Addition to Reserve?

Reserves are federal lands set aside under the *Indian Act* for the collective use and benefit of the First Nation. An Addition to Reserve is the process by which the Government of Canada converts new lands into a reserve. The addition to reserve process can add lands to an existing reserve or create a new reserve. A new reserve need not be adjacent to an existing reserve. New reserves can be provincial or federal land, or land acquired by the First Nation. The land is always transferred to Canada before the reserve is created.

## What are the Pros and Cons of an Addition to Reserve?

### **Pros**

- The lands can expand our land, resource, and taxation base;
- Individual members of the First Nation may benefit from tax exemptions for activities which occur on the reserve; and
- Provincial laws which directly affect reserve lands would not apply to the additions to the reserve.

### **Cons**

- Reserves must be held by the federal Crown on behalf of a “band” within the meaning of the *Indian Act*. Consequently, the reserve would need to be held in the name of the First Nation or “Indian Band” rather than the entire Teme-Augama Anishnabai.
- Reserves are subject to federal oversight which may inhibit economic development opportunities; and
- The ATR process can be lengthy.

