

# Social and Economic Impacts of Aboriginal Land Claim Settlements: A Case Study Analysis Final Report

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# 1. Introduction

## 1.1 Background

Aboriginal land claims have occurred in many countries and are ongoing today. Over the last twenty- five years, modern treaties and a variety of other land claim settlements have taken place in several countries including Canada, USA, Australia, and New Zealand. Resolution of land claims has occurred for a number of reasons. These may include a desire to:

- resolve concerns of business interests that claims interfere with resource development;
- enable approvals for the progress of large scale resource development;
- respond to general public opinion that claims are valid and must be settled;
- resolve issues associated with self-determination aspirations of aboriginal groups; and
- provide a means to maintain traditional aboriginal lifestyles.

The land claim process is active in several locations. In New Zealand, the Waitangi Tribunal was established in 1975 to hear, investigate, and advise government on the validity of land claims. Many settlements have been reached through this process. The government of New Zealand has recently released a policy statement that they intend to complete all land claims by the year 2000. In Australia, as a result of a landmark court case known as the Mabo Decision, the *Native Title Settlement Act* was passed to establish a land claims hearing and resolution process. In the USA, land claim activities are continuing with recent settlements for the Puyallup in Washington State, and the Catawba tribe in South Carolina. Several others are in progress.

Land claim settlements have taken several forms. The Comprehensive Claims Settlement Process in Canada was initiated in the 1970's to address outstanding aboriginal claims, generally where treaties did not exist (primarily in the north and British Columbia). In an international context, comprehensive settlements refer to any settlement that involves a range of components such as transfer of title to land ownership, cash, rights to resources, and involvement in resource and economic management.

Settlements may be more specific, based on grievances of existing treaties, or they may be the result of government social policy. While there is no blueprint for land claim settlements, there are common factors which have emerged, particularly for those of a comprehensive nature. In some respects, an evolutionary process has resulted. British Columbia is now poised to take advantage of lessons learned from past experience with several types of land claim settlements as it enters a land claim process.

## **1.2 Purpose of Study**

The British Columbia Ministry of Aboriginal Affairs and the Federal Treaty Negotiations Office commissioned this study to expand knowledge of social and economic impacts which may occur in the event of treaty settlements. Through a review of existing information and consultation with key groups and individuals, the research objectives were to identify:

- Various settlement options and their relative impacts; and
- Impacts on lifestyles, social conditions and economic well-being of both Aboriginal and Non- Aboriginal communities resulting from settlement.

The conditions leading to treaty settlements vary, as do the characteristics of each specific case of settlement. A qualitative approach to research was chosen, enabling these variations to be incorporated into the discussion. The research was intended to identify general trends which could be considered applicable to British Columbia.

This study provides information on the impacts of Treaty Settlements that was not previously available in a single report.

## **1.3 Methodology**

The study attempted to accommodate a wide range of perspectives regarding treaty settlements in British Columbia. To accomplish this, a range of identifiable groups were interviewed, including First Nations, business and finance, resource based industry, service industry, recreation, local, provincial and federal governments. The research involved:

- A literature search on the topic of treaty settlement impacts;
- A workshop with government and representatives of municipalities, First Nations, and the financial community;
- Further consultations with industry via the Treaty Negotiation Advisory Committee (an advisory body to government consisting of representatives of 31 resource sector groups in British Columbia);
- Formulation of a range of key issues relating to treaty settlement for British Columbia;
- Selection of six case studies and six impact categories for review; and
- Interviews with key individuals and representatives of recipient Aboriginal groups, business, and government for each case study area.

## **1.4 Settlements Reviewed**

Six land claim settlements were reviewed.

### ***The Aboriginal Lands Rights (Northern Territory) Act, 1976. (Australia)***

*The Australia Aboriginal Land Rights (Northern Territory) Act, 1976* (also referred to as the *Northern Territory settlement* or *1976 Act*) was selected largely for the resource management issues it presented and to observe ways in which these issues were dealt with. From this case, impacts related to Aboriginal control over resource development could be observed.

### ***The Western Arctic (Inuvialuit) Claims Settlement Act, 1984 (Inuvialuit Final Agreement)***

The Inuvialuit Final Agreement (IFA) is a Northern Canada case study that involves a broad range of co-management arrangements and a range of issues for mineral based resource development.

### ***The Waikato-Tainui Deed of Settlement, 1995 (New Zealand)***

The Waikato-Tainui Deed of Settlement (also referred to as the Tainui settlement) is a case where urban land was featured in settlement, and there existed a high level of social and economic interaction between indigenous and non-indigenous people.

### ***The Council for Yukon Indians Umbrella Final Agreement, 1993, and selected Final Agreements of four Yukon First Nations***

The Yukon case was selected due to its parallel sociological and political characteristics to British Columbia and the fact that it illustrates impacts related to a lengthy process of negotiation.

### ***The Alaska Native Claims Settlement Act, 1971***

The *Alaska Native Claims Settlement Act* (ANCSA) presents similar resource-based and other geographical characteristics to British Columbia (particularly in its southern region), along with an economic oriented settlement structure and a long history of settlement.

### ***The James Bay Northern Quebec Agreement, 1976***

Finally, the James Bay Northern Quebec Agreement (also referred to as the James Bay Agreement or the JBNQA) is a settlement that involves issues for the maintenance of lifestyle amongst forestry activities and large scale industrial (hydro electric power) development, and

also is Canada's first comprehensive land claim agreement, demonstrating a lengthy period of settlement history.

Case studies differ in type, purpose, and provisions. Collectively, five could be referred to as negotiated comprehensive agreements, and one (the *Northern Territory Act*), a social policy Act. The key characteristics of the six settlements are illustrated in Exhibit 1.

In addition to a review of the broader issues related to each case study, cases of focus were selected in the larger studies for the purpose of investigating further issues of potential interest for British Columbia. For Australia, the activities of the Northern Land Council and the Jawoyn and Gagudju Associations were addressed. For Alaska the NANA and Sealaska Regional Corporations and the Goldbelt and Shee Atika Urban Corporations (within Sealaska) were assessed, and for the Yukon, the Champagne and Aishihik First Nation provided a case of focus.

### **Exhibit 1: Provisions of Settlements**

- Northern Territory
- Inuvialuit
- Waikato-Tainui
- Yukon
- Alaska
- James Bay and Northern Quebec

#### Total Cash Compensation

- None
- \$152 Million Land Acquisition Fund of NZ\$170 Million Less: Crown Land Allocations Upon Settlement (value around NZ\$100 Million)
- \$242.7 Million
- US\$962.5 Million
- Cree: \$135 Million  
Inuit: \$90 Million

#### Other Payments

- None
- \$10 Million Economic Enhancement fund \$7.5 Million Social Development
- Costs: \$750,000
- \$11 Million Preparation and Implementation
- None

- \$136 Million \$88.4 Million

#### On-going Income

- Share of Royalties on Resource (Mining) Activity
- Potential Oil and Gas Royalty
- Leases and Rentals from Crown Transferred Properties
- Share of Government Royalties on Category A Lands
- Share of Government Royalties for Subsurface Resource Development
- Hunters and Trappers Income Security Program

#### Total Land Surface

- 258,000 sq.km (now expanded to 520,000 sq.km)
- 7(1)(a): 91,000 sq.km  
7(1)(b) 13,000 sq.km
- Excluding Improvements: 34,000 Acres Including Improvements 1,800 Acres
- Cat A: 41,400 sq.km  
Cat B: 25,900 sq.km
- 44 Million Acres
- Cat 1:  
14,000 sq.km  
Cat 2:  
150,000 sq.km  
Cat 3:  
1 Million sq.km

#### Land Surface with Subsurface rights

- Subject to ELA Approvals All Aboriginal Land
- 91,000 sq.km
- None
- 41,400 sq.km
- None

#### Resource Management Role

- Yes
- Yes

- Yes - *Established in Resource Management Act* and Other Legislation for all Maori Tribes
- Yes
- No
- No

#### Social Service Delivery Role

- Yes - Through Community Government
- Yes - Inuvialuit Social Development Program
- Yes
- Yes

#### Not Under Conditions of ANCSA Later Developed by Non-Profit Consortiums

- Yes

#### Conservation Management Role

- No
- Yes
- Yes
- Yes
- No
- Yes

#### Governance

- Community Government
- Local Government, Regional Government Initiative in Progress
- No
- Legislative Authority
- Initiatives Toward Tribal Sovereignty
- Local Cree, Inuit Governments Negotiations in Progress for Inuit Regional Government
- Other

#### Formal Apology for Land Confiscation

Acknowledgement of Maori Contribution to N.Z. Development



Net Operating Loss: 1986-88  
\$445 Million

1 While Self-government was not an independent feature of the JBNQA, it has developed as a result of subsequent agreements.

## **2. Review of Impacts**

### **2.1 General Findings**

In general, settlements have not brought about any dramatic changes for the non-Aboriginal community.

Controversy prior to and during the negotiation process is reduced during the implementation period.

Settlement agreements deal with a wide range of governance, economic, and social issues which change over time. Therefore, there is a need for an on-going relationship between the Aboriginal and non-Aboriginal communities.

Evidence of the benefits of settlement to both the aboriginal and non-aboriginal communities is not immediate and appears over time.

A better understanding of respective lifestyle and cultural values of Aboriginals and non-Aboriginals is brought about by the settlement process.

Different Aboriginal groups have differing approaches, goals, and expectations toward settlements.

#### **2.1.1 Discussion of General Findings**

##### **Finding 1 -- Changes for the non-Aboriginal Community**

There is a common belief that settlement will result in loss of access to lands for commercial and non-commercial purposes, and loss of employment and income resulting from changes in land ownership. However, case studies reveal that settlements have, in general, not brought about any dramatic changes such as these for the non-Aboriginal community. Although in several cases there was a change in conditions of land use, Aboriginal groups generally demonstrated a desire to entertain economic opportunities for use of their land when specific benefits were returned to the community. Aboriginal groups did not impose significant restriction on access for the purpose of recreational, scientific or non-commercial use, although again, some conditions of access, such as permit systems, represented a change from pre-settlement conditions.

## **Finding 2 -- Reduction of Controversy**

Approaches to settlement, lengths of time of negotiation, and the changes that occurred to the original conditions tabled for settlement differ for each case study. For several groups, negotiation took many years of prolonged and persistent effort. The Yukon settlement involved 17 years of formal negotiation. Negotiations for the Tainui settlement began in 1933, passing through several part- settlements before reaching final settlement eight years after lodging their claim with the Waitangi Tribunal in 1987. In contrast, the Alaska and James Bay cases were completed relatively hastily once formal negotiation started, as a result of the desire to establish large scale resource based industry. In each of these cases, there has been considerable opposition to the transfer of Crown or State land to native title, and to the provision of significant cash components of settlement.

The outcome as time has passed has been a general acceptance of settlement and a desire to move on to a future partnership. This is particularly evident in the Yukon, Tainui, and Alaska cases, although for the latter there have been many years of criticism of the settlement related to poor performance of Native Corporations established under ANCSA. In this case, there now appears to be general acknowledgement of positive performances by several corporations and the constraints which impair the performance of several others. In Australia there is perhaps a less accepting environment toward aboriginal land claim settlement. The *Native Title Act*, 1993, establishes a mechanism for aboriginal land claims throughout the country. Australia's past performance of land claims with the *Aboriginal Land Rights (Northern Territory) Act*, 1976, has not (from a resource development perspective) provided a positive example of settlement for other areas of the country, as will be discussed in following sections.

## **Finding 3 -- Need for an On-going Relationship**

Although settlements are often comprehensive and encompass a broad range of issues from social and economic perspectives, there is a need for an on-going relationship between Aboriginal and non- Aboriginal groups as several issues change over time. While provisions of settlement are finalized under settlement, approaches to management of that settlement may change. For the Inuit of Northern Quebec, changes in local governance are currently under negotiation and are related to the evolution of needs and abilities of local communities. Similar initiatives are taking place for the Inuvialuit. In Alaska notable changes have taken place in the approach to social service delivery which was originally assumed by economic organisations but later taken over by regional non-profit consortiums to meet community needs. This has created a new relationship with the social service delivery sectors of government, which is of particular interest as this was not provided for as a component of settlement.

## **Finding 4 -- Evidence of Benefits is not Immediate and Appears Over Time**

Evidence of settlement benefits has, in virtually all cases, taken some time to become apparent and sometimes appears in forms that are not initially anticipated. For many aboriginal groups there is, and has been, the perception that the cash component of settlement and the control of land and resources will bring significant benefit to individuals. In most cases, though, the organisations established by settlement groups themselves (see section 2.2 -- Governance) adopt strategies that protect settlement capital through investment and pursue economic strategies for increasing employment within local communities. In this respect Aboriginal groups have benefited from settlement not through dividend payments (in all cases except Alaska), but through wages, skills training, and self-motivation brought about through employment.

For the non-Aboriginal community and particularly for resource developers, the benefits of settlement also take time as conditions and rules for access to resources on settlement lands, or access through settlement lands, take time to develop.

### **Finding 5 -- Better Understanding of Lifestyle and Culture**

In all cases the settlement process has increased communication between Aboriginal and non-Aboriginal communities and increased understanding of what is important to both communities. While in the short term there is sometimes conflict of opinion, it becomes apparent that there is more common ground than may initially be anticipated. Lifestyle values for both communities, for example, may include holding a sense of identity to the land and appreciating related spiritual values of the wilderness or the landscape. Establishment of conservation areas in the Tainui case serves as an example of partnership between groups, with special management provisions and acknowledgement of the specific value to Aboriginal groups being integrated into the administration of protected areas. Joint venture or partnership arrangements have demonstrated common goals, with evidence of benefits for aboriginal and non-aboriginal groups in the Alaska, Australia, and Yukon cases. Another shared lifestyle value evidenced across all cases for both groups is employment.

From a culture perspective, settlement areas have demonstrated a sensitising toward aboriginal cultural issues from the non-Aboriginal community. New Zealand demonstrates the most notable example, where Maori culture has been incorporated (to a greater extent) in the collective culture of the country, facilitated in large part through the land claims movement.

### **Finding 6 -- Differing Approaches, Goals, and Expectations**

Aboriginal groups have different approaches, goals, and expectations toward, and from, land claim settlement. Attitudes differed not only between countries and settlement groups, but within settlement groups. Alaska, for example, although a particularly large settlement, demonstrates markedly different attitudes from one region to another. Within regions, settlement corporations again demonstrated differing approaches to business.

While Aboriginal groups may have common objectives toward attaining land through settlement, the characteristics of each group vary and lead to different outcomes of settlement.

### **2.1.2 Applicability of Findings to British Columbia**

Many of the findings have implications for British Columbia. However, because of the nature of the settlements reviewed (and in some cases the on-going negotiation of certain issues), there are several important British Columbian issues about which there is little to report from the cases. These include: treatment of heavily populated land, the impact of settlement on fisheries, the climate for investment on non-settlement lands, and citizenship issues.

## **2.2 Governance**

Governance, in the context of land claims, refers to the legislative and administrative authorities which may be established as a component of settlement.

### **2.2.1 Changes in Legislative Authority from Settlement**

Legislative powers of Aboriginal government may be established as a component of settlement, within self-government or other forms of local or community government. Of the settlements reviewed, only the Yukon Agreements featured self-government, and the impacts on the governance of the Yukon Territory are too early to assess. In the Inuvialuit and Inuit of Northern Quebec cases, forms of public regional government are being sought. Again, the conditions and powers of these government structures are yet to be detailed. In Australia various forms of community government exist which have the ability to establish laws at the local and community level, primarily affecting aboriginal communities. These community governments are however a feature of social policy and not a provision of land claim settlement.

The main changes in aboriginal legislative authority that emerged from settlement involved:

- the recognition of Aboriginal legislative authority for one of the case studies; and
- the proposal to create a form of regional government for two of the case studies.

### **Legislative Authority**

In only one case study - the Yukon - was the recognition of Aboriginal legislative authority a feature of settlement. Such authority is consistent with the recognition of self-government, which enables individual First Nations the exclusive power to enact laws on settlement lands in relation to First Nation affairs, the operation and internal management of the First Nation, and the management and administration of rights or benefits agreed to in the final settlement. However, this case is in an early stage of development. While other groups expressed interest in the

concept of legislative governance authority, there remains a lack of clarity on acceptable conditions and consequences of the resulting structures.

## **Regional Government**

In the Inuit region of the JBNQA a change to a regional form of government from the existing governance structure is currently under negotiation. This would lead to more centralised control of jurisdictional matters for all people in the region - an area where Inuit make up some 95% of the population. The result of the regional structure will be less overlap of government responsibilities and greater Inuit control over program delivery. A similar initiative is in process for the Inuvialuit.

### **2.2.2 Administrative Changes from Settlement**

Administrative and advisory roles for indigenous governments have resulted from settlement, or from subsequent changes in social policy, more consistently than have legislative authorities. An example of an administrative role is found in the social service delivery legislation for Alaska, which enables collective health delivery through tribal health consortiums. Increased advisory responsibilities are evidenced in the resource management legislation in New Zealand which, as of 1991, incorporates consultation with Maori in resource development.

The main changes to administration that emerged from settlement involved:

- the creation of Aboriginal Corporation structures to independently administer economic development;
- the creation of social service and community management organisations to administer social services to aboriginal communities;
- the creation of co-management arrangements between government, Aboriginal communities, and
- third party (for example business) interests for resource management.

### **Aboriginal Economic Corporations**

In each of the case studies settlement groups formed, or plan to form, corporation structures to administer economic activities. These structures normally operate as a general business corporation, seeking the best financial return for its shareholders -- the individuals of the recipient Aboriginal group. These corporations commonly receive initial funding from a cash component of settlement and invest either in business or securities depending on the economic conditions of their local environment (see section 2.4). The corporation structures represent a change in governance in that a level of independence is attained from other established

government economic development services. Economic corporations act like any other business with the exception that shareholders must be treaty beneficiaries.

## **Aboriginal Social Service Delivery**

In several cases, social service delivery functions were established by settlement groups, creating a higher degree of independence for Aboriginal groups and changing existing administration of those services.

In social service delivery, Aboriginal groups are provided greater opportunity to create their own administrative structures to meet their needs than they are in economic development, which in order to compete effectively must conform to the practices of the dominant (and generally non-Aboriginal) market.

Through the land claims process Aboriginal groups have achieved the economic and organisational means to deliver social services in ways they collectively consider culturally appropriate. In Alaska, tribal consortiums, formed in response to the economic corporation's inability to meet social and community needs, have taken up contracting and compacting arrangements from government for the delivery of health services (see section 2.7). In the Yukon, self-government agreements as part of settlement will enable the transfer of various social service functions if desired. In the case of one Yukon First Nation, special delivery of child welfare has been administered by that group for the last seven years. In contrast, in New Zealand the Tainui settlement group plan to supplement (and thereby change) education delivery at the post-secondary level, and add to the already growing awareness of Maori culture, assisted in large part by other Maori language and culture programs delivered within the general schooling system.

## **Co-Management of Resources**

Many settlements, notably the Canadian cases, feature the provision of co-management arrangements for resource management. These arrangements feature cooperative management (as opposed to the high level of autonomy found in social service delivery and economic initiatives), for areas of land featured in settlement that have special provisions for Aboriginal resource use, but not fee simple title ownership.

The impact of these arrangements on administration is significant as the approval process for development involves the incorporation of additional perspectives and structures to those that existed prior to settlement. This creates an often complex system of administration and in several cases placed high demands on the human resources of Aboriginal groups. For example, problems have occurred for the JBNQA where both federal and provincial governments exist along with Cree and Inuit levels of administration involved in co-management. There are also limited human resources to fill demands. In the Yukon the same issues are repeated. Planning structures associated with land use and resource development will be administered by fourteen First

Nations and the territorial and federal governments, in a region with a population of less than 30,000 people.

## **2.3 Land and Resource Use and Management**

### **2.3.1 Main Findings**

The climate for investment has generally improved as a result of settlement, in part due to increased certainty surrounding the conditions that govern investments.

In general, the level of land and resource use has not decreased as a result of land claim settlements.

A variety of land and resource management structures have been formed as a result of settlements, but most have been complex, often leading to inefficiency.

### **2.3.2 Discussion of Main Findings**

#### **Finding 1 -- Improved Climate for Investment**

The climate for investment in resource development has improved or stayed the same as a result of settlement in five of the six cases studied. However, for the James Bay case (and for parts of other settlement areas) resource development opportunity is limited due to the remoteness of location and to the fact that few resources (other than forestry) exist that would entice high investment activities (such as mineral exploration) to the region.

Establishing certainty for investment was a key feature of the Yukon case study. While the business climate has already improved, certainty for investment has yet to be achieved for the development of resources on First Nation land. Although ownership of land and resources has been established for the four (of fourteen) First Nations that attained Final Agreement, their rules for investment are still to be determined and will be independently decided by each First Nation. Although an Umbrella Final Agreement was established in 1993, with a draft of that Agreement even earlier in 1991, the Yukon case study demonstrates that certainty does not exist until settlement is final and First Nations' post settlement administrations have established policy and process for the development of their lands. Another factor that has improved the investment climate in the Yukon is the fact that a land freeze imposed for the duration of negotiation of land claims in the Territory (since the 1970's) has been lifted in areas of final agreement.

The investment climate in New Zealand has improved for a similar reason whereby an injunction upon the sale of the State Owned Enterprise, Coalcorp, has been lifted due to settlement with the Tainui. Based on their stated policy and objectives, in the post settlement environment, Tainui intend to adopt a stewardship role of land but not change the conditions of existing use.



For the Inuvialuit, certainty again was a significant component of settlement and in the post-settlement environment is firmly established from the perspective of resource developers. Since settlement, the Inuvialuit have negotiated two concession agreements for exploration in the Beaufort Sea area with Imperial Oil and Shell Oil. In both these cases development companies were satisfied with their relationship with the Inuvialuit; however, development is not taking place due to high costs of production. In effect, the situation for developers in the region is simply that they have a new landlord to deal with who has a range of negotiable conditions attached which may include provisions for employment, training and so on.

In Alaska the investment climate has not changed significantly. Development companies or agencies deal with Native Corporations as they would any business corporation, negotiating economic relationships based on financial issues. However partnership conditions ("rules") often feature employment contracts for shareholders and conditions for the protection of wildlife.

The Australia case study is an example which demonstrates that certainty is not simply a product of clear title. Under the *Aboriginal Land Rights (Northern Territory) Act, 1976*, an Exploration License Application (ELA) process was established for mineral development on Aboriginal lands. The ELA process is administered by Aboriginal Land Councils (of which there are currently four) and featured a right of veto by traditional land owners for areas of prospective development without clear time-frames for the removal of that veto. When combined with other complications this process was a failure from the development perspective. Through an amendment to the Act in 1987, clear time-frames for removing the right of veto by traditional owners were established along with other streamlining amendments. The changes led to an improvement in the ELA process, and demonstrates two phases of history related to the Act. The first phase was the period up to 1987 without certainty and the second was the post 1987 period of improved certainty for development. Despite changes to process, the translation to practice still has not been fully achieved. Delays at all stages of the process still exist, and these have resulted in continuing transaction costs to developers.

## **Finding 2 -- Land and Resource Use**

In three cases more intensive use of land and/or resources has been facilitated by settlements. In Alaska, settlement facilitated the establishment of the Alaska pipeline from Prudoe Bay to Valdez. Since ANCSA, resource use has continued on native lands in the form of oil production on the North Shelf with the Arctic Slope Native Corporation; lead zinc mining has taken place between Cominco and NANA in the Northwest; forestry activities have continued under native and joint venture arrangements in the Sealaska region; and fisheries have continued in Sealaska, albeit within a politically charged environment where the collective settlement group -- Sealaska Regional Corporation -- cannot develop large scale fisheries operation that threaten the performance of independent or small scale shareholder operations.

For James Bay, the condition of settlement to allow the development of the La Grande Hydro Electric power development clearly represents a change in land and resource use from the previous subsistence lifestyle of residents. The other main commercial resource activity in the region is forestry, in which activities by non-Cree contract developers around Cree lands have not been significantly affected by the settlement.

In the case of Inuvialuit, the main resource activity prior to settlement was oil exploration in the Beaufort Sea, which was facilitated by the settlement but which is now not taking place because of the costs of production to resource companies.

For the Yukon and Tainui settlements (of 1993 and 1995 respectively) it is too early to measure significant change in land and resource use. In the Yukon however it is apparent that the environment for development is in a state of transition whereby certainty for development of land and resources is being established through the clear provision of title and a range of other factors. For Tainui there has been no indication that existing land and resource use will change.

Only in the Australia case is there evidence of negative impacts on the amount of resource use. It is speculative to suggest to what extent resource use has changed because of settlement. However, the impact on the amount of mining activity in the region has clearly been negative due to conditions established under the *Aboriginal Land Rights (Northern Territory) Act, 1976*. Gaining ELA approval prior to 1987 (when the Act was amended) proved to be extremely time consuming, expensive, and basically impossible.

### **Finding 3 -- Land and Resource Management**

A variety of land and resource management structures have been formed through and after settlement. They have involved:

- Aboriginal entities with (initial) clear mandates to administer land and resource development;
- a range of co-management structures that feature joint decision making for development proposals and wildlife management; and
- native corporation structures that assume economic activities within which land and resource development is managed.

In the Northern Territory, land councils have generated very powerful political roles for the Northern Territory aboriginal society. The two largest -- the Northern and Central Land Councils -- have been described as quasi-aboriginal governments due to their size, ability to control mining development activities, and ability to negotiate with high levels of government.

Co-management structures have been established in each of the three Canadian case studies to manage both fee simple title aboriginal land and other lands in which settlement groups have special rights to wildlife and other subsistence harvesting. There is, however, often confusion over what the term co-management really means. Some have described it as involving a defined delegation of management responsibility in some area of use of natural resources. Others use the concept more loosely to describe a situation that involves various stakeholders - usually a combination of aboriginal, government, and third party - in some kind of structure (for example a committee) to collectively decide on natural resource use. For James Bay, the wildlife management regimes have been held up as an example of co-management, but there are complaints that these are not integrated with decisions regarding competing resource uses. Although wildlife is managed well in its internal co-management structure, it is not part of a bigger resource picture that includes the impacts of forestry and the impacts of such activities as the proposal to build the Great Whale hydro electric project.

For the other Canadian case studies featuring co-management, a productive and cooperative environment was found to exist, although for the Yukon this statement still has to be fully tested. In the New Zealand and Alaska cases, resource management must conform to state or national standards of resource management. In effect these two cases are basically left on their own to conform with the practices any resource developer would have to follow. In the New Zealand case, however, Maori interests are additionally represented in resource legislation, whereby resource development must conform to the principles of the Treaty of Waitangi, 1840. Practically this means that the affected Maori tribal group must be consulted to ensure that their concerns are heard and taken into account in the resource development decision process.

### **2.3.3 Other Findings**

#### **Land Allocations**

In no cases were private lands allocated under settlement or were lease arrangements of existing title holders transferred to native recipients. In some cases this was avoided by the placing of a land freeze in the lead-up to negotiation (notably the Yukon), thereby reducing potential conflict of interest in the final negotiation of transfer. In all cases the transfer of resources was based strictly on the transfer of Crown (State, Federal or Commonwealth) properties. The Tainui settlement offers the most diverse array of settlement allocations in which properties of land only, forestry land with existing (and on- going) leases, and Crown land with improvements (buildings etc.) have been transferred to their ownership from a broad array of State-owned enterprise and Crown-held sources, including university land, post offices, and courthouses.

#### **Expansion of Settlement Group Land Bases**

In the Australia and New Zealand cases, indigenous groups are provided resources through aspects of settlement to expand their land base, either through further land claims or through private purchase. In the case of Australia, the Aboriginal land base increased from 19% of the Northern Territory in 1976, to 39% in 1994, and is projected to reach 49% by 1997 - the final deadline for claims under the Act. This expansion has been funded by resource revenues from mining activity on their land, featured as a provision of the Act. It is worth noting that the land in question is largely remote and sparsely populated. For the Tainui, a trust fund has been established in which NZ\$170 million of land is to be exchanged to their ownership. An initial selection of Crown properties (as outlined above) have been featured in settlement, and the balance of the fund (around NZ\$70 million) may be used for land purchase on the open market.

### **Importance of Lifestyle**

Lifestyle values of First Nations have often been reflected in provisions related to access to and management of resources. These are represented in the Inuvialuit, Yukon, and James Bay cases in the co-management structures that have been formed and in the provisions of Agreement, featuring access to wildlife and other resources. In the James Bay case recipients did not receive rights to resources, but the agreement was (in very broad terms) an agreement to enable maintenance of traditional lifestyle.

### **Non-Commercial Access**

Access to lands and resources for non-commercial purposes has not been a significant problem in any of the cases reviewed. Tainui, in particular, recognised the value to all New Zealanders of non-commercial land use through the acknowledgement of the conservation estate (land previously protected by the government) and purposefully excluded their claim to this land but ensured that this exclusion was officially acknowledged as part of settlement. For Alaska native corporations, access to lands for non-commercial purposes was allowed to their privately held lands but a permit system was imposed which in some cases involved payment of an access fee. In the Australia case, a permit system for access also exists.

#### **2.3.4 Implications for British Columbia**

Based on case study findings, the implications for settlement in British Columbia are: Contrary to common expectations, the amount of land and resource development activity may increase and the climate for investment in land and resource development may improve as a result of settlements.

The conditions for land and resource use may take several years to evolve in a post settlement environment.

Certainty for developments on First Nations settlement land does not exist until settlement is final and First Nations post-settlement administrations have established policy and process for the development of settlement lands.

Clear time-frames for administration of land and resources can assist developers to plan effectively and minimise related administrative costs.

Clarity in the approach and concept of co-management arrangements is important to enable all parties to understand interrelationships of the structure, and work collectively towards its aims.

It is important to be mindful of the potential complexity for added management or approval structures when contemplating co-management arrangements.

## **2.4 Business Development and Operation**

### **2.4.1 Main Findings**

The reaction of the non-Aboriginal community to settlement has generally been positive.

In each of the cases Aboriginal mechanisms exist or are planned to carry out business investment. Aboriginal groups have taken a variety of approaches to business investment, including investment in a number of non-traditional businesses.

Aboriginal groups have generally been open to joint venture arrangements with the non-Aboriginal business community.

### **2.4.2 Discussion of Main Findings**

#### **Finding 1 -- Reaction to Settlement**

For the recently finalised Yukon Agreement for four (of fourteen) First Nations there was an atmosphere of optimism for the economy from the business community. Many were relieved that the process had finally begun to reach conclusion after 17 years of formal negotiation. The business community was also optimistic that the environment for development has improved due to clarity over land and resource ownership. The attitude toward settlement from the business community in the Yukon had changed as it became clear that certainty for development would most likely improve and benefits might accumulate at the local business level from renewed investment in the region.

In the Tainui case, there was generally a neutral reaction from the business community toward settlement. Where the settlement was accepted by the business community, five reasons were given to explain the acceptance. First, the Tainui Agreement was achieved peaceably in an

environment where sovereignty issues for Maori are currently causing some degree of civil disruption in a few locations throughout the country. Second, the Tainui are a well established Maori tribe that holds significant mana (respect and prestige) from both Maori and Pakeha (non-Maori) society. Third, the negotiation process was open and well publicised through the media. Fourth, Tainui took a pragmatic and principled approach to negotiation that resulted in minimal conflict over land settlement allocation. Finally, there has been a growing appreciation of Maoridom leading to a collective culture in New Zealand and an increasing support for Maori social and economic development over recent years. Current attitudes toward settlement in the Inuvialuit region are generally positive, evidenced by oil exploration concession agreements and the negotiation of new mining exploration licences.

In Alaska there is mixed opinion toward the impact on the business environment as a result of settlement. Some believe that settlement has negatively affected the environment in several of the regions and point to the poor business operation record of most corporations since settlement as evidence. Others however consider the business environment to be positive, illustrated by the inclination of Native Corporations (at all levels -- Regional, Urban, and Village) to entertain joint ventures.

The Australia case study is perhaps the one notable example in which the slow process of ELA approvals has had a negative effect on the business environment. Some claim that several companies are now seeking investment off-shore where they don't face as many barriers and transaction costs.

## **Finding 2 -- Diverse Approaches to Business**

As much as there is diversity in character between different Indigenous groups, there is diversity demonstrated in the ventures pursued by indigenous business and investment.

In each of the case studies, aboriginal mechanisms exist or are planned to carry out business investment. For all but Australia, these involved an economic corporation to manage cash components of settlement for the purpose of securities and business investment. The Native Corporations in Alaska, like any business corporation, have a philosophy for investment and a mandate to maximize profits for shareholders. Unlike a general business corporation, they have a political role in that they must represent the interests of native shareholders that cannot reinvest their money elsewhere should they disagree with the performance or practice of the corporation.

Consequently, the investment strategies of native corporations can meet internal opposition and are sometimes constrained. The Sealaska fisheries example illustrates this point where activities (on a large scale) were considered in conflict with the small scale commercial and subsistence activities of its members.

Several indigenous groups have adopted business strategies of diversity, reducing dependency on natural resources in the settlement area. The Inuvialuit experienced shut-down of oil company exploration activities, due to high costs of production, almost immediately after signing the IFA. As a result, they diversified their business and investment strategy to meet both the needs of their region and their mandate of profitability. Their list of investment includes two airlines and other transportation companies, retail and wholesale consumer businesses and industrial parts. Under the JBNQA, the James Bay Cree and Inuit of Northern Quebec were not awarded ownership of resources and have invested in a range of activities, some of which are resource based. The Cree created a construction company and have been involved in projects related to the James Bay Hydro Electric project. The Makivik Corporation (representing the Inuit) conduct shrimping operations and plan to establish a wild Caribou herd for commercial use. Both have also invested in airlines, and the Inuit are establishing wilderness tourism in various forms.

In Alaska, Native Corporations demonstrate the same kinds of business investment diversity. The urban corporations of Shee Atika (Sitka) and Goldbelt (Juneau) both built their respective economic base on forestry. They are now seeking to diversify by entering tourism developments, real estate (through a Native consortium in the case of Goldbelt), and a variety of other ventures including food processing and software development.

Both the Council for Yukon Indians and Tainui expressed a desire to become part of the wider business community and contribute to the collective benefit of the Yukon and Canada, and New Zealand respectively. In both of these cases there has been significant interest from local financial institutions. It has been reported that both are entertaining options for financial and business partnerships. While the Tainui plan to develop a business framework for their community, their immediate intention is to assume a stewardship role of their lands - from which they immediately receive rentals - and to expand their land base around marae (tribal community centres) with the aim of creating localised economic estates.

### **Finding 3 -- Joint Ventures**

Native groups have entertained a wide variety of joint venture initiatives from resource extraction activities to tourism.

The Alaska NANA Corporation is located in a sparse and isolated environment in Northeast Alaska and have pinned a lot of hope on the continued operation of the Cominco Red Dog mine. In an attempt to diversify they have established a catering joint venture with the Marriot company which has contracts with resource based industry through Red Dog, and through several of the oil field operations on the North Shelf.

In the Yukon some mining developments were referred to as partnership arrangements featuring local aboriginal employment provisions, job skills training, and provision of services to local

aboriginal communities such as housing. These arrangements ensured local First Nation support of mining activities, but they were not established on settlement land. As one Yukon operator noted, such arrangements were now merely part of doing business.

In Australia the Jawoyn Association established what was described as an equity arrangement with the Zapopan mining company. In this case, provisions similar to the Yukon partnership arrangements were made. However, as the Zapopan Mt. Todd Mine is on Aboriginal land, royalty provisions are made to the association.

Jawoyn and other native corporations have entered a range of joint venture tourism operations, many of which are nature based with a cultural element. For the Goldbelt corporation in Alaska, tourism is not limited to nature based but involve investments as diverse as casino and outbound tour operations based in Las Vegas and Seattle.

### **2.4.3 Other Findings**

#### **Deficiencies in Human Resources**

The success of business ventures carried out by Aboriginal groups themselves has been negatively affected by the heavy requirements for administering post settlement structures which have drained off many of the most qualified people.

In each of the Canadian case studies, it was reported that the large bureaucratic structures formed required considerable commitment from relatively few skilled individuals. In the Yukon, it is estimated that six to eight jobs per community will be in administration. Some First Nations that have achieved final agreement are already having difficulty filling all the administrative jobs with skilled and qualified people. Similar pressures have been placed on Inuvialuit, and for James Bay it has been argued that the only real economic growth in the region has been in the bureaucracy for land settlement administration.

#### **Business Capacity of Aboriginal Groups**

The business ability of aboriginal groups differs significantly between groups. In the Yukon, the Champagne and Aishihik have demonstrated a noted ability and interest in business development. Within the Sealaska region, Klukwan village and Goldbelt Urban Corporations stand out as examples of proactive business corporations, as do the Jawoyn and Gagudju Associations in the Northern Territory. In reference to the Alaska settlement, it was noted however that while several corporations had established credibility in the business world, there were some corporations that had spoiled the reputation for others and that each should be judged on its own merits.

#### **Role of the Individual**



In several cases the role of specific individuals was noted as being instrumental in achieving positive levels of economic performance. These individuals would generally exercise comprehensive skill sets in business, negotiation and often, leadership.

## **Cultural Awareness**

According to the Yukon Champagne and Aishihik First Nation, the attitudes from non-Native investment organisations and individuals are changing. In many cases a greater awareness of aboriginal culture is being demonstrated and aboriginal approaches to lifestyle are being appreciated. Indigenous groups from a variety of settings are demonstrating a strengthening of cultural practice. An appreciation of this practice may provide prospective investors an advantage in formulating a business arrangement.

### **2.4.4 Implications for British Columbia**

Based on case study findings, the implications for business operations and development in British Columbia are: The business community may become supportive toward settlement as the reasons for, and benefits of, settlement become more known, and as First Nations make their intentions toward land and resource use in the post-settlement environment known.

Business strategies of First Nation groups may not be constrained to existing resource based industries that dominate the pre-settlement local economy. In the light of settlement there may be significant financial community interest in creating business partnerships from which many diverse investment opportunities will be pursued.

Barriers established to business development in post settlement administrative arrangements, such as licensing, permits, and concession agreements, may result in developers seeking other markets which avoid costly and time consuming operational measures.

Individual First Nations may present differing attitudes and approaches to business operation and development.

The political role of native business development organisations may affect their respective abilities to become involved in business arrangements that conflict with the collective values of community membership.

## **2.5 Income and Employment**

### **2.5.1 Main Findings**

In each case settlement groups established economic organisations to conduct business and investment activities for settlement communities. The success of these organisations in generating income has varied significantly.

The incomes of Aboriginal individuals have not been significantly affected to date by settlements. Most settlement corporations have reinvested the incomes they have received in further investments, businesses, and sometimes community development.

Aboriginal employment has benefited in most cases through employment in administration and in some cases through employment provisions in joint ventures and in local business development.

In general the impacts of settlements upon non-Native incomes and employment have not been significant.

## **2.5.2 Discussion of Main Findings**

### **Finding 1 -- Income Generation**

The mandate of native economic organisations has generally been to maximize profit from investments while protecting initial capital. Initial funding for these corporations lay in portions of the cash component of settlement, and most had policies of profit reinvestment to continue to build the performance of respective institutions. The types of business investment have been addressed in the previous section (section 2.4).

Performance of business corporations and other entities varied, and was generally based on the quality of the respective management of organisations and the richness of the resources of the regions.

The Alaska case demonstrates the regional inconsistencies in performance between native corporations in their business and investment strategies. Colt (1991) demonstrates that while each of the 12 Regional Corporations made overall profits in their first 19 years of operation , only four made accumulated profits on business operations and investments in this period. The most profitable corporations are those with productive resource bases such as forests and mineral reserves, notably in the south-east region and on the oil rich North Shelf. Those corporations elsewhere in the state are generally not well off, although an exception is the NANA corporation in the north-west which through skilled management have entered business partnerships with Cominco and the Marriot Corporation.

Additionally, not all corporations both at the regional and village level with reasonable resource bases have performed well. The Chugach Regional Corporation (adjacent to Sealaska) for example, has access to forests and fisheries but for a variety of reasons, related ultimately to management of those resources, has failed to profit from the resources. Within the Sealaska region there is also diversity in success for the village and urban corporations. Both urban corporations -- Shee Atika and Goldbelt -- have had revenue generation problems in the past but

are now performing well even though (unlike the village corporations) they did not receive any share of the cash component of settlement under ANCSA. The approach to management of Shee Atika and Goldbelt involved non-shareholder management staff running day to day corporation activities, and a shareholder and management board of directors controlling the long-term planning and policy of the organisations. This differs from the approach of many small village corporations which have regularly changing administrations (often competing families) and lose consistency in achieving policy goals which change under each administration.

In the Australia case, there has been a modest impact on income generation for Aboriginals as a result of resource royalties from mining operations on their respective traditional lands. While there are several mining operations on aboriginal lands, all of these, bar one, are currently operating through license agreements made prior to the 1976 Act. A few communities, however, have received slightly more royalty revenue than the system that was in place prior to the Act.

For the Tainui, income is expected to be generated through rents and leases of the wide variety of properties they gained title to under settlement. Tainui expect to generate around NZ\$4 million per year from these properties.

In both the James Bay and Inuvialuit cases, profit generation was limited due to the lack of local business opportunities. As a result investment in southern economies through stocks, bonds, and other long and short term investments has been the main form of income generation. Under these circumstances, income is relatively stable and the initial capital is protected. However, from the perspective of settlement groups, profits are conservative and external investments do not bring the benefits of employment and local economic multipliers that successful business investment within the region could provide.

In the James Bay, Inuvialuit, and Alaska cases, a strategy to mix business investments with more secure investment was conducted. In the James Bay and Inuvialuit cases the result was the generation of more profit through secure investments than through their business activities.

## **Finding 2 -- Incomes of Aboriginal Individuals**

Aboriginal economic corporations have tended to reinvest any profits that have been generated rather than distribute funds to individuals.

In the Inuvialuit case, most business profits were reinvested in business with the aim of maximising Inuvialuit employment. For James Bay, about 25% of investment for the Cree is reinvested and the remaining 75% divided between the Cree community fund, the Cree Rights fund and administration. The Tainui strategy was somewhat different, demonstrating a high focus on community development and notably education where 33% of generated revenues are

planned for investment in education (see section 2.6), a further third is to be distributed at the community level, and the final third for business reinvestment.

Only the Alaska corporations and to a lesser extent the Inuvialuit, have paid out dividends. For the first 19 years of Alaska Regional Corporation operation, dividends range from zero for Koniag to US\$10,500 for the Cook Inlet Corporation (Colt, 1991). According to a further study for the Sealaska Corporation, conducted in 1992, dividends range from around US \$200 to \$10,000, although commonly in the \$2,000 to \$3,000 range. While dividend pay-outs provide more opportunity for individuals and can contribute to local economic multiplier effects, they do not assist collective investment strategies. The Alaska example illustrates a case where dividend payments led to poor business and securities investment records for many corporations and poor preparation for when the cash component ran out ten years after settlement.

Many groups demonstrated a desire to invest locally although for those in more remote locations such as James Bay, Northern Quebec, many areas of Alaska, and the Inuvialuit regions, there were few opportunities. Only in the New Zealand case was there interest in international business opportunities.

### **Finding 3 -- Aboriginal Employment**

Settlements have provided long-term employment for many aboriginal individuals in administration, largely related to the running of settlement corporation structures. This has the advantage that employment at various levels exists for the community, and notably employment for women. It has the disadvantage that the most skilled individuals are often absorbed by administration and are unable to apply their skills to other activities such as business which may in turn create more jobs for others.

Most settlement communities have sought to increase employment in their regions. However, many, notably James Bay, the Inuvialuit, and several Alaska Regional Corporations, have had difficulty due to a lack of local investment opportunity. Where external investment to the region does take place, employment contracts are often a key aspect of business partnership agreements as demonstrated by the Jawoyn, NANA, and Yukon joint venture and partnership arrangements. In the broader context, these partnership arrangements do not provide very many jobs. Depending on their relative priorities, settlement communities need to develop their own sustainable local economies that can provide employment for all levels of the community over the long-term. Many corporations are faced with difficulty in achieving these goals and (in the James Bay and Inuvialuit cases) have found that securities investments bring higher financial returns than local business investments.

A common theme that emerged was that aboriginal people from their respective groups tended to suit some employment roles better than others. In Sealaska, native employment in forestry was

95% in longshoring, which is short duration followed by a long lay-off, allowing workers to pursue seasonal subsistence activities. In contrast, silviculture, logging and construction which did not enable workers to pursue subsistence lifestyle activities made up around 25% to 30% shareholder hire.

#### **Finding 4 -- Non-Native Income and Employment**

A range of employment opportunities have existed for individuals external to the settlement region or group, largely because some settlement groups lacked these resources internally. These include legal and consulting services, and administration and business management roles with settlement group organisations. People involved with business activities and resource development have been employed across a full spectrum of jobs. In Sealaska, 50% of their workforce in a range of activities was non-Native, whereas non-Natives comprised only 10% of the employment in the region. In the NANA and Cominco Red Dog mine, 50% of employment is non-Native and fill all but one of the management roles. For the James Bay region, native employment has been largely restricted to contract construction in the La Grande hydro electric power projects. For non-Native individuals external to the region, several more jobs have been provided in related operational and construction roles at the various sites.

In many cases, there is a dominant native population in the settlement area -- particularly the James Bay, Inuvialuit, and several areas of Alaska. Exceptions include Sealaska, which featured a 12% share of native people for the overall population, the Yukon -- notably Whitehorse (Kwanlin Dun First Nation region) and Haines Junction (Champagne and Aishihik First Nation traditional territory), parts of the Northern Territory, particularly around Katherine -- the area of the Jawoyn Association, and for all parts of the Tainui settlement. In those cases that featured dominant non-aboriginal populations, there is constructive interaction between both societies and an apparent although not quantified downstream effect on non-aboriginal employment in business services at a wide variety of levels.

Except possibly in the Australia example, the case studies did not reveal any significant negative impacts of settlement on non-Native incomes and employment.

#### **2.5.3 Other Findings**

##### **Expectations**

For many aboriginal groups there have been high expectations of immediate financial benefits upon settlement. Almost without exception this has not been the case. Benefits have in fact taken some time to appear in the communities. With the possible exception of the Alaska corporations which have paid out dividends from the beginning, all other settlement corporations adopted policies of reinvestment to protect capital and, when possible, to provide employment through

local business investment. Many groups look to the apparent high amounts of the cash components of settlement and expect immediate returns. When calculated on a per capita basis and considering the indefinite length of time that the cash is to last, cash components of settlement are not particularly high and need to be protected to be of long-term value.

### **Accountability**

The expectations of individuals from settlement groups to receive immediate benefits have placed pressure on several settlement organisations which have had to remain accountable to their members.

The Inuvialuit case serves as an example where leaders chose a reinvestment policy amidst pressure to pay out dividends. Although a form of dividend has been paid to elders for several years, management decided to pay-out their first general dividend of \$500 last year, ten years after settlement.

Although a democratic process of management selection was followed by several groups for selection of board memberships, the issue of accountability was stressed for the distribution of revenues and other benefits such as employment. In Australia there is some reported discontent over the performance of the northern and central land councils. They are felt to absorb too much of the resource revenues in their administration which in turn leads to a diminished incentive for traditional owners to remove their right of veto on mining development proposals in their regions. In New Zealand too, there is some concern that a policy which has emerged to reward excellence (see section 2.6.2) may not result in an even distribution of benefits throughout the settlement community.

### **2.5.4 Implications for British Columbia**

Implications for British Columbia, based on case study findings include the following:  
The impacts of settlements on income and employment -- for both the Aboriginal and non-Aboriginal communities -- may not be large in the short term, except for employment in administration.

Financial performance will be affected by the resource base of individual First Nations and the respective approaches taken toward management.

Aboriginal business and securities investment organisations are likely to benefit from financial strategies based on sound business principles that protect initial capital investments.

A high level of accountability of management organisations may be necessary to deal with the distribution of income and employment.

Business partnerships may help maximize local employment opportunities and create a skilled local workforce that is not dependent on the investment of industry from outside the region.

## **2.6 Education and Training**

### **2.6.1 Main Findings**

While many settlements acknowledged the need for education and training in settlement communities, they lack mechanisms needed to implement effective education and training programs. As a result, the education and training needs of Aboriginal individuals have generally not been met to date.

In most cases education delivery has remained with the government, although settlement agreements have had some effects on education programming.

### **2.6.2 Discussion of Main Findings**

#### **Finding 1 -- Implementation of Effective Education and Training**

Inuvialuit, Alaska, and Australia native groups noted their failing in not providing sufficient education and training of their respective members for future economic development in their regions, resulting in a cycle of dependence on external skills and finance. While several final agreements acknowledged the need for education and training in settlement communities, they lacked effective mechanisms to identify specific areas of need and strategies to develop a skilled and productive workforce.

Implementation may have provided financing and strategies to create resource development review boards but lacked such strategies for education and training. Without these mechanisms the settlement groups were left to identify deficiencies through trial and error, and spent considerable time selecting approaches to training. In the process they had to "buy" technical expertise and prolong the process toward financial sustainability.

Tainui demonstrate the highest level of commitment and preparedness for education planning and implementation for post settlement. Their response to education needs began in 1986 with a series of consultations leading to a comprehensive education plan. After settlement they intend to return 33% of a proposed economic corporation profit to education, and will encourage local marae (Maori communities) to invest their 33% share of profits heavily in education as well. The Tainui strategy for education (as for their overall policy) has been described as "rewarding excellence". This is illustrated in their existing scholarship scheme (for which 300 scholarships have already been awarded), and in their plan to develop two post graduate Maori education centres at Auckland and Waikato Universities for both Tainui and general admission in which



the objective is to produce "kindly hard-nosed graduates to pursue further economic and cultural development of the Waikato-Tainui people".

## **Finding 2 -- Education Delivery and Programming**

In most cases education delivery remained with the government, although under the JBNQA, the Cree Education Board and Kativik Education Board were established, incorporating regional needs into programming. For the Yukon, such provisions for including a cultural component into schooling on a local level were made in 1991 under the *Yukon Education Act*. In New Zealand, provision for Maori language and culture has become standard throughout the country, with special programs existing at pre-school to secondary school levels in Maori language immersion programs.

While increased knowledge of Aboriginal culture for the Yukon and New Zealand cases may not be a direct product of settlement, they can, particularly in the New Zealand case, be indirectly attributed to the land claims process and its associated effect on increased national awareness of indigenous issues. This "big picture" of cultural education may have significant impacts on the sociology of a country and the outcome of land claim processes. In New Zealand, the minimal negative reaction to the Tainui settlement has been attributed by some to the cultural awareness of maoridom which has become embraced in the identity of the country as a whole.

### **2.6.3 Other Findings**

#### **Education and Training Needs**

Specific education and training needs have been identified for virtually all case studies to include management and business entrepreneurial skills, with specialist skills dependent on regional activities and needs. In the case of Inuvialuit and Alaska, an increase in engineering skills were a reported requirement. More fundamental education also includes increasing self-confidence and knowledge of governance and politics.

#### **Successful Post Settlement Models**

Solutions by indigenous groups to meet their needs involve the development of a range of programs. The Inuvialuit Education Fund features a stay-in-school program and other scholarships at the secondary and post-secondary levels. In Alaska and New Zealand, scholarship programs are also conducted. Shee Atika in particular consider education a key to their future well-being and they are increasing scholarship programs. Sealaska reported however that having put members through universities they were not able to provide employment and graduates were ending up working for other corporations in other parts of the USA.

While in many cases in Alaska and Australia there has been a fundamental failing of corporations to achieve training needs, NANA (Alaska) and Jawoyn (Australia) present two successful localised models. NANA successfully implemented a training program with Cominco

for indigenous staff at all levels. In Australia the Jawoyn Association in their deal with Zapopan developed a training program that included a skills audit, the provision of an Aboriginal employment education and training officer, and a range of scholarships.

### **Employment of External Advisors**

Some native groups expressed concern at the costs involved of employing external advisors. Not only was it expensive to advertise and attract qualified individuals to the region, but it was difficult to retain these people for any reasonable length of time. It was however considered by some communities that importing skilled individuals was a positive issue in that lessons could be learned from these individuals, and that importing their skills was no different to any business corporation seeking specialist advice. For the Inuvialuit in particular, such practices were simply a component of astute and skilled business management.

#### **2.6.4 Implications for British Columbia**

Implications for education and training in British Columbia involve the following: In most cases settlement communities lacked a clear strategy for education and training in the light of settlement. British Columbia First Nations are provided the opportunity to pro-actively develop a strategy and overcome a noted failing of several other settlement communities. This type of capacity building for several First Nation groups is already underway in British Columbia.

Education needs will likely cover a wide range of disciplines; however skills in planning, administration and management will be fundamental in the post settlement environment.

If cultural heritage components are incorporated into the general school syllabus, a sensitising toward native culture may occur within the general culture of British Columbia.

### **2.7 Social Services, Culture and Lifestyle**

#### **2.7.1 Main Findings**

There have been a variety of approaches taken by Aboriginal groups toward the delivery of social services. In some cases social service delivery has remained with the government, and in other cases Aboriginal groups have taken over aspects of social service delivery and have set up complementary social service programs.

The land claims process has often resulted in an increase in awareness of Aboriginal culture in both the Native and non-Native communities.

## **2.7.2 Discussion of Main Findings**

### **Finding 1 -- Approaches toward the delivery of Social Services**

In both the Tainui and Northern Territory cases, social service delivery has remained fundamentally with government. Tainui's education program however, is intended to supplement the existing public education program. For Alaska, James Bay, Inuvialuit, and Yukon cases there is a greater mix of responsibility toward administration of programs through co-management, self government, and contracting or compacting arrangements.

Tribal/regional based non-profit organisations (or consortiums) have assumed social service representative roles in Alaska. Through recent federal department initiatives, these non-profit organisations can take over delivery of health services in compacting arrangements (where complete financial and program administration is passed from government to the respective Aboriginal group). A recent initiative toward health administration involved thirteen consortiums joining together to administer the health compact collectively.

Social service delivery and management by Cree and Kativik organisations is reported to be effective. The Income Security Plan for Cree Hunters and Trappers (ISP) is considered by many to be one of the most significant social service provisions of the JBNQA. The ISP is a controversial element of settlement in that, although it has had widely accepted positive impacts on keeping Cree hunters and trappers employed in traditional jobs while few other job opportunities exist, it has been criticised for being an alternative form of welfare. New government initiatives however have followed similar lines as the ISP in promoting welfare or subsidised employment schemes, of note is the Australia government's ATSI Community Development Employment Program, more commonly known as "working for the dole". The main problem reported for the Inuit was the lack of an implementation plan and dispute resolution mechanism under original conditions of the JBNQA. This resulted from insufficient funding for creating social service management provisions, and the lack of a formal complaint process.

Inuvialuit have also paid attention to traditional lifestyle in social service management and delivery. The Inuvialuit Social Development Program (ISDP) received \$7.5 million under the Inuvialuit Final Agreement which has developed a range of programs suited to the needs of the region and focused on the concept of "wellness" from mental, social, spiritual, and physical perspectives. It is noted that the need for such an approach was born from the poor social conditions that emerged when the oil industry pulled out of the region shortly after the signing of the Final Agreement. It is reported that the ISDP has taken seven years (since implementation) to "pick up steam" and begin achieving its objectives.

The same community "wellness" approach is being taken by several Yukon First Nations in the light of their Final Agreements. Referred to as a healing approach, the Council of Yukon Indians report that they are in for the "long-haul", and that economic development of the region will go hand-in-hand with a development of cultural renewal and pride. Under Self Government Agreements, the Yukon First Nations can take over delivery of social service programs. At this early stage it is reported that the greatest interest has been demonstrated in administering justice programs and child health. The Champagne and Aishihik First Nation has run a pilot program in child welfare for around eight years in which it reported that "teething problems" are still taking place.

Some members of the Yukon business community have expressed the opinion that a post settlement environment should see a change in the delivery of social services to aboriginal communities. It was felt that there should be an escape from the paternalistic approach of the past. This perception may exist in other jurisdictions as well.

## **Finding 2 -- Increased Awareness of Aboriginal Culture and Lifestyle**

Two major impacts of the land claims process on culture and lifestyle have been the increase of awareness of aboriginal issues within both the Aboriginal and non-Aboriginal communities, and the involvement of Aboriginal individuals and groups in economic development in the post settlement environment.

From the perspective of awareness, the land claims process has the potential of providing self determination and pride for independent groups that collectively seek agreement, leading to profound impacts on collective cultural identity at a national scale. While it is difficult to capture and generalize concepts of pride which are inherent personal values, there have been consistent patterns which it may be attributable to land claims processes and settlement. The Yukon and Inuvialuit emphasis on cultural healing for example may be attributed to a stronger First Nation identity and the will to continue collective achievements. On a broader scale, New Zealand society has become progressively more aware of Maori culture and language. This has been achieved largely through Maori self-awareness, which was increased by the land claims movement. Similar impacts are being felt in the Yukon, in which a sensitising toward native culture is being reported and is, in fact, being translated to the business environment for the purpose of creating productive relationships with First Nation economic partnerships.

### **2.7.3 Other Findings**

#### **Separating Economic and Social Functions for Aboriginal Organisations**

In Alaska the native corporations formed under ANCSA were initially mandated to perform both economic and social functions. It was found however that these dual aims were unable to be met. In all other cases, separate entities have been created to perform these functions.

#### **Corporate and Business Experience**

For several communities, subsistence lifestyles are still of primary importance (notably, Alaska, James Bay, and Inuvialuit). Involving these communities in the corporate world has been considered by some the most notable impact of settlement. In Sealaska, it was considered that most shareholders had a comprehensive knowledge of the operations of a corporate structure. For James Bay and Inuvialuit it was thought that few comparable societies would have an appreciation of administrative procedures and the workings of such technology-based operations as the cooperatively held airlines.

### **2.7.4 Implications for British Columbia**

Implications for social services, culture and lifestyle for British Columbia are: As with income generation, employment, and other anticipated benefits of settlement, social development programs featured in settlement, or assumed by settlement groups may take some time to develop and refine before objectives are reached and benefits are seen in the community.

There may be high expectations by non-recipients of settlement that social service privileges should end in the light of settlement.

There are advantages to considering culture and lifestyle values of both native and non-Native communities in the formulation of agreements.

## **3 Conclusion**

The review of land claims has revealed several general trends:

- settlements have not brought about any dramatic changes for the non-aboriginal community;
- controversy prior to and during the negotiation of the claim reduces during the implementation period;
- in many cases settlement has led to a stronger partnership between Aboriginal and non-Aboriginal societies.

The review demonstrated that every land claim and settlement is different in terms of the characteristics of claimant groups, conditions that lead to settlement, the provisions of settlement, and the environment that exists after settlement. As a result, aspects of these treaty settlements will not necessarily be applicable to British Columbia. Several lessons however can be drawn from them.

These include:

- Clear rules and approval processes for investment or development need to be established to maximize certainty in the post settlement environment;
- Aboriginal groups have entered a wide variety of business ventures and have sought business partnerships with the non-Aboriginal community which often feature provisions related to community development;
- Reactions toward settlement from the business community have become supportive as the reasons for, and benefits of, settlement become more known;
- Capacity building in education and training is needed to maximize benefits in a post-settlement environment; and
- Both Aboriginal and non-Aboriginal societies are made more aware of each other's lifestyle and cultural values in the land claims process.

A fundamental principle for the treaty process is to establish a contract of understanding for the future between the Aboriginal and non-Aboriginal communities. The review of cases demonstrates that this can be developed through shared management of resources, increased commercial interaction in the business community through both private aboriginal investment and joint venture arrangements, and increased cultural understanding through communication during the negotiation process. An approach toward partnership that provides identity, initiates respect, reduces dependency, and increases certainty is a productive outcome of the settlement process.

The success of treaties depends on finding specific solutions to specific issues or problems. This will be achieved through cooperative and productive efforts of both Aboriginal and non-Aboriginal groups in both the negotiation process and post-settlement environment.

Footnotes: The degree of certainty that is established depends on a number of factors including: the existence of clear ownership of land and resources (either Aboriginal or non-Aboriginal), the attitude or policy of respective owners toward allowing access to resources and/or to entertaining commercial joint ventures, the conditions that are placed on allowing that access, the effectiveness of administration in processing approvals and managing access, and the cooperative environment that exists thereafter.

The *Aboriginal Land Rights (Northern Territory) Act*, 1976 did not feature a cash component of settlement.

Due largely to post-treaty public policies -- notably the ability of corporations to sell off net operating losses in the period 1986 to 1988. This single activity resulted in a further US \$445 million being injected to Alaska native economies - a figure equal to 46% of the original cash component of settlements.