

# New Developments on the Wiikwemkoong Claim Front



Photo: Rolfe Jones

Since the submission by GBA and the Northern Georgian Bay Association (NGBA) of our respective responses to the province's Draft Environmental Study Report (ESR) in September 2017, we have been awaiting release of the Final ESR by Indigenous Affairs Ontario (IAO). In late July, we were advised by the IAO negotiator that the Final ESR would be released August 1. The deadline for responses was September 15; this was then extended to October 10.

## Background

There is a great deal of history and background to this land claim – more than we can ever hope to address in the confines of this short article. But a short recap of recent events may help. (See Background at <https://georgianbay.ca/government-affairs/wiikwemkoong-islands-boundary-claim/> for additional information)

The Ministry of Aboriginal Affairs presented the proposed settlement of the so-called “central claim” to NGBA and its members at their summer AGM in Killarney, August 2015. While GBA and NGBA had known since 2010 that claim negotiations were underway, little if any information had been provided up to that point. This was the first time any of the details had been communicated. Most importantly, we were informed that a swap had been made, whereby lands not part of the original claim were being offered in lieu of Fitzwilliam Island, a privately owned island that the province has said they were unable to acquire, and therefore cannot be returned to the Wiikwemkoong. Instead, the province was proposing to transfer Phillip Edward Island and its archipelago, along with George Island in lieu of Fitzwilliam. The province then embarked upon a Class environmental assessment (EA) that resulted in the release of a Draft ESR in June 2017. Both the NGBA and GBA considered this document to be woefully inadequate and consequently in September 2017 we submitted individual responses detailing our numerous concerns. (see <https://georgianbay.ca/news/gba-seeks-changes-to-environmental-study-on-land-claim>)

Meanwhile, the NGBA and GBA focused on developing a relationship and rapport with the Wiikwemkoong chief and elders, and with them we have fashioned an agreement that addresses NGBA property owners' concerns and identifies solutions (the “Agreement”). It needs to be understood that IAO left us to our own devices to pursue these discussions.

At every turn, we have emphasized to all parties that we support a successful settlement of the land claim, provided it recognizes and protects the pristine nature of the lands in question, especially Phillip Edward Island and its archipelago. We have also pushed for continued and respectful use of certain areas, to be designated as a park, by the many thousands who continue to enjoy these lands every year.

And now we have the Final ESR, a document that in our view repeats the shortcomings of the Draft ESR and highlights the inadequacy of the Class EA process followed to date. It also does not have any reference to the Agreement.

## Flawed EA Process

It is important to realize that under the Environmental Assessment Act, that the Draft ESR and now the Final ESR are our only opportunities to express our concerns and make our voices heard.

In our opinion, the EA process followed in this instance, and the ESR reports issued, are flawed in the following ways:

- The impacts of the proposed transfer of crown lands on the numerous annual visitors and NGBA members are not adequately addressed.
- Similarly, the Class EA process fails to provide measures to mitigate the identified impacts, as it should under the EA Act.
- The Final ESR fails to acknowledge the Agreement.

➤ The province ignores its long-standing promise of a park covering most of the area within NGBA's boundaries.

## Park

Something which the province appears to have conveniently forgotten is their long-standing promise of a park covering most of the area within the NGBA boundaries. This intent is captured in the Northern Georgian Bay Recreational Reserve Act (aka Killarney Recreational Reserve Act) of 1962/63 and is further reinforced by what is known as P189, which identified Phillip Edward Island, its archipelago, and George Island as the basis for a future park. Now it would appear that the province is summarily overturning the aforementioned act.

## Fitzwilliam Island

Fitzwilliam Island, lying off the coast of Manitoulin, was part of the original Wiikwemkoong land claim. However, Fitzwilliam is privately owned, and IAO states that the owner was unwilling to sell. It is apparent that no concerted effort was made to purchase Fitzwilliam and we now know that the owner is in fact willing to sell. The province, instead, offered Phillip Edward Island, George Island and other parcels of land – the “alternative lands” – as part of the proposed settlement.

## Algonquin Land Claim

The Algonquin land claim negotiation process has been far more robust and inclusive, we believe, than the one followed in the instance of the Wiikwemkoong claim. For example, early on, the three principal parties (the Algonquin and the federal and provincial governments) together developed a statement of shared objectives that was based on extensive public consultations. These objectives were reflected in the agreement in principle and will ultimately be included in the final agreement, which will become an Algonquin treaty. (<https://www.ontario.ca/page/algonquin-land-claim>)

In developing these objectives, a clear path forward was established for the ensuing discussions with all stakeholders. We feel that a similar best practices process should have been – and could still be – followed with the Wiikwemkoong settlement.

## Next Steps?

Once again, the environmental assessment process is our only opportunity to voice our concerns about the impacts of the land claim and the absence of mitigation measures. The failure of the Class EA process that was followed and the deficiencies of the Final ESR force us to again submit a critical response.

## Formula for Success

The NGBA and GBA believe that the province can

successfully settle the claim and address the concerns of those affected by:

- 1) referencing the agreement the NGBA and GBA have developed in the Final ESR and which addresses impacts to NGBA members and others and the solutions we have identified;
- 2) purchasing Fitzwilliam Island at fair market value and returning it to Wiikwemkoong;
- 3) creating a permanent park of Phillip Edward Island, its archipelago, and George Island that would be co-managed by Wiikwemkoong and the province; and
- 4) following an inclusive consultation process that mirrors the best practices established by the Algonquin Land Claim settlement described above.

## Conclusion

At the time of writing and when this edition of UPDATE goes to print, we have no signed agreement and no reference to the agreement in the Final ESR. Moreover, we believe that there are significant deficiencies in both the process and the substance of IAO's approach to the Wiikwemkoong land claim. Consequently, the GBA Board believes that it has no option other than to submit a critical response to the flawed Final ESR. ■