

Additions to Reserve Update

NALMA - 12th National Lands Manager Gathering

September 27, 2023



Introduction

- In 2021, the Federal budget announced \$43 million over four years, starting in 2021-22, to work with Indigenous partners and other stakeholders to redesign the 2016 Additions to Reserve/Reserve Creation Policy and to accelerate work on existing requests from First Nations across the country.
- Of the \$43 million, \$32.2 million is for Indigenous Services Canada (ISC) for the reduction of the additions to reserve (ATR) inventory and \$10.8 million is for the policy redesign, being led by Crown-Indigenous Relations (CIR).
- Within ISC, these investments have been allocated to ISC officials, the Department of Justice, First Nation communities and Indigenous organizations with the objective of increasing the rate of completion of existing addition to reserve proposals and reducing the size of the existing inventory.

Division of Responsibilities

- "Addition to Reserve" is the process of adding land to an existing Reserve land base of a First Nation, or creating a reserve for a First Nation without an existing land base.
- Federal responsibility for ATRs is shared between the Minister of CIR and the Minister of ISC.
- The Minister of CIR is responsible for the *Addition of Lands to Reserves and Reserve Creation Act* (ALRRCA) and the Framework Agreement on First Nation Land Management and its enabling legislation, the *Framework Agreement on First Nation Land Management Act* (FAFNLMA), including the authority to issue a Ministerial Order, pursuant to these Acts to set land apart as reserve.
- ISC is responsible for the administration of all elements of the ATR process in accordance with the ATR Policy, ALRRCA and FAFNLMA.

Existing Situation

- There are over 9 million acres of reserve land in Canada, with at least 3 million acres of land owed to First Nations through existing Treaty Land Entitlement and Specific Claims agreements.
- This value is expected to rise as more negotiations are underway, of which several could result in an addition to reserve provision as part of the settlement.
- There are over 700 active ATRs, of which approximately 80% are legal obligations stemming from Treaty Land Entitlement and Specific Claim agreements.
- Each addition to reserve proposal takes approximately 2 to 8 years to complete based on a sliding scale of complexity and the willingness of all parties. It is a proposal driven process where many of the steps and associated timeliness are led by the First Nation.

Budget 21 Implementation

Year 1: Capacity Development Phase (2021-2022)

- Internal capacity built through the hiring of additional regional FTEs;
- Existing ATR training updated, and developed;
- NATS development and implementation completed; and
- National ATR Steering committee established.

Year 2, 3 and 4: Operational Phase (2022-2025)

- Ongoing training provided to ISC regional staff and First Nations;
- Resources allocated for technical elements of ATRs (through O&M and G&C);
- Support to national and regional Indigenous Land Associations (e.g., NALMA) in order to provide direct support to First Nations, through:
 - training initiatives;
 - operational support to First Nations on ATRs, including NATS; and
 - distribution of funds to First Nations to support the technical elements of ATRs (e.g., Environmental Site Assessments (ESAs), Municipal Service Agreements (MSAs), surveys, third party interests, pre-reserve designations, etc.).

Budget 21 Investments Overview

- Since 2022-23, ISC's funding has and will continue to support:
 - the creation of ATR-specific positions across the country;
 - First Nation capacity within Indigenous organizations (NALMA and three regional land associations: SALT, USKE, OALA);
 - the completion of ATR technical components (ESAs, MSAs, surveys, etc.) for targeted proposals;
 - regional officials with Duty to Consult activities on complex files;
 - roll-out and training for the modernized National Additions to Reserve Tracking System (NATS); and
 - the identification of additional special projects and tools to expedite ATR completion (MSA templates, replacement utility agreement templates, Federation of Canadian Municipalities, etc.)

ATR Steering Committee & Technical Components

- A National ATR Steering Committee has been created in collaboration with NALMA to provide a forum where common issues and priorities of concern can be addressed on a national scale to ensure best practices are followed as well as developing further products and tools to support First Nations.
- A portion of the funds have gone towards addressing the technical aspects of the ATR process such as ESAs, MSAs, surveys, and third party interests.
- Conversion of land to reserve often results in complex negotiations with external parties, including other Indigenous groups, third parties and municipalities. When negotiations stall, the ATR process is delayed, often for a significant amount of time.
- The committee will also ensure First Nations are provided with a regular opportunity to identify emerging issues, funding gaps and obstacles that need to be addressed in the ATR process.

Institutional Capacity

- A portion of the funding has gone to building First Nation capacity through the allocation of funds to First Nation communities and Indigenous organizations (SALT, USKE, OALA, NALMA).
- This funding supports the development and delivery of training material, direct assistance to First Nations by regional Indigenous land organizations on the technical components of the process (e.g., ESAs, surveys, pre-reserve designations, third party interests, MSAs, etc.), NATS training, and other issues as well, if required (e.g., dispute resolution, etc.).

National Additions to Reserve Management and Tracking System (NATS)

- The National Additions to Reserve System (NATS) was initially launched 16 years ago and was redesigned in 2009. Since its implementation, NATS had undergone no maintenance due to such factors as funding constraints and the transfer of responsibilities from Headquarters to the regions in 2012.
- The new NATS information technology system commenced building in 2019 and was released for ISC and First Nation users on March 13, 2023.
- NALMA provides training to First Nation users for the NATS portal.

Next Steps:

- Continued training for the new NATS both internally and externally with NALMA.
- Completion of the data migration from the older NATS to the new one.
- Monitor the on-going use of the new NATS to adjust and improve as needed.

Opportunities – Short, medium, and long term

- Continue to fund Indigenous organizations, ATR technical components, and ATR-specific positions within ISC.
- Update existing 2016 ATR Policy directive to address immediate gaps, support NALMA in updating their ATR Toolkit, update ISC ATR website, and finalize Duty to Consult guidelines.
- NALMA and ISC to work with the Federation of Canadian Municipalities (FCM) to develop tools and templates to assist First Nations and local governments with the development of municipal service agreements, and organize and host a national gathering on Local Government Issues/Urban Reserves to identify best practices, build relationships and identify how to best support First Nations seeking to create urban reserves. FCM has indicated that there is interest to leverage the Big City Mayor's Caucus to build support for this initiative nationally.
- Create an inventory of qualified ATR specialists nationally that could assist First Nations requiring help with their ATR proposals.
- Continue supporting CIR with ATR Policy redesign with NALMA, First Nation land managers and other Indigenous institutions over the next two years with Cabinet recommendations in 2025.
- Continue to identify opportunities for collaboration with NALMA to support service transfer and build institutional capacity (e.g., greater use of interchange opportunities, pilot projects that explore unique solutions to speed up the ATR process, etc.)

Update on Additions to Reserve Policy Redesign

Current and next steps include:

- Call for proposals launched in March 2023. The content from reports produced from the RFP funding recipients will inform the redesign of the ATR policy.
- Funding decisions will be communicated soon.
- Internal work on interim changes to the current policy.
- We are beginning to develop a set of principles and a framework for the redesigned policy based on extensive engagements to date as well as looking at recommendations from multiple reports on the ATR process over the past decade.
- We look forward to continuing discussions with First Nation partners on an approach to co-develop policy options.

For more information, please contact:

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