

Indigenous Services Canada

Crown-Indigenous Relations
and Northern Affairs Canada

Redesign of the Additions to Reserve Policy

Questions & Answers on the Interim Changes



Government
of Canada

Gouvernement
du Canada

Canada

Q1. What are the expected impacts of the interim changes?

A1. The interim changes are expected to benefit all First Nations who wish to add land to their reserve by removing some of the provisions of the Additions to Reserve (ATR) Policy Directive that create barriers and delays. These changes focus on eliminating restrictive requirements, streamlining operational requirements, and removing paternalistic language. These changes will be applied to all new reserve creation proposals being submitted through the ATR Policy Directive, and all existing active proposals will be viewed through the lens of these interim changes.

Q2: More specifically, what is the impact of the interim change on environmental site assessments?

A2: This change removes the 5 year 'stale date' on environmental site assessments, so long as the First Nation is able to confirm no significant changes have occurred on the proposed reserve land. This interim change also provides that a First Nation can enter into an agreement with a third party that may accept financial responsibility for addressing contamination on the proposed reserve land. Together, these changes add flexibility and reduce the unnecessary duplication of work during the reserve creation process.

Q3: How will the interim changes shorten the application process?

A3: The ATR application template will be revised and shortened to remove unnecessary requirements. There are also parts of the existing application template that request information not needed until later in the process. Those parts will be removed, and the information will be requested only once it is required.

Q4: Why was the dispute resolution section changed in the ATR Policy Directive?

A4: The purpose of this interim change is to recognize that the mechanisms used for dispute resolutions should be informed by First Nations and not Canada or a third party. This interim change also clarifies that despite outstanding issues or concerns, Canada may nonetheless agree to advance a reserve creation proposal. Active reserve creation proposals will be viewed through this lens.

Q5: What is the impact of changing the requirements around improvements to proposed reserve land?

A5: This interim change clarifies the misperception that improvements to lands proposed for reserve would incur lengthy delays and entail additional requirements. The interim change encourages First Nations to discuss improvements with Indigenous Services Canada to identify potential concerns and how to best mitigate them.

Q6: The requirements around notifying provinces, territories and other federal departments will be changed. What will be the impacts on existing and new reserve creation proposals?

A6: This interim change removes the 90-day mandatory waiting period for other federal departments to review reserve creation proposals. This change also clarifies that issues identified by provinces and territories may not need to be immediately resolved for a reserve creation proposal to advance.

Q7: Why will the section on municipal service agreements be changed?

A7: This interim change adds flexibility to the ATR Policy Directive by clarifying that servicing lands proposed for reserve could take on many forms and do not always have to include neighbouring municipalities. This change also outlines certain scenarios where services may not be required for reserve creation, and furthermore supports a flexible approach to servicing lands proposed for reserve. Finally, this interim change also clearly defines the minimum services required for lands proposed for reserve creation.

Q8: Why is the joint reserve creation criteria removed?

A8: Joint reserves can be complex and require participation from multiple actors. Each joint reserve creation can be unique and a one-size-fits-all approach is no longer seen as suitable. The interim change clarifies that each joint reserve proposal will be considered where the First Nations involved have addressed governance and management concerns. First Nations will make the decisions on what should and should not be included in joint reserve creation proposals, adding flexibility and reducing unnecessary work for First Nations.

Q9: How and when will the interim changes be implemented?

A9: The interim changes are effective immediately, and government officials are instructed to apply them to both new ATR proposals and those already in the system. Implementation details are currently being developed by ATR practitioners and are expected to be completed and published on the departmental website in the coming months.

Q10: What are the two other interim changes that were introduced in August 2024?

A10: Two interim changes were introduced in August, 2024. First Nations are no longer required to justify the need for adding land to their reserves, and no longer need to identify a category for their ATR. Reserve creation proposals stemming from legal obligations will still be tracked.

Q11: Will the interim changes impact all First Nation proposals, regardless of whether they manage their lands under the *Indian Act* or the *Framework Agreement on First Nation Land Management Act*?

A11: The interim changes to the ATR Policy Directive will apply to all First Nations. The redesigned Directive will recognize and respect the various ways First Nations manage their land, whether First Nations manage their lands under the *Indian Act*, through a land code, or through a lands chapter in a self-governing arrangement.

Q12: Why have these specific interim changes been put forward?

A12: In May 2024, the Lands Advisory Board recommended nine interim changes to the ATR Policy Directive to the Minister of Crown-Indigenous Relations. Many of these recommendations were also identified by First Nations through preliminary engagement in 2022 and through their reports from the 2023 call for proposal initiative. Canada has worked with First Nation organizations through the Technical Advisory Committee to ensure all First Nations can benefit from these interim changes.

Q13: Why is Canada announcing interim changes now?

A13: Changes to the ATR Policy are long overdue and Canada is working with First Nations and their organizations to improve the existing process while remaining focussed on the broader redesign. These interim changes represent improvements that can be implemented sooner rather than later, and Canada is taking the immediate opportunity to do so.

Q14: What is the Technical Advisory Committee?

A14: The Technical Advisory Committee (TAC) was formed in June, 2024, to bring together individuals with experience in various land management regimes to provide technical advice on the co-development of changes to the ATR Policy. The TAC includes representation from the Assembly of First Nations (AFN), the First Nations Land Management Resource Centre (RC), the National Aboriginal Lands Managers Association (NALMA), self-governing First Nations, ISC and CIRNAC.

While changes to the ATR Policy will be informed by recommendations directly from rights holders, the TAC will provide Canada with technical advice to ensure the Policy redesign follows a First Nations-led approach.

Q15: What are the broader ATR Policy redesign areas?

A15: The broader ATR Policy redesign will build on the interim changes. They will be guided by recommendations from rights holders through reports submitted in the 2023 call for proposals initiative, as well as what we heard through engagement with First Nations. The majority of these reports have been received and are being analyzed to identify the areas of the Policy that need to be focused on, according to First Nation

priorities. Canada will continue to work with First Nations and First Nation organizations on how to best redesign the ATR Policy.

Q16: How is Canada engaging with First Nations to co-develop the redesign of the ATR Policy?

A16: The ATR Policy redesign initiative began with preliminary engagement in 2022 to seek guidance on how to have meaningful engagement that fit the needs and priorities of First Nations. Preliminary engagement led to a call for proposals in 2023 which supported 58 proposals for First Nation-led engagement on the redesign of the ATR Policy. First Nations communities and organizations completed their own engagement activities to collect perspectives and recommendations for a redesigned ATR Policy.

From April 1, 2023 to July 10, 2024, CIRNAC participated in discussions across Canada to determine how the ATR Policy can be a more effective and efficient instrument for adding land to reserves. These engagements included 45 discussions with rights-holders, 37 discussions with national First Nation organizations, 43 discussions with regional First Nation organizations, 9 meetings with provincial governments, and 7 meetings with other government departments and internal CIRNAC partners.

CIRNAC continues to build relationships and engage with First Nation partners across the country and prioritize the voices of rights holders. In addition to the call for proposal reports, the Department will work with the Technical Advisory Committee and regional First Nation organizations. The Department will also continue to inform First Nations on the progress of the initiative through various communication products as information becomes available and as key milestones are reached.

Q17: What are the next steps for the broad redesign of the ATR Policy?

A17: Canada is currently focusing on a comprehensive analysis of the issues and recommendations received from First Nation-led engagement activities. This work will inform the areas of the policy that need particular focus and Canada will use First Nation-led recommendations to co-develop a new Additions to Reserve Policy. The Technical Advisory Committee will continue to play a key role in providing technical advice on the co-development of the policy and its implementation. The zero-risk tolerance of the current policy no longer aligns with Canada's position on reconciliation, and a redesigned ATR Policy will recognize that.

Q19: What is the expected timeline for the conclusion of the broader ATR Policy redesign?

A19: The ATR Policy redesign is being led by First Nations and Canada has received hundreds of recommendations, directly from rights holders, on how to improve the policy and process of adding lands to reserve. We are currently analyzing those recommendations and identifying focus points for a redesigned policy. Canada will

continue to communicate progress to rights holders and solicit feedback to ensure the redesigned policy meets the needs and expectations of First Nations when it is published.