

## Treaty Land Entitlement Process

Source: [sac-isc.gc.ca](https://sac-isc.gc.ca)

First Nations who did not receive all the land they were entitled to under treaties signed by the Crown and First Nations, can file a Treaty Land Entitlement (TLE) claim with the Government of Canada. TLE settlement agreements are negotiated between First Nations and the Government of Canada, typically with the participation of provincial/territorial governments. The federal government must adhere to treaty obligations to provide the promised amount of reserve land to treaty First Nations.

Generally, a TLE settlement agreement specifies an amount of land that a First Nation may either purchase on a willing buyer-willing seller basis, or select from unoccupied Crown land, or both in some cases, within an agreed to acquisition or selection area.

Once purchased or selected, the First Nation may submit a proposal to the Government of Canada for the land to be added to the First Nation's reserve under the Additions to Reserve process.

As of August 2016, some 90 percent of TLE transactions take place in Manitoba and Saskatchewan. The fulfilment of TLE agreements assists in building partnerships and encourages economic development on reserves and in surrounding communities.

## What is an Addition to Reserve?

Source: [sac-isc.gc.ca](https://sac-isc.gc.ca)

A reserve is a parcel of land where legal title is held by the Crown (Government of Canada), for the use and benefit of a particular First Nation. An Addition to Reserve (ATR) is a parcel of land added to the existing reserve land of a First Nation or that creates a new reserve. Land can be added adjacent to the existing reserve land (contiguous) or separated from the existing reserve land (non-contiguous). An Addition to reserve can be added in rural or urban settings.

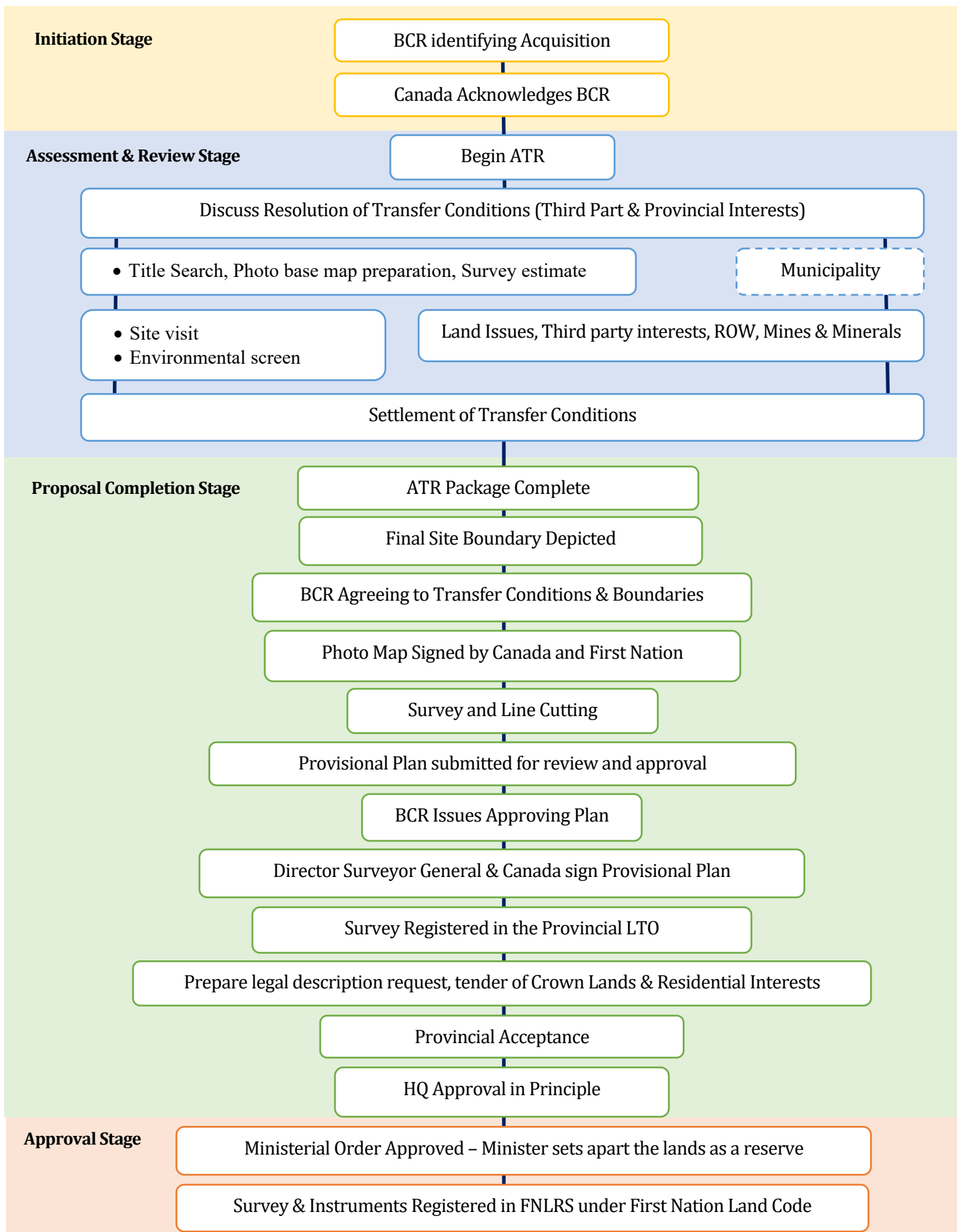
An Addition to Reserve:

- enables Canada to fulfill legal obligations established by specific claim and treaty settlement agreements
- contributes directly to advancing reconciliation and improving the treaty relationship
- can improve community access to land and resources
- can increase community and economic development for First Nations

There are three categories of Addition to Reserves:

1. **Legal Obligations and Agreements:** where there is a legal obligation or a legal commitment by the Government of Canada to contemplate reserve creation
2. **Community Additions:** where a First Nation with an existing reserve needs additional reserve land for purposes such as to accommodate community growth or to use/protect culturally significant sites
3. **Tribunal Decision:** where a First Nation seeks to acquire land with compensation awarded by the Specific Claims Tribunal

# Addition to Reserve (ATR) Process



---

## How is an Addition to Reserve completed?

Source: [sac-isc.gc.ca](http://sac-isc.gc.ca)

In order for a Reserve Creation Proposal to move forward, the following criteria must be satisfied:

- there are no significant environmental concerns
- best efforts have been made to address any concerns of municipal and provincial or territorial governments
- the proposal is cost-effective and any necessary funding has been identified within operational budgets
- third party issues, such as leases and licenses have been identified and addressed
- public access concerns have been addressed

There are four stages to the Addition to Reserve process:

1. **Initiation** - the First Nation submits a Band Council Resolution and Reserve Creation Proposal to the ISC regional office
2. **Assessment and Review** - ISC reviews the proposal and advises the First Nation in writing of the results, issuing a letter of support to First Nations with successful proposals
3. **Proposal Completion** - ISC and the First Nation work together to create and execute a work plan to complete the proposal
4. **Approval** - the Minister of Indigenous Services Canada approves proposals by Ministerial Order or recommends approval by the Governor in Council for Order in Council proposals

## Engagement on Addition to Reserve Policy

Source: [sac-isc.gc.ca](http://sac-isc.gc.ca)

The Government of Canada first created the Addition to Reserve Policy in 1972 to fill a gap, as Additions to Reserve were not addressed in the Indian Act or other federal legislation. The policy was last updated in 2001. Since then, a number of challenges were identified.

## New Addition to Reserve/Reserve Creation Policy Directive 2016

The Government of Canada issued a new policy directive, effective July 27, 2016 that:

- provides policy direction for reserve creation
- promotes consistent assessment, acceptance, and implementation of reserve creation proposals where possible
- considers the interests of all parties and encourages collaboration between First Nations and provincial, territorial, and local governments
- streamlines the process for reserve creation proposals

Features of the new policy directive include:

- clearly outlined Reserve Creation Proposal criteria and factors to be considered in the approval process
- provision of a letter by ISC supporting a successful proposal to the First Nation at an early stage in the process
- promotes consultation and collaboration with First Nations, other Indigenous groups, governments and third parties
- more flexible land selection area
- improved environmental requirements
- development of joint work plans between First Nations and ISC
- guidance materials for stakeholders that may be affected by the Addition to Reserve proposal
- recognition of Addition to Reserves for economic development purposes

---

## What's New?

Source: [sac-isc.gc.ca](https://sac-isc.gc.ca)

### **New legislative changes improve First Nations access to lands and financial resources**

New legislative changes will support self-determination for First Nations communities and provide better access to lands and financial resources. The Government of Canada is committed to the recognition and implementation of Indigenous rights.

The approval of [Bill C-86](#) brings important:

- changes to the *First Nations Land Management Act*, reflecting changes to the *Framework Agreement on First Nations Land Management*
- changes to the *First Nations Fiscal Management Act*

It also creates new legislation:

- *Addition of Lands to Reserves and Reserve Creation Act*

These changes, which received Royal Assent on December 13, 2018 will:

- improve processes, timelines and access to services
- provide greater support to First Nations institutions in their direct work with communities
- support greater economic prosperity in First Nations communities

### **Changes to the *First Nations Land Management Act***

The *First Nations Land Management Act*, which reflects changes to the Framework Agreement on First Nations Land Management, allows First Nations to opt out of 44 sections of the *Indian Act* relating to land management. This enables First Nations to develop their own laws about land use, environment and natural resources and to take advantage of economic development opportunities with their new land management authorities.

#### **New changes in effect**

- First piece of federal legislation enacted to reference Canada's endorsement of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).
- First Nations have greater control of their monies when their land code comes into force.
- First Nations can now manage jointly held reserves under land code.
- Employees of First Nations with land codes in force now have protections in legislation, such as limiting personal liability in the conduct of their duties.
- First Nations communities have greater control over the voting process to approve their land code.

#### **Expected results**

- an increased number of First Nations that opt-in to First Nations land management
- enhanced self-determination for signatory First Nations
- greater administrative efficiencies and streamlining
- addresses some of the concerns expressed by First Nations and organizations
- strengthens the relationship between Canada and First Nations and advances federal reconciliation efforts

### **Changes to the *First Nations Fiscal Management Act***

This optional legislation provides First Nations with national institutional support and tools to strengthen the fiscal governance of their communities and build their economies. This includes a framework to exercise jurisdiction in local taxation and financial management that also provides access to long-term financing at preferred rates.

#### **New changes in effect**

- Institutional authorities are clarified and liability protections for First Nations fiscal institutions are strengthened.

- Regulatory authority for taxation on joint reserves is now addressed.
- First Nations can access certain services offered by the Financial Management Board without being scheduled to the *First Nations Fiscal Management Act*.
- The First Nations Finance Authority can provide its investment services to a broader clientele.
- First Nations have increased flexibility regarding the replenishment of the debt reserve fund.
- Indigenous organizations delivering public services, such as health or education services, can access this support.
- First Nations may access and manage their Indian moneys after a successful vote by their communities.

#### **Expected results**

- increase the number of First Nations financial performance certifications
- increase the number of borrowing members
- increase the number of property-taxing First Nations and annual First Nations property tax revenues
- enable more First Nations to transition out of default management

#### **Addition of Lands to Reserves and Reserve Creation Act**

This new legislation, which came into force on August 27, 2019 facilitates the setting apart of reserve land for the use and benefit of First Nations and the addition of land to reserves.

#### **New legislation**

- All First Nations will have access to the same procedural tools currently available in Manitoba, Saskatchewan and Alberta.
- All Additions to Reserve will be approved by Ministerial Order rather than by Governor in Council.
- All First Nations will have the option to designate or zone the land prior to transfer and facilitate the transfer of third-party interests, through the issuance of leases or permits, prior to the lands being added. This will increase viable economic development opportunities in First Nations communities.

#### **Expected results**

- an increase in economic development opportunities through increased access to lands and resources
- a streamlined process by providing additional procedural tools to create reserve land
- more timely decisions through streamlined process

#### **New ATR-TLE Approaches for Policy Reform**



The LAB-RC will continue land code governance discussions:

- to support change to major priority issues for ATRs policy reform under the new government 2021
- to provide input to the AFN Reform discussion
- to seek further direction to support the reform agenda short-medium term goals and ongoing advocacy in policy change will be sought by signatory First Nations

#### **For other Framework Agreement resources & materials specific to ATR and TLE:**

- WEBINAR – Additions to Reserve & Treaty Land Entitlement (November 19, 2020) - [click here](#)
- WORKSHOP – Addition to Reserve & Treaty Land Entitlement: Exploring Current Structure & Approaches for Policy Reform (September 9, 2021) – [click here](#)