



Assembly of First Nations

ANNUAL GENERAL ASSEMBLY

July 9-11, 2024 • Montréal, Québec

DIALOGUE SESSIONS



Additions to Reserve (ATR) Redesign: Advancing First Nations Priorities Policy

Policy Reform One Pager: The Assembly of First Nations Case Studies

To start the discussion, here is a list of considerations that AFN technicians have generated following the 2024 Community Case Studies.

Case Study Overview:

The Assembly of First Nations (AFN), in collaboration with consulting and advisory firm Urban Systems, have partnered with First Nations across Canada to complete a series of case studies focused on understanding their experiences in the Additions-to-Reserve (ATR) process. The case studies were completed from January to May 2024, and included a series of interviews with each First Nation participant guided by the following broader key questions:

- What challenges and barriers have been experienced in the ATR process and led to long approval timelines?
- What conditions or factors of success have contributed to efficient ATR processes?
- How can the ATR Policy Directive be reformed to improve ATR timelines and outcomes for First Nations?
- The case study results have been summarized into individual reports for each First Nation participant. These reports are to remain confidential between AFN and each First Nation due to sensitive information with respect to ongoing ATR processes. Each report contains a detailed summary of the interviews completed with each participant, key findings, and considerations to improve the ATR process and related outcomes. The key and common findings of the Case Studies are summarized below:

First Nation Participant Overview:

The Case Study Participants were selected to ensure diversity of perspectives, including representation of:

- *Different regions, including First Nations from five different provinces (BC, Saskatchewan, Manitoba, Ontario, and Nova Scotia)*
- *Different land management regimes, including First Nations with Land Code, RLEMP, and Indian Act land management systems*
- *Different Addition-to-Reserve types, including legal obligations, community additions, urban reserves, and other unique reserve creations/ additions*

Broader Themes on the Current ATR Process and Policy Directive:

- The Policy Directive takes an ineffective blanket approach that does not align with or consider the different and diverse contexts, capacities, conditions, and governance systems of First Nations.
- The technical and legal components, including environmental assessments, surveys, municipal service agreements, consultation, and other requirements are costly, time-intensive, and complex.
- Addressing third party interests is a primary challenge and barrier in completing ATR processes, and the

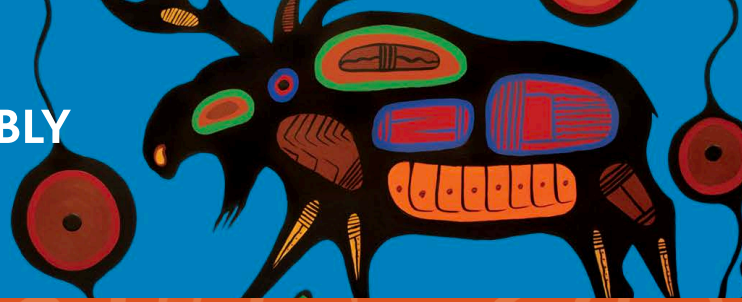


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Policy Directive is inadequate in providing clear direction on dealing with third party interests.

- The time, resources, and technical needs required to completed ATR processes are challenging for many First Nations and are further hampered by internal political and administrative turnover.
- The Policy Directive does not address or provide clear direction on inconsistencies and grey areas between federal land management and those of different provinces, which makes addressing third party interests complex.
- The ATR process includes a significant amount of costly technical and legal components that are the responsibility of the First Nation with limited supports or resources from Canada. Internal turnover with ISC's ATR units is also a significant human resource challenge that creates delays.

Broader Suggestions for Reforming the ATR Process and Policy Directive included:

- Modifying the technical and legal requirements (e.g. environmental assessments) to consider the different land management authorities and self-governance of different First Nations.
- Creating a multi-tiered process that considers the different jurisdictions, capacities, and contexts of different First Nations, with expedited processes for qualifying First Nations.
- Instituting strong dispute resolution mechanisms and clearly defined timelines for consultation, identification and rectification of third-party interests, and negotiations of municipal servicing agreements with local governments.
- Developing clear "solutions" within the Policy Directive that give direction for all relevant parties when addressing common issues, such as registering instruments for existing third-party interests, that stall out or create lag in the ATR process and drawn-out negotiation processes.
- Enabling flexibility for First Nations in completing specific technical and legal requirements, such as municipal service agreements and addressing third party interests/registering instruments, including allowing for their completion after reserve creation.
- Revisiting the duty to consult requirements in the Policy Directive to address concerns related to territory overlap, cost and time requirements, and consultation requirements with Metis groups.
- Providing more technical supports, training, funding, and resources for First Nation, Federal, and Provincial governments to improve understanding of the ATR Policy Directive and process, and First Nation land management systems.