

Treaty Land Entitlement Reserve Creation Process

Entitlement First Nations may purchase federal, provincial or private land under their Treaty Land Entitlement (TLE) Framework Agreement.

Selected land is purchased on a “willing seller/ willing buyer” basis by First Nation Trustees at the direction of the Chief and Council.

After a First Nation purchases a land selection it is held in “fee simple” until the Governor General of Canada has declared the land selection to be an Indian reserve for the use and benefit of the First Nation membership. During this period the land held by the First Nation is subject to all provincial laws, municipal bylaws and taxation.

Prior to reserve creation Entitlement First Nations are required to address all provincial and/or third-party interests on the land in order to ensure that titles are clear of caveats. Canada must also ensure that the land is environmentally safe before transferring it to reserve status.

Provincial Role

The Government of Saskatchewan is responsible for coordinating and implementing its provincial obligations under the TLE agreements.

Provincial ministries, Crown corporations and agencies review each land selection whether it is Crown or privately owned land. The review identifies provincial interests that have to be addressed by the First Nation prior to the land selection being purchased and transferred to reserve status. Identified interests may involve heritage sites, environmental concerns, minerals, roads, utilities and waterbodies.

The province has 90 days to provide comments based on its review to the First Nation and Canada.

Crown Land

Where the province agrees to sell Crown land the sale is conditional on the First Nation dealing with occupant and third-party interests. For example, First Nations are required to approach occupants of Crown land to determine whether they are willing to surrender their interests. If they are willing to consent to the sale, the occupant of Crown land and the First Nation will negotiate the terms of the surrender to the satisfaction of both parties. Once the consent to the sale is obtained from all occupants of Crown land and all applicable agreements have been finalized, the Crown land ministry will prepare the agreement for the sale of the land.

Private Land

Private land selections typically transfer at a faster pace because they do not have as many interests to address. The types of interests on privately held lands include caveats, mortgages and liens.

Reserve Creation

After the land is purchased and held by the First Nation and all occupant and third-party interests have been met, the land selection is eligible for transfer to reserve status. The land selection then goes to the Additions to Reserve Committee at Canada for conditional approval. After approval, the land selection is again forwarded to the provincial government for the remaining provincial actions which may include the preparation of Orders-in-Council to transfer Crown minerals to reserve status, Orders-in-Council to transfer wholly enclosed waterbodies to reserve status and Replacement Public Utility Agreements.

Tax Loss Compensation

After a land selection within a rural municipality is transferred to reserve status that land selection is no longer subject to property taxation. The TLE agreements have provisions to address the future loss of tax base through the federal and provincial governments cost-sharing the tax loss compensation payments on a 70/30 basis. The federal and provincial governments make these payments to the Rural Municipal and School Division Tax Loss Compensation Trust Funds within 90 days of reserve creation.

For More Information

For more information about TLE or reserve creation, please contact:

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