

## First Nations Lands Advisory Board

### *Who We Are and What We Do*

Through the historic government-to-government *Framework Agreement on First Nation Land Management*, the First Nations Lands Advisory Board (LAB) is dedicated to supporting First Nations communities in their efforts to re-establish control over their lands, natural resources and environment.

The *Framework Agreement* is a First Nations driven arrangement that provides the opportunity to resume control over their reserve lands, natural resources and environment. Since the *Framework Agreement's signing in 1996*, an ever-growing number of First Nations communities across Canada have resumed their inherent authority over their reserve lands, natural resources and environment by replacing the 44 lands-related sections of the *Indian Act* with a community developed and approved land code.

The mission of the LAB remains steadfast: "First Nations working together to resume jurisdiction over reserve lands and resources."

### *First Nation Established and Controlled*

The LAB is comprised of an elected Chairman and regionally elected Directors, determined by the Councils of the signatory First Nations who have formally established their community land codes.

Among its roles, the LAB:

- provides strategic direction to the First Nations Land Management Resource Centre which was established to provide technical and professional support to First Nation signatories as they develop and implement their own land codes,
- proposes legislative changes to the Framework Agreement and federal legislation as directed by the signatory Councils,
- advocates for and negotiates funding with the Government of Canada on behalf of the First Nations signatory communities.

## First Nations Land Management Resource Centre

### *Who We Are*

A First Nations organization dedicated to serving and supporting First Nations communities who want to re-establish control over their lands, natural resources, and environment through the historic government-to-government *Framework Agreement on First Nation Land Management*.

## *What We Do*

The Resource Centre is dedicated to supporting First Nations communities, when invited, in the following ways:

- Intergovernmental Relations in support of the Framework Agreement on First Nation
- Land Management's ongoing implementation
- Training, resources and support services for signatory First Nations as they develop and
- Implement their community land codes
- Providing information to interested First Nations

## Key Messages

The immediate policy priority is the replacement of the historic government-to-government *Framework Agreement's* ratifying legislation, the *First Nations Land Management Act* (FNLMA).

Replacing the *FNLMA* "ratifying legislation" in the short term will greatly reduce duplication and confusion, as well as create clarity, save time, effort and resources for both First Nations and Canada. It will also build on the *Framework Agreement's* two-decade success in recognizing the inherent right of self-government in an efficient and respectful manner and better respect the 'government to government' dynamic of reconciliation.

In place since 1996, the *Framework Agreement* has a proven track record supporting First Nations to reclaim governance of their lands and resources despite complications arising from the current ratifying legislation (FNLMA).

Through the implementation of the *Framework Agreement*, Canada and First Nations are making practical, meaningful progress towards reconciliation through the elimination of the colonial *Indian Act* lands restrictions by establishing community-created land codes. Land codes are enhancing law making, enforcement, planning, and environmental management and the protection of reserve lands, as well as creating better regulatory circumstances for stable economic development. Land codes are also expanding on modern systems of lands governance and have resulted in the removal of federal government-related bureaucratic processes in favour of more appropriate local and timely decision-making.

## Fast Facts:

- 170 First Nations have signed the Framework Agreement
- 97 First Nations have ratified the Framework Agreement and enacted their own land codes
- 36 First Nations are active in the development phase
- 57 First Nations have expressed formal interest to become a signatory

Over one third, or 227, of the 630 First Nations in Canada are involved in the *Framework Agreement* process. The LAB and Resource Centre hope to expand efforts and support even more First Nations as they continue to seek effective and proven remedies to the colonial restrictions of the *Indian Act*.

## Q and A

### 1. What is the LAB/Resource Centre goal for 2020?

The immediate policy priority is the replacement of the historic government-to-government *Framework Agreement's* ratifying legislation, the FNLMA.

Replacing the *FNLMA* "ratifying legislation" in the short term will greatly reduce duplication and confusion, as well as create clarity, save time, effort and resources for both First Nations and Canada. It will also build on the *Framework Agreement's* two-decade success in recognizing the inherent right of self-government in an efficient and respectful manner and better respect the 'government to government' dynamic of reconciliation.

### 2. What are the benefits for communities signing the *Framework Agreement*?

First Nations communities that sign the *Framework Agreement* are supported financially, politically and technically to develop and ratify their own community land code.

Land code benefits for signatory First Nations include:

- First real recognition of First Nation right to manage their reserve lands and resources
- Removal of reserve lands from Indian Act restrictions
- Community control over First Nation land management and development
- Inclusion of both off-reserve and on-reserve members in important decisions
- Increased accountability to members of the First Nation
- More efficient management of First Nation land
- Recognition of First Nation legal capacity to acquire and hold property, to borrow, to contract, to expend and invest money, to be a party to legal proceedings, to exercise its powers and to perform its duties
- Transfer by Canada of previous land revenues to First Nations
- Recognition of the First Nation's right to receive revenue from interests in their land
- Protection against arbitrary expropriation of First Nation land
- Protection against loss of First Nation land through surrender for sale
- Ability of First Nation to directly protect their environment
- Ability of First Nation to create rules related to land during marriage breakdown
- Recognition of significant law-making powers respecting First Nation land
- Removal of the need to obtain ministerial approval for First Nation laws
- Recognition in Canadian courts of First Nation laws
- Recognition of right to create modern offences for breach of First Nation laws
- Ability to appoint Justices of the Peace
- Ability to create a local dispute resolution process
- Establishment of a regulation backed land registry system
- Establishment of a First Nation created and controlled Lands Advisory Board and
- Resource Centre to provide professional technical and political assistance to First Nations

### 3. Why aren't all communities signing? What is their hesitation?

The LAB respects the decision-making authority of each First Nation to determine their respective paths. Neither the LAB nor the LAB Resource Center solicits First Nations to enter the *Framework Agreement* process. Our policy is to provide information and support when approached by First Nations seeking workable remedies to the restrictive lands provisions of the *Indian Act*.

Roughly 15% of First Nations communities across Canada have signed the *Framework Agreement* and are seeing the benefits of local governance of their lands, environment and resources. Another 15% are either in the development stage or have formally expressed interest. The LAB and the Resource Centre continue to communicate broadly about the benefits of reclaiming governance of lands and resources and each community will consider the opportunity and make the best decision for their unique situation.

### 4. How does the FNLMA create barriers to communities wanting to transition away from the Indian Act land management provisions?

The sole purpose of the existing FNLMA was to provide federal ratification of the *Framework Agreement*. However, the FNLMA modifies the spirit and intent of the original agreement through duplication and omission of certain sections of the *Framework Agreement* and the use of divergent language resulting in unhelpful and unproductive confusion. Specifically, the FNLMA has created:

- A misleading impression that the FNLMA is the complete text of what First Nations and Canada agreed to, and are implementing
- A misleading impression that First Nations are governed by the FNLMA
- A misleading impression that Canada has created or granted the First Nation Inherent Right to govern reserve lands and resources
- An unnecessary time consuming and costly two- step process when amendments to the Framework Agreement are agreed to by First Nations and Canada.

### 5. What are the expected benefits of replacing the ratifying legislation, the FNLMA?

- Replacing the FNLMA with more concise ratifying legislation will appropriately position the Framework Agreement as being the operative and complete document being implemented by all parties.
- It will eliminate the need to make amendments to federal legislation when changes to the Framework Agreement are agreed to by First Nations and Canada.
- It will send a message to First Nations that Canada has not created nor limited control of the Inherent Right to Self-Government and that it further recognizes and supports respectful First Nation-driven decolonization efforts.

6. How can government officials (elected and unelected) help achieve these legislative amendments?

Elected government representatives can contact the Hon. Marc Miller expressing support for replacing the FNLMA. LAB and the Resource Centre continues to work closely with government officials to summarize the benefits expected to result from these legislative amendments.

7. How does the relationship with the Canadian government change with First Nation self-governance?

Self-governance is a means for First Nations and Canada to improve the relationship from a place of mutual respect, on a nation to nation basis. While several aspects of the federal fiduciary relationship continue, the relationship between Canada and First Nations is improved as First Nations resume control of their own affairs and Canada is removed from its role as decision maker and trustee acting on behalf of First Nations.

8. Does signing the *Framework Agreement* require First Nations communities to extinguish their treaty rights and reduce funding from the federal government?

Absolutely not. The *Framework Agreement* neither abrogates or derogates from any existing treaty or aboriginal right.

9. Is the Resource Centre revenue generating? A non-profit? Government funded?

The First Nation Land Management Resource Centre (FNLMRC) is an incorporated not-for-profit corporation. The FNLMRC receives its funding from the Government of Canada on an annual basis in accordance to the terms set out in a three- year funding arrangement negotiated between itself and Canada.

10. How does the *Framework Agreement* contribute to reconciliation?

The *Framework Agreement* offers practical and proven solutions supporting First Nations lands related self-government for communities across Canada. Each community resuming governance over its lands and resources is a visible, measurable sign of authentic reconciliation and effective decolonization between the Government of Canada and First Nation communities.

11. Why are some First Nations communities concerned that ratifying the *Framework Agreement* is not in the best interest of their community?

Not all First Nations are aware of the full facts of the *Framework Agreement*.

Through the implementation of the *Framework Agreement*, First Nations can resume self-governance over their lands and resources and manage their own affairs, which is in everyone's best interest. However, the LAB respects the decision-making authority of each First Nation to determine their respective paths. Neither the LAB nor the Resource Centre solicits First Nations to enter the *Framework Agreement* process. Our policy is to provide information and support when approached by First Nations seeking workable remedies to the restrictive lands provisions of the *Indian Act*.

The LAB and Resource Centre recognize the importance of providing accurate and factual knowledge to redress misconceptions and misinformation about the *Framework Agreement* and will continue to ensure this information is readily and easily accessible for those who seek it.

### 12. Is economic development the primary concern of a First Nation community ratifying the *Framework Agreement*?

No, the *Framework Agreement* was designed to recognize the Inherent Right of Self-Government by First Nations and to enable First Nations to re-establish control over their lands, natural resources and environment by replacing the antiquated *Indian Act* lands sections with their own laws.

Greatly facilitated economic development is a benefit, not a primary goal. When First Nations communities resume governance over their lands and resources, they are able to make timely and more appropriate decisions that reflect local needs and priorities, which may or may not include economic development.

### 13. Why isn't the *Framework Agreement* better known amongst First Nation communities, government officials and the general public?

Since the *Framework Agreement's* signing in 1996, an ever-growing number of First Nations communities across Canada have resumed their inherent authority over their reserve lands, natural resources and environment. The LAB and the Resource Centre continue to communicate broadly about the benefits of reclaiming governance of lands and resources with all stakeholders including First Nations, government and the general public.