

Summary of Proposed Amendment No. 5 to the Framework Agreement

Exclusion of land with uncertain boundaries

Currently, a First Nation and the Minister cannot use clause 4.4 of the Framework Agreement to exclude land from the land code when its reserve status is uncertain. The Framework Agreement only contemplates excluding a “portion of a reserve”. As a result, votes must be delayed until boundary issues are resolved.

To avoid delays, the proposal is to change clause 4 of the Framework Agreement to allow a First Nation and the Minister to exclude land from a land code when it is uncertain whether it forms part of the reserve. The proposal is to remove the reference to exclusion of “a portion of a reserve” and refer only to exclusion of “land”, and to remove the requirement for a Part II survey under the *Canada Lands Surveys Act* of the excluded land (because land with uncertainty boundaries cannot be surveyed). The proposal is to include a provision that states that exclusion is without prejudice to the right of the First Nation or the Crown to assert that the land forms part of the reserve.

Signed Individual Agreement required before the verifier can certify the Land Code

The proposal is to amend clause 10 of the Framework Agreement to provide that the First Nation must send a copy of the fully signed Individual Agreement to the verifier along with the approved land code, and that the verifier cannot certify the land code until he receives the signed Individual Agreement.

Removal of the Environmental Management Agreement

The proposal is to amend clauses 23 and 24 of the Framework Agreement to remove the requirement for an Environmental Management Agreement (“EMA”). Although an EMA will not be required, a First Nation with a land code in effect will still be required to develop an environmental protection regime with the assistance of the appropriate government agencies, subject to the provision of adequate resources.

Coming into Force

The changes will only come into force if and when the Act is amended to reflect the changes set out in the Amendment to the Framework Agreement.