



Land Interests under Framework Agreement & Land Code

Considerations for Commercial & Residential Leasing under Land Codes

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Today's Topics

Jurisdiction and Framework Agreement Powers

Land Code Development

Land Management

Interests on First Nation Lands

Land Law-making

Questions & Resources

Jurisdiction and Framework Agreement Powers

Jurisdiction



Indian Act

Indian Lands Registry System (ILRS)



Framework Agreement

First Nation Lands Registry System (FNLRS)



Self-Government & Modern Treaty Agreements

Self-government First Nation Lands Registry System (SGFNLRS) or Provincial Land Title Office



Land Code Development

Land Management-
Interests and Licences

Law-making

Others

Framework Agreement Powers – Land Code Development

Framework Agreement Powers - Land Code Content



Identify the land subject to the land code



Set out rules and procedures for use and occupancy of First Nation land under CPs, custom allocations, leases & licences



Set out the procedures for transfer of estate interests or land rights

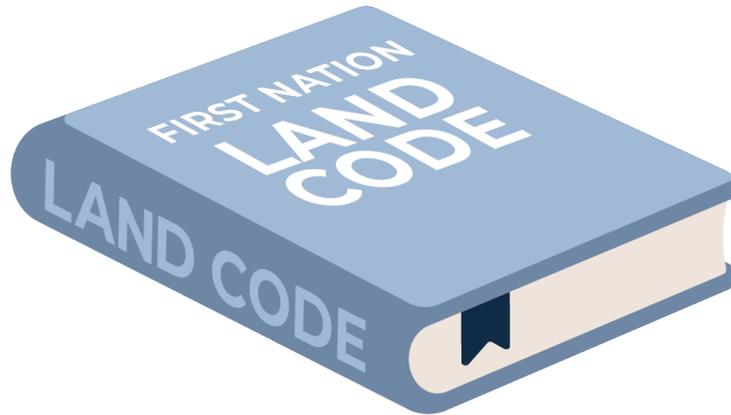


Establish a mechanism for addressing land and interest disputes



Set out rules and procedures for granting, disposing, or expropriating of interests or land rights

First Nation Lands Codes:



- are an important recognition of First Nation self-government;
- set a **higher standard for accountability and transparency**;
- provide great flexibility for codifying different practices and land tenure;
- contribute to **building better governments**.

Framework Agreement Powers – Land Management

Framework Agreement Powers – Land Management



Manage their First Nation land



Exercise powers, including all rights, powers, privileges of an owner in relation to their First Nation land



Grant interests or land rights and licences in relation to their First Nation land



Manage natural resources



First Nation land interests, land rights (in the province of Quebec), or licences are subject to any exceptions, reservations, conditions, or limits set by a First Nation in a land code

Once a land code comes into effect, a First Nation will then have the authority to:



Framework Agreement – Land Management Powers (cont.)

A First Nation's land management powers include:



Use of revenues, royalties, profits and fees in respect of the First Nation land, for the use and benefit of the First Nation



The legal capacity to acquire and hold property, borrow, contract, expend and invest money, be a party to legal proceedings, exercise its powers and perform its duties



The right to receive and use all moneys acquired by or on behalf of a First Nation under its land code

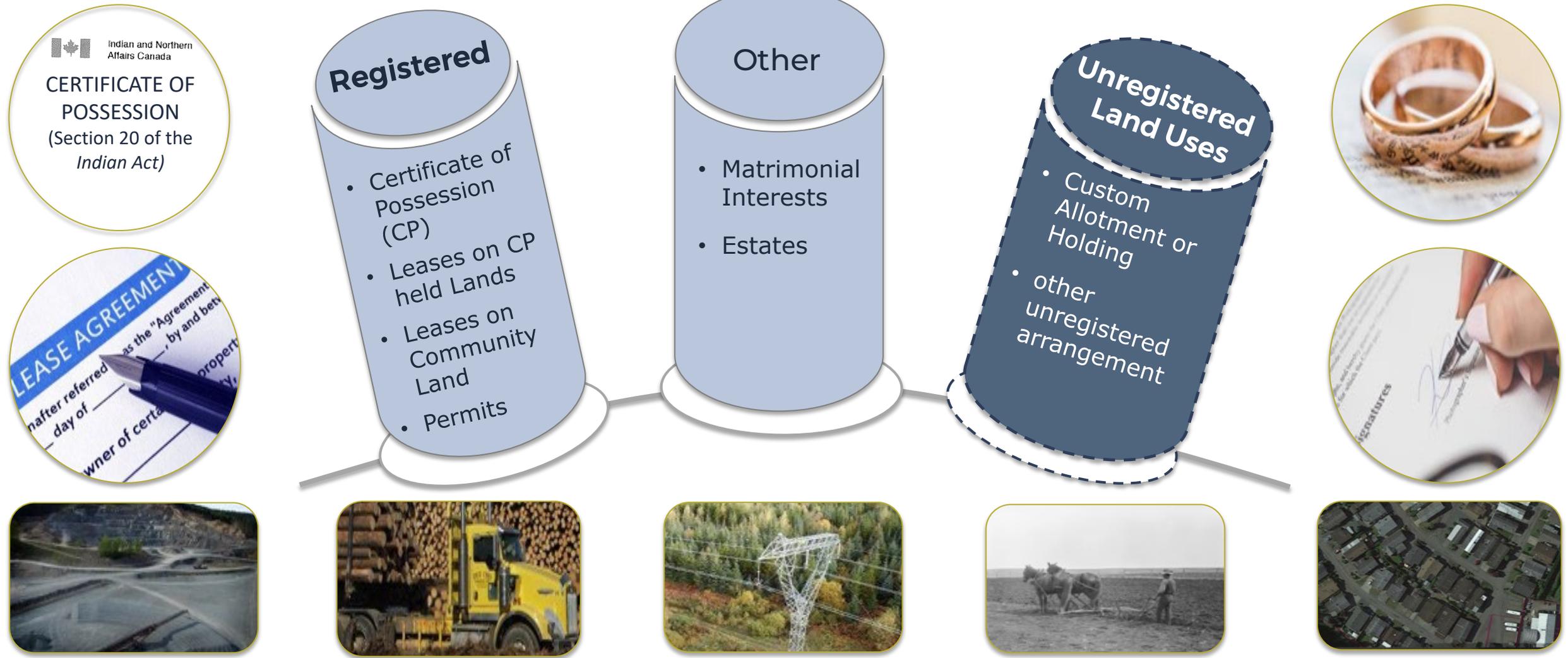


Establishing an entity for the purpose of administering its First Nation land, and it shall be deemed to be a legal entity with the capacity, rights, powers, and privileges of a natural person



Interests on First Nation Lands

Existing Indian Act Interests



Third Party Interests and the Framework Agreement



Interests existing at the time the land code comes into force, continue according to terms and conditions.

If an interest has not been granted on designated lands, the First Nation is not restricted by the terms of the designation.



Existing rights of locatees in possession of First Nation land (issued under Indian Act) to transfer, lease and share in natural resource revenues are defined in the land code

New interests, land rights or licences will only be acquired or granted in accordance with the land code.



Interests on First Nation Lands



Types of Interests on First Nation Lands

First Nation

- Community uses, unique interest to a particular First Nation e.g., FN offices, halls, schools, band-owned housing, protected areas, infrastructure, cemetery, FN owned businesses



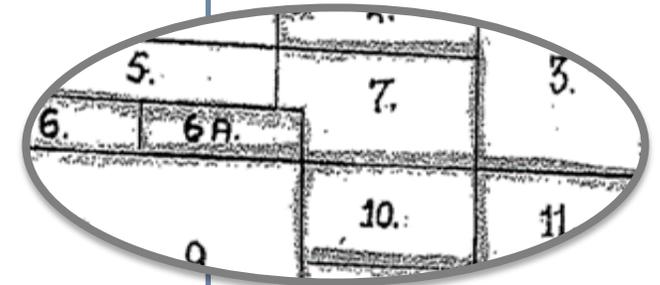
Allocation of Land to Members

- Individual First Nation Member Interests or other form of permanent interest for members, may include creation of additional interests like cottage or residential agreements, or leases etc.
- Could also be commercial leases where a third-party has been granted use by an individual interest holder



Traditional, Custom or Family Holding

- An original allocation or compounded heirs
- The use may have been granted orally in the past and may have only been identified through a rough sketch or old metes or bounds description that may have been incorrect
- longstanding custom allocations issues may need to be resolved



Types of Interests on First Nation Lands (cont.)

Non-Member or third-party

- Lease Agreements for commercial/retail space, offices rented to third party institutions, churches, healing lodges, recreational uses, post offices etc purposes



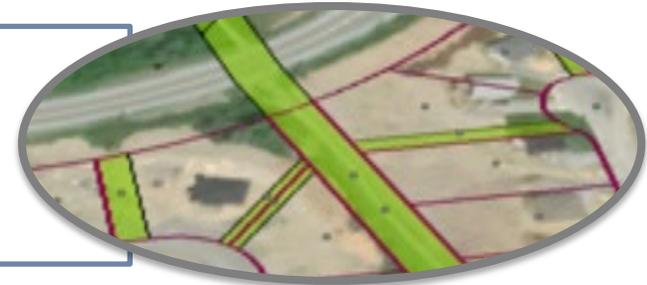
Licence

- Any right of use or occupation of that Land, other than an Interest in the Land
- Granted for natural resources such as timber, sand, gravel etc.



Permit, Easement or Right of Way

- e.g. utilities, roads, access



Framework Agreement Powers – Land Law-making

Framework Agreement Law-making Powers



Make First Nation land laws, regulations, and policies under the First Nation's land code

First Nations can still make by-laws under the Indian Act

First Nation land laws are not the same as ordinary municipal or Indian Act by-laws

Can establish offences that are punishable on summary conviction, provide for fines, penalties and other enforcement mechanisms

Power to make environmental laws

Types First Nation Land Laws



**Land Use, Zoning,
and Development**



**Allotment, Interests,
& Licences**



**Environmental
Assessment &
Protection**



**Natural Resource
Management**



**Trespass,
Enforcement, &
Ticketing**



Residential Tenancy



**Business Permitting
& Licencing**



**First Nation
Expropriation**

Framework Agreement Powers – Others

Other Framework Agreement Powers



- Enforcement
- Expropriation of First Nation Land
- Environment
- Funding

- Lands Advisory Board
- Dispute Resolution
- Protection of Land
- Land Registry

Questions & Comments



THANK YOU!

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