



Legislative and Regulatory Matters

First Nation Land Governance Registry (FNLGR)

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Framework Agreement and other fundamentals

Framework Agreement on First Nation Land Management

- We are building the First Nation Land Governance Registry to support land code First Nations and participating First Nations with other self-government agreements
- Currently, the Framework Agreement (FA) and the *Framework Agreement on First Nation Land Management Act* (FAFNLMA) provide for Canada to operate a land register
- Amendments to the Framework Agreement (and in some cases, the Act) will be required
 - establishing and then launching the FNLGR
 - authorizing Canada to transfer information now in the federal register to the FNLGR
 - providing for the shift of individual First Nations out of Canada's current register
 - authorizing the Lands Advisory Board to make regulations for the operation of FNLGR, and a general list of regulation-making powers, including authority to charge fees
 - clarifying, where appropriate, the inapplicability of federal privacy laws to the FNLGR

Framework Agreement (continued)

- The power of the Lands Advisory Board to make the regulations is a key innovation, eliminating future delays resulting from Canada's slow regulation-making process
- All FA amendments require approval of at least two-thirds of First Nations that have signed the FA
- Parliament will also likely need to amend the FAFNLMA, in order to launch the FNLGR and provide for the transfer out of Canada's register
- Changes to the *Canada Lands Surveys Act* may also be needed
- The federal registry will continue to operate for *Indian Act* land management

The FNLGR is a registry, not a Torrens-based system

- A land registry system
 - confers priority on a registered “land right” (“interest” outside Quebec) over unregistered land rights, and over subsequently-registered land rights
 - does not guarantee the validity of a registered land right
- The FNLGR
 - is a fully online, modern, responsive (First Nation-led) land registry system
 - will not establish a Torrens-based land titles system with an assurance fund
- The FNLGR respects the Framework Agreement and First Nation land codes, which do not provide for fee simple ownership by individual members.

Registration in the FNLGR

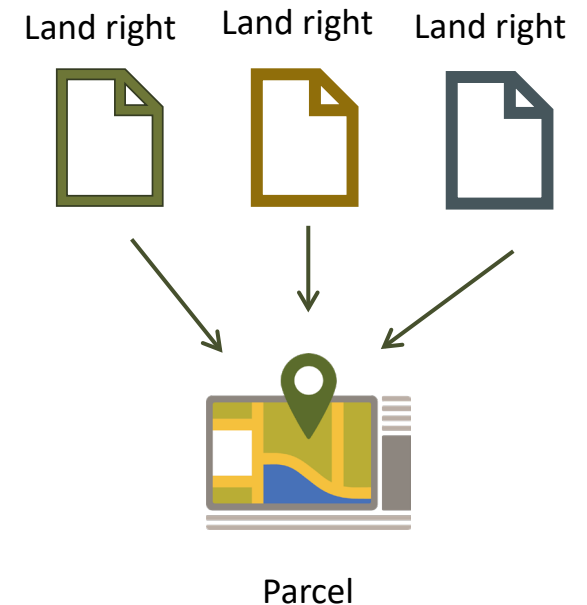
- The legal validity of land rights registered in the FNLGR requires careful reference to the land codes and other laws of individual First Nations, and to the particular terms that are being agreed to
- Many land codes also provide that registration is a condition of validity of land rights. Failure to register in those cases would affect validity because the individual First Nation has made that the law.
- Registration will be accurate and fast, exceeding the standards set by the current federal registry

FNLGR Regulations

Draft regulations: parcels & land rights

- **Definitions and interpretation** provisions: sections 1 to 4
- The Register shall consist of a "parcel" "abstract" for each parcel of First Nation land, recording all land rights in the parcel
- A "general index" will also be created to provide for example for standard mortgage conditions, change of name of a reserve, etc.

(" " denotes a defined term)



Draft regulations: highlights

- **Applications for registration:**
 - electronic registration
 - key role of First Nation Land Offices
- **Minor corrections to applications**
- **Omission or error by Registrar in registration or filing**
- **Registration of a caveat**
- **Application** to rescind the registration of a land right
- **Registration of plans** of various kinds

Draft regulations: highlights

- **Lands added to or removed from reserve:** provisions for recording additions to reserve, land exchanges, and the very rare possibility of federal expropriation
- **General Provisions** cover topics such as the general index; Registrar's certified copies of instruments and parcel abstracts, limitations on the use of the Register, redactions, etc.
- **Transitional Provisions** provide for
 - the transfer out of the current federal registries by existing land code First Nations, and by those who may join in future; and for
 - documents not eligible for registration in the new FNLGR to be archived (this will require discussion with the First Nation preparing to enter the new system), and for archived documents to be registered or filed if necessary

Draft regulations: land rights

- The draft regulations will recognize many of the same land rights that can be registered in the current federal registry – but omits vague categories such as "letters", "BCRs", and "agreements"
- “Land rights“ will include, for example, individual holdings, leases, mortgages, easements, and rights of way
- An "individual holding" is defined with flexibility to encompass the different ways First Nations provide for allotments, family holdings, and other long term member rights as defined in land codes, as well as older *Indian Act* interests such as Certificates of Possession

Draft regulations: land rights & other registrable documents

- "Instruments" (<< actes >>) will also include documents related to registrable "land rights." This will include documents describing ownership, transfers and encumbrances and documents conferring a right, such as an assignment of rents, a modification, transfer or discharge of a land right
- The regulations will also provide for registration of documents such as judgments, caveats and court orders



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