

Implications of the new legislation – Framework Agreement on First Nation Land Management Act (FAFNLMA)

Q&A – Feb. 09, 2023

Q & A / Comments

Q: How are amendments identified and developed by LAB?

- Amendments are identified through various means, such as engagement sessions with First Nation and from our own RC staff and Lands Advisory Board.

New Framework should be signed by all First Nations to make sure all First Nations know what is happening.

- Amendments to the FA should be confirmed by all First Nations to ensure all signatories are aware of the changes

Q: Is it possible to get a joint-communication between the RC and ISC that explains the repeal and replacement of the FNLMA with the FAFNLMA that can be handed out at the discretion of the First Nation?

- Yes, we will see what we can do to provide this document to First Nations.

Q: Who's responsibility is it to get the new FAFNLMA to law offices, notaries etc.?

- Its on LABRC and lands offices. We need to update our website and perhaps the RC should write a letter to the law firms that we often deal with to keep them updated.
- Perhaps the RC can provide a 1-pager to First Nation land offices so we can send it to our contacts to keep them updated.

Q: Can you talk a little bit more about the issues with ESA's and issues identified by Nations?

- We have tried to work with ISC to have a bit of a process around how ESAs are done for developmental First Nations – one of the things we have is a National Terms of Reference document to try to set the process. This document says that there will be a Joint Management Committee (JMC). The Developmental First Nation and Canada will have appointed reps on the JMC. The RC can be invited int meetings but will not be a voting member on the JMC. The JMC will carry out various functions – for example, look at proposals for hiring environmental consultants to do phase 1 ESA, etc.
- Some of the issues with the ESAs are around hiring consultants that the First Nation doesn't want. There is also an issue with sharing of information, which can hold up the developmental process.

It would be good if the LABRC started hosting the education sessions for lawyers and notaries as they did years ago...our offices are trying to field these questions one at a time....

- We are happy to join in and support any events that may hold. We have held "lunch and learns" for various organizations in the past and are more than happy to provide support where we can.

Q: What about the Environmental Review Process under IAA -- the same issues?

- To clarify, ESA = environmental site assessment. looks at past land uses to determine existing environmental conditions of the reserve land (prior to change in land management jurisdiction). EA = environmental assessment, and is a process to predict the potential environmental effects of a development project before it occurs. Operational First Nations have the authority to develop their own EA laws and processes. Some federal authorities also have their own responsibilities under the IAA (ie, when providing funding for a project on reserve), and should be consulting with the First Nation early on to ensure they are also respecting the First Nation's EA process.

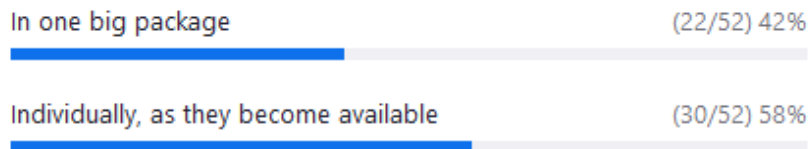
Q: What about APEC identified in the phase I, why can't these be addressed without having the FN being required to make an application for funding for a phase II and possible remediation work

- The current process is hindering the identification of APECs, and there are issues working through the phases/funding commitments.

Resolution of roads issues, particularly a problem in BC, that trickles on through the implementation of land code.

- Many developmental First Nations are encountering huge delays on that front
- There's a problem with ISC on working with individual agreements
- In the developmental process, road issues and some unclear survey boundaries for water are 2 examples where things have been slowing down – this is defeating the opportunity to opt into land codes

Poll Question: How would you like to engage on drafting future amendments?



Comments:

- There were only two options, so maybe a third where amendments are provided for research and comment and then the full package for sign-off by First Nations after they've had time to think through them?
- First Nation has its own process for amendments which is focused on community engagement; they highlight subject matter/content instead of diving into the provisions themselves
- Amendments: better explain why we are making the change and what it means
- From an administrative perspective, one big package is too onerous