

An Overview of the First Nations Land Management Regime

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*The Rise of the First Nations Land Management Regime in Canada:
A Critical Analysis* by Shalene Jobin & Emily Riddle



The First Nations Land Management Framework Agreement began as an initiative for First Nations to gain management and control of their reserve lands and resources.

The Agreement was initially signed by 13 First Nations on February 12, 1996. One other First Nation was added in December 1997.

Federal Budget 2018 contains significant investments in the First Nations Land Management regime, including \$143.5 million over five years beginning in 2018-19, and \$19 million per year ongoing.

This funding will allow 50 First Nations to become Development Framework Agreement Signatories and provide them with funding to develop their own Land Code.

Recent legislative amendments in December 2018 have also reduced eligibility requirements for voting thresholds from 25% of eligible band members to criteria set by the band.

There are four legal documents involved in the First Nations Land Management Regime:

1. The Framework Agreement

The Framework Agreement was first signed in 1996 by First Nations and Canada. It is the Framework Agreement that is actively being implemented by First Nations and Canada.

2. The First Nations Land Management Act

First Nations communities who apply and are accepted into the Land Code process by the First Nations Land Management Resource Centre are added to a schedule to the First Nations Land Management Act.

There are currently 78 First Nations who are implementing a Land Code with over 59 communities at varying stages of Land Code development and ratification.

3. A Land Code

In alignment with the Framework Agreement, First Nations develop their Land Code, which outlines their policy regarding land management that will be implemented if members agree. Land Codes are sometimes developed by lawyers in consultation with Chief and Council, and other times with a committee of band members. Some communities choose to draft a preliminary 'barebones' code and implement land management bylaws later and others choose to develop robust codes. The First Nations Land Management Act outlines the basic requirements of a Land Code which include procedures for accountability to band members for the management of land and funds derived from the development of land, the rules for enacting and implementing land management laws under the Land Code, etc.

4. The Individual Agreement

The Individual Agreement is what actually transfers the management of the reserve land from the Ministry of Crown Indigenous Relations to the individual First Nation. The Individual Agreement describes the land that will be subject to the Land Code and provides the terms of the transfer of administration of that land. It also describes the interests or rights and licenses that have been granted to the Crown in relation to the reserve lands, and the environmental assessment process that will apply to projects on that land until the First Nation develops their own laws for that effect.

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