First Nations National Land Registry

Background

The Lands Advisory Board (LAB) is a signatory to the historic government-to-government Framework Agreement on First Nation Land Management (FAFNLM). The Framework Agreement provides First Nations with all the legal status and powers needed to govern and manage their First Nation Land and natural resources. A First Nation power includes all the rights, powers and privileges of an owner and the authority to grant interests or land rights and licenses in relation to its First Nation Land and to manage its natural resources. The agreement allows the signatory First Nations to opt out of the forty-two land related provisions in the Indian Act and recognizes the First Nation's right to govern their lands.

The Framework Agreement was first signed in 1996 and since then 194 First Nations have 'signed on' and are in various stages of resuming control. As of Nov 2022, there were 104 operational signatories (First Nations who have ratified their land code, including 3 self-governing), 44 developmental signatories (First Nations actively developing land codes) and 46 inactive (First Nations whose development activities are dormant temporarily or long term) The LAB is actively working with the Government of Canada (Canada) to replace the First Nations Land Management Act (FNLMA) ratifying legislation to reduce duplication and confusion and respect the fundamental primacy of the Framework Agreement.

The LAB has identified as a strategic priority in their business plan the need for a new First Nations National Land Registry which is governed and operated by First Nations and is independent of Canada. The existing land registry systems, support and standards of service are provided by Canada currently through or via, Indigenous Services Canada (ISC).

Canada has committed to full adoption of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) which amongst other items, affirms the right of Indigenous Peoples to govern their lands. In addition, LAB has communicated that Canada has expressed a desire to review the approach used by ISC in meeting the FAFNLM obligations and would be open to a new First Nations National Land Registry (FNNLR).

A new FNNLR is required since the current registry is owned and operated by ISC Canada, and First Nations have no say over operations of the existing registry. The turn-around times are excessively long and do not meet the needs of stakeholders. Furthermore, the governance of the existing registry is based on Canada's and not First Nations regulations and policy. Hence, there is a desire for a First Nations governed and operated land registry.

Overview

The vision for the First Nations National Land Registry is to establish a shared, comprehensive, trusted, sustainable and First Nations governed land registry for lands governed under a Land Code or self-government arrangement. The goal is to realize this vision within five years of receiving full funding for establishing the National Land Registry.

The vision for the First Nations National Land Registry is to establish a **shared**, **comprehensive**, **trusted**, **sustainable**, and **First Nations governed** land registry for lands governed under a Land Code or self-government arrangement	
Shared	• Serves all participating First Nations within a single shared registry while respecting the land registration autonomy and individuality of each First Nation
Comprehensive	• Encompasses all registered interests and records, inclusive of the corresponding boundary definition
Trusted	• Includes authoritative records using a regulatory framework that ensures the timely and accurate registration of instruments related to First Nations Lands
First Nations Governed	• Governed, regulated and operated by a First Nations institution with the participation and guidance of stakeholders
Sustainable	• Operations are financially self-sustainable and able to respond to changing needs through improved services, products and technology

The FNNLR will be operated by a federally incorporated not-for-profit organization—called RegCo (for the time being). RegCo will be led and operated by a First Nation Board of Directors and staff. It will be responsible for the day-to-day operation of the new registry including core activities such as governance, leadership, register function, register technical services, training and customer service support. Some of these functions will be enabled by delivery partners such as LTSA, LABRC and Natural Resources Canada Surveyor General Branch (NRCan SGB). These include technology build and support, transition, training, and implementation.

There are seven primary goals for the First Nations National Land Registry. These include:

1. Governed by First Nations for the benefit of First Nations and other users.
2. Serves all participating First Nations and other users through a shared land registry.
3. Provides a comprehensive register of interests in place of a registry of instruments.
4. Builds trust in the land register through standards, transparency, and accountability.
5. Strengthens land administration of First Nations through improved accessibility to information.
6. Enhances land registry experience of First Nations through better services and products.
7. Streamlines land operations and registry interactions of First Nations through more effective application of technology.

Governed by First Nations

Governed by First Nations for the benefit of First Nations and other users:

- Run by First Nations: Governed, regulated, and operated by a First Nations institution applying indigenous knowledge for use by First Nations and other users with the participation and guidance of all stakeholders.
- Empowering First Nations land authority and land management: by ensuring that First Nations have the knowledge, resources, and Registry services to be successful and effective.

- Highlighting the authority of First Nations over their land and the Registry: by making the First Nation, their Land Code, and laws prominent within the Register and the services and information products provided.

Serves all

Serves all participating First Nations and other users through a shared land register:

- Full spectrum of users served effectively: Boosting individual, government, commercial and end-user confidence in the registry as well as the efficiency of interactions. The Registry will provide a trusted land register for all Operational First Nations and for governments and commercial entities involved in transactions of interests on First Nations land. To that end the Registry will work to strengthen relations, confidence in engagement with First Nations, and streamline interactions with the Registry.

Provides a comprehensive register of interests

Provides a comprehensive register of interests in place of a registry of instruments. An instrument is "a legal document that gives effect to the transaction, and describes the parcel of land, the parties to the transaction, and any legal details and specifications required" (Indian Lands Registration Manual, chapter 2). The LABRC Land Code Model defines an interest as "in relation to First Nation Land, means any Interest, right or estate of any nature in or to that Land, including a certificate of possession, certificate of entitlement, lease, easement, right of way, servitude, or profit à prendre, but does not include title to that Land". So, the distinction between a registry of instruments versus a registry of interests is that a registry of instruments only records the transaction documents, whereas a registry of interests also records the interests resulting from the transactions and tracks their state (e.g., active, historical) and other attributes (e.g., list of named interest holders).

- Providing a 'State of Interest' Register: a clear and accurate view of current active interests in land while retaining the complete journal of registrations.
- Providing comprehensive integrated land status: across multiple layers of registered interests – reserves, surface parcels, building units, easements, subsurface – by using boundaries in the parcel map as well as through explicitly tracked relationships between interests.

Builds Trust

The New Registry will build trust in the land register through standards, transparency, and accountability:

- Transparent operations in accordance with regulations: Defining policies and operating transparently according to defined regulations, the Registrar will write, publish, and act in accordance with registry regulations and comprehensive policies.
- Improving trust in the land register data: by improving the Register's data model, by explicitly recording data accuracy and quality indicators; and by working with First Nations to enable them to improve their data to the level they require.

Strengthens Land Administration

The New Registry will strengthen land administration of First Nations through improved accessibility to information by broadening the spectrum of information accessible concerning:

- Registered interests:
    - By recognizing interests as a land administration concept and accommodating new types of interests on land.
    - By recognizing new categories of registerable land held by First Nations (e.g., Yukon Lands Set Aside).
    - By making SGB Canada Land Survey Records for parcels directly accessible within new land registry system.
- Land related records:
    - First Nation level: By recording land-related information and documents applicable to the First Nation as a whole at the level of the First Nation (instead of against each reserve), e.g., Land Code, land laws, land/resource use plans/policies.
    - Land-related records: By recording additional information and documents related to individual parcels (e.g., parcel boundary issues) or possibly land features provided by (and significant to) a First Nation for the purpose of their land administration (e.g., old village sites).
    - Integration with external sources: By improving access to external information sources that provide greater context (e.g., excluded lands).

Enhances Land Registry Experience

The New Registry will provide an enhanced First Nations land registry experience through better services and products:

- Timely service response within defined service level targets (e.g., registration, customer support).
- Modern, easily accessible online land registry user experience using web-based user interface, instead of Citrix access to an MS Windows app, which supports simplified and effective search capabilities, self-administration of accounts, tracking of submissions and collating of notifications and information products.
- Improved parcel map replacing eRIP to provide more comprehensive map data combined with services that integrate seamlessly with land register records and SGB records. Specific outcomes will include better data currency, placement of unsurveyed parcels and instruments, simplified parcel identification (e.g., one PIN system, building units clearly categorized and identified, civic address lookup where available).
- Online submissions by authorized non-First Nation parties of applications for registration: Access will be expanded to authorized non-First Nations parties (e.g., lawyers, financial institutions discharging mortgages) with the consent of the FNs, so that they can transact electronically with the new registry.

- Information products targeted to meet customer needs: for example, "state of registered interests", "land administrative status" and "historical activities on land" information products that combine textual and spatial/map elements, and when needed are certified by the Registrar.
- Establishing a culture of excellence in customer service, experience, and satisfaction: by providing directly accessible customer support staff; by providing service delivery within established response times; by intentionally soliciting customer feedback and by continually improving services based on customer feedback.

Streamlines Land Operations

The New Registry will streamline land operations and registry interactions of First Nations through more effective application of technology by:

- Establishing standards and policies for registration to improve register data quality and integrity: from using standardized forms to submitting applications and instruments to the prioritization, validation, recording, resultant notifications, and issuing State of Interest Certificate or certified instruments.
- Becoming sustainable by establishing a culture of continuous improvement to propel the business forward, enabling progressively improving services, products, and technology in response to feedback and evolving needs of First Nations and other users.
- Providing effective integration solutions: for First Nations to integrate their systems with the Land Register system, for integration with the Canada Land Survey Records, and for integration with ISC systems, e.g., Indian Land Registry System (ILRS), First Nations band and member data.
- Streamlining internal and external registry-related processes to minimize effort spent on low-value activities internally (e.g., redaction) and smooth out external processes (e.g., data feed from SGB).

Key Modernizations

In the development of the First Nations National Land Registry, there will be several key modernizations and updates from the current First Nations Land Registry System (FNLRS) and its support services:

1) New First Nation organization created to operate the National Land Registry
2) Register of interests
   a) Interests added, modified, transferred, relinquished/cancelled, and expired through instruments.
3) Historical interests will not be reconstructed, but a full history of registered instruments will be retained.
   a) Hierarchy of interests will be explicitly tracked.
   b) Priority of interests will be explicitly tracked.
   c) Self-aware register will be created that tracks parcels and reserves that have achieved 'state of interest' level.
   d) Real property will be explicitly identified for sub-PINs (e.g., building unit, parking lot).
4) Registration

a) Standardized and published registration policies, practices, semantics
b) Online submission of applications by authorized parties in addition to online submission by First Nations Land Office staff.
c) Enabled by the parcel map to help with transactions involving subdivisions, new parcels, and easements.
d) Paper submissions will be eliminated.

5) Search and Retrieval
   a) New searches: by name of interest holder, by keyword, or by civic address where available.
   b) Register search integrated with map: register lookup and information products will be accessible from a map and the location of register search results will be displayable on map.
   c) Unsurveyed parcels and interests will be displayed on map.
   d) Survey plans will be directly accessible within the register system.

6) Information Products
   a) New products: 'state of' products and map-based products will show only the active interests.
   b) Re-designed: to highlight First Nation authority, precedence of Land Code and laws, and present summary before details.
   c) Layer-aware: providing integrated view of interests (to extent they are defined) across layers: reserves, surface parcels, sub-PINs, easements.
   d) Consolidated Products: near-identical products will be combined (e.g., Band-Reserve Report and Reserve Details).

7) Land
   a) Single-PIN scheme: for all First Nations parcels, including implied parcels in unsurveyed instruments (e.g., for short-term permits). NRCan SGB is open to the idea of supporting parcel mapping and issuing PINs if mandate is properly established, processes re-engineered, and sufficiently resourced. ISC Registry PINs would be deprecated over time.
   b) Sub-PINs assigned NRCan SGB PIN: NRCan SGB is open to idea, as per qualifications above.
   c) Accept graphical map representation for unsurveyed interests: provided by grantors, vetted by the First Nation, and displayed in parcel map.
   d) Comprehensive First Nation parcel map: including parcels from various origins (surveyed, unsurveyed), states (registered, unregistered), and administration regimes (e.g., Excluded Lands that remain under the Indian Act).
   e) Excluded Lands will be reverted to ILRS as they do not belong in Land Code Land Register.
   f) Community land and individual held land will both be clearly distinguished in the Land Register.
   g) Shared Reserves will be supported as a unique concept, administered under a Land Code, and shown as belonging to a group of First Nations.
   h) Yukon 'land set aside' will be supported as a land concept that is distinct from a reserve.
   i) Remainder parcels: the subdivision survey practice will be changed to require a new lot designation.

8) Land-Related Records

a) Direct access will be granted to external information sources (e.g., Canada Land Survey Records).

b) Extendable records: the capability will be created to store land records provided by and significant to a First Nation that relate to registered interests, property, and parcels.

c) Extendable maps: the capability will be created to store land features provided by, and significant to, a First Nation.

9) Land Laws

a) Land Code, law and bylaws will be registered at the First Nation level instead of against each reserve.

b) Land Register will be configurable to align with land law terminology

10) Data Services

a) Register data export will enable data to feed to First Nation tools and systems.

b) Map data export will include summary register data with links to full register data.

11) User Experience

a) Citrix will not be used for internet access.

b) One unified user interface for external users: Citrix vs Public Web Site distinction will be erased. Permissions based on role will determine what capabilities users can access.

c) Streamlined, intuitive user interface: only features and data relevant to user role and task will be presented.

d) Accurate terminology reflecting real world concepts and using terms specific to First Nation where appropriate will be used.

12) Customer Support

a) Published phone number will be offered to reach customer service agent.

b) Published customer support resources will be continually improved based on actively solicited customer feedback.

13) Technology

a) Secure APIs will be created for authorized external systems to access register data, and for registry system to access external data provider systems.

b) Evergreen: there will be ongoing investment in technology to keep it up-to-date and to advance system capabilities.

Schedule

The expected high-level timing for this initiative is as follows:

Milestone/ Activitiy	Duration	Year 0	Year 1	Year 2	Year 3	Year 4	Year 5
Canada Decision in Principle to proceed	0						
Interim Funding Available	0						
Business Solution Design	9 months						
Seeking full funding approval from Canada	12 months						
Funding Approved & Build Phase kickoff	0						
Drafting Framework Agreement changes and Regulations	18 months						
Engage Project Team	4 months						
RegCo Incorporated	0						
Enact Regulatory and Legislative changes	9 months						
Register Regulations approved	0						
Policy Drafting and Publication	18 months						
RegCo Business preparation	18 months						
Register System IOC Build	24 months						
Initial Operational capability	0						
NRCan SGB system update & Integration	9 months						
Beta Transition and Operation	2 months						
Register System FOC Build	12 months						
Full Operational Capability	0						
System Stabilization Period	12 months						
Training and Go Live of Operational FNs	24 months						
Register Information Enhancement	24 months						
Transition of all Operational FNs complete	0						
Migration of ILRS FNs	Ongoing						
Steady State Registry Operations	Ongoing						
Register System Sustainment	Ongoing						

Progress to date

- Sept 2019 – LAB AGM - discussed establishing a new registry, the LAB subsequently forms a Registry working group.
- Sept 2019 - Jan 2020 - Discussions with registries from Nunavut, Alberta and BC as well as ISC, Crown-Indigenous Relations (CIR) and NRCAN are conducted. The Land Title and Survey Authority of BC (LTSA) expresses a willingness to offer its considerable expertise towards the project.
- Oct 9, 2020 – MOU with LTSA established to formalize joint work on a new registry.
- Oct 2020 – Dec 2021 – LTSA, LAB and Deloitte develop FNNLR proposal including high level cost estimate
- Jan 2021 – Deloitte retained to develop business case for FNNLR
- Dec 2021 - FNNLR proposal was presented to the LAB AGM and then submitted to Canada in Jan 2022
- Jan – to date 2022 LTSA, with input from LAB, First Nations and other stakeholders define business and technical architecture for FNNLR and related effort/cost estimates
- Apr – to Oct 2022 – LAB, with support from CIR, ISC, LTSA, Deloitte and other stakeholders prepares Policy Paper for funding request to Canada
- July 2022 – LAB AGM – Presentation on FNNLR and Resolution to continue work and report back

- Oct 2022 – Funding request submitted to Canada.
- Oct 2022 – LABRC and the LTSA plan how to maintain momentum on the project in preparation for Canada's yes decision to the funding request.

Benefits

The improved features of the new register will bring benefits to direct system users summarized below:

- Capture of complete and accurate data, which removes the current uncertainty and reliance on complex legal research.
- Clear policy and practice standardization; same standard of services for First Nations as those enjoyed by other Canadians.
- Easier system access and increased user friendliness; reduced time and effort for legal searches; improved customer support and training.
- Higher quality data; improved reporting; ability to quickly determine parcel status.
- Provide a comprehensive map view, interest view, filtering capability, and data quality indicators.

The FNNLR is a critical foundational capability that can enable stronger economic development through improving land use planning, land market efficiency, access to credit, tenure security and competitiveness. The broader socio-economic benefits of the proposed FNNLR are summarized below:

- The FNNLR is consistent with the Government of Canada's public policy objective to renew the relationship and achieve reconciliation with First Nation communities. It furthers the government's specific objective of advancing Indigenous self-determination aligned with commitments to UNDRIP.
- The FNNLR will enable a modern, digitized, complete and accurate land record that removes the current uncertainty and reliance on complex legal research. This will contribute to greater outside investments on reserve lands, increase the rate of commercial and residential development and potentially increase the value of reserve lands.
- Clarity around the boundaries, ownership, management and decision making of the land, is necessary to enable modern community development plans and zoning of land use thereby closing the service delivery and infrastructure gap. The FNNLR will enable an increased ability to collect data on land development and growth to track how things are improving.
- A modern land registry system is a critical foundational capability to enable economic development by FN communities. Certainty on land use can increase economic activity through bolstering land use planning, increasing the efficiency of the land market, enabling access to credit, providing greater tenure security and improving competitiveness.
- Canada has a contingent liability under the Indian Act, for errors or omissions made in how documents were recorded in the old land registry system. The new FNNLR will minimize these errors going forward, and therefore stop the contribution to that liability burden.
- Establishing FN governance over FNNLR provides a model example for future transitions of management responsibilities to indigenous communities.

Next Steps

All activity is now either focused on, or dependent on, Canada's approval decision for the funding request.

- The LAB is engaging with Government and other stakeholders to promote the FNNLR initiative and get support for a positive funding decision.
- In addition, the LAB is actively promoting the "Repeal and Replace" (Bill-C32) of the current FNLMA that will facilitate the establishment of the regulatory changes required to enable the FNNLR.
- The LABRC has established a legal working group to draft the regulatory, legislative and policy changes that will be required to enable the FNNLR.
- The LABRC is planning for the establishment of RegCo.
- The LABRC will be planning for the engagement of a Program Management function, and the related processes to manage the coordination of all FNNLR workstreams.
- The LTSA continues to work with the LABRC and First Nations to define the Business Services and Systems Architectures that define the FNNLR from business and technology perspectives.
- The LABRC, First Nations and LTSA will be working with ISC to get full access to First Nations data hosted in the current ISC managed registries.