

FIRST NATION LAND GOVERNANCE

*The Framework Agreement
on First Nation
Land Management*



THE *FRAMEWORK AGREEMENT ON FIRST NATION LAND MANAGEMENT*: A HISTORY



FIRST NATION ESTABLISHED AND CONTROLLED



February 12, 1996: Chief William McCue welcomes First Nation leadership and Canada to the Chippewas of Georgina Island First Nation for the historic signing.

► WHAT IS THE FRAMEWORK AGREEMENT?

The *Framework Agreement on First Nation Land Management* (Framework Agreement) is a historic, government-to-government agreement developed and advocated for by First Nations leaders to opt out of the 44 lands-related sections of the *Indian Act* and to recognize First Nations' inherent right to govern their reserve lands.

► WHEN WAS IT SIGNED?

The agreement was signed on February 12, 1996, at the Chippewas of Georgina Island First Nation, between the original 13 First Nations who designed and negotiated it, and Canada's Minister of Indian Affairs and Northern Development.

► HOW MANY FIRST NATIONS ARE SIGNATORIES?

As of March 1, 2024, the Framework Agreement has expanded to include **209 First Nation signatories** working to replace the land management sections of the antiquated *Indian Act* with their own community-developed land code.



THE GOALS OF THE FRAMEWORK AGREEMENT

► First Nations awareness that the Framework Agreements assists them to exercise their inherent right to govern their reserve lands and natural resources.

► Framework Agreement First Nations will decide how to govern reserve lands and natural resources with their land code.

► Each First Nation will have the capacity to govern its reserve lands and resources effectively.

► Effective land and resource governance will become a cornerstone of First Nation community development.

► Strengthening the recognition of the status of First Nation Governments.



WHAT ARE THE BENEFITS OF THE FRAMEWORK AGREEMENT?

First Nation signatories to the Framework Agreement are supported financially, politically and technically to develop and ratify their own community land code. Benefits for these First Nations include:

- First real recognition of First Nation right to manage their reserve lands and resources
- Removal of reserve lands from *Indian Act* restrictions
- Community control over First Nation land management and development
- Inclusion of both off-reserve and on-reserve members in important decisions
- Increased accountability to members of the First Nation
- More efficient management of First Nation land
- Recognition of First Nation legal capacity to acquire and hold property, to borrow, to contract, to expend and invest money, to be a party to legal proceedings, to exercise its powers and to perform its duties
- Transfer by Canada of previous land revenues to First Nations
- Recognition of the First Nation's right to receive revenue from interests in their land
- Protection against arbitrary expropriation of First Nation land
- Protection against loss of First Nation land through surrender for sale
- Ability of First Nation to directly protect their environment
- Ability of First Nation to create rules related to land during marriage breakdown
- Recognition of significant law-making powers respecting First Nation land
- Removal of the need to obtain ministerial approval for First Nation laws
- Recognition in Canadian courts of First Nation laws
- Recognition of right to create modern offences for breach of First Nation laws
- Ability to appoint Justices of the Peace
- Ability to create a local dispute resolution process
- Establishment of a regulation backed land registry system
- Establishment of a First Nation created and controlled Lands Advisory Board
- Resource Centre to provide professional technical and political assistance to First Nations

WHAT ARE SOME OF THE MAJOR SUCCESSES OF THE FRAMEWORK AGREEMENT?

The Framework Agreement **removes the 44 lands management sections of the *Indian Act***, leading the way for First Nations to make their own rules under their own land code instead.



28 years +

of governing land,
natural resources,
and the environment
under the Framework
Agreement

118

First Nations have
enacted land codes

209

First Nations are
Signatories to the
Framework
Agreement

1/3

of First Nations across
Canada are involved
in the Framework
Agreement

7

amendments to the
Framework Agreement
led by signatory First
Nations

528,951+

hectares of First
Nation land have been
removed from the
Indian Act lands system

* As of March 1, 2024

HOW TO BECOME A SIGNATORY TO THE FRAMEWORK AGREEMENT ON FIRST NATION LAND MANAGEMENT



STEP 1 - CONFIRMING INTEREST

An interested First Nation seeks out information on the Framework Agreement and, if interested in becoming a signatory, submits a Band Council Resolution (BCR) confirming this interest.



STEP 2 - WELCOMING

After the BCR is reviewed, a welcome letter and the *Framework Agreement on First Nation Land Management* adherence document is sent to the First Nation.



STEP 3 - ADHESION SIGNED

If the First Nation decides to officially join the Framework Agreement, the First Nation signs the adherence along with Canada.



STEP 4 - FUNDING ACQUIRED

The Developmental Phase Funding Agreement (DPFA) is signed by the First Nation, the First Nations Land Management Resource Centre, and Canada.



STEP 5 - WORK BEGINS!

Among many activities, the developmental phase involves the creation of a Land Code Committee, extensive community engagement, the drafting of a Community Ratification Plan and Land Code, as well as negotiating an Individual Agreement with Canada.

PRINCIPLE DIFFERENCES BETWEEN FRAMEWORK AGREEMENT LANDS-GOVERNANCE AND INDIAN ACT DELEGATED ADMINISTRATION

FRAMEWORK AGREEMENT ON FIRST NATIONS LAND MANAGEMENT (SECTORAL SELF GOVERNMENT)		INDIAN ACT DELEGATED AUTHORITY
Government to government agreement signed in 1996, initiated and created by First Nations for First Nations		Enacted in 1876
Cannot be amended/changed without the consent of the First Nation Signatories		Can be amended /changed without consent of First Nations
First Nations are recognized as "governments" with real legislative authority. Laws enforceable in any court of competent jurisdiction. Canada has no authority to overrule or cancel duly made laws or decisions made by First Nations		First Nations are not governments, with no Law-making authority. First Nations may only make certain decisions or by-laws that Canada approves of or that fall within authority outlined in the <i>Indian Act</i>
According to their own authority First Nations may: - Make land laws - Administer land laws - Enforce land laws - Manage and protect Lands and Resources		First Nations may: - Make certain delegated decisions - Make certain bylaws
Laws, policies, procedures and legal instruments are all developed, approved and enacted by each First Nation according to its own Land Code, unique language, culture and values		One size fits all, <i>Indian Act</i> /Federal laws, policies, procedures, rules and legal instruments made by Canada and must be followed by First Nations
Many flexible, diverse and innovative legal land governance approaches developed by First Nations		One inflexible law/land management manual and set of legal instruments developed by Canada for all First Nations
First Nations can create, authorize and issue different types of legal land interests		Predetermined allowable range of land interests recognized by Canada. No Indian is in lawful possession of land unless the Minister approves. This includes land transfers
Ability to enact Environmental Assessment/Protection Laws		None, only those that may be entered into by contractual arrangement by Canada. Enforcement, monitoring, testing and compliance can be problematic
Accountability and reporting to <u>membership</u>		Accountability and reporting to <u>Canada</u>
<u>Members have clear role</u> in decision making and approvals, with the ability to access and share information		<u>Members do not have a clear role</u> in certain decisions nor do they have a right to receive or access information
Dispute Resolution		No dispute resolution
<u>No expropriation</u> by Provincial/Municipal agencies. Extremely limited Federal expropriation restricted to emergencies		<u>Expropriation possible</u> without First Nation consent by Federal or Provincial government for the purposes of crown corporations or municipalities
Regulation backed, paperless, electronic and instant land registry which is priority based and is recognized/supported by financial institutions and titles insurance providers		Policy based registry that does not guarantee land certainty. Overly bureaucratic and lengthy approval times
<u>Recognized First Nation legal status/capacity</u> to acquire and hold property, to borrow and contract, to expend and invest money and to be a party to legal proceedings		<u>Legal status unclear and uncertain</u> to hold property/enter into binding agreements. This discourages lenders and other financing partners

LAND CODE: WHAT IT IS, INCLUDES AND ACCOMPLISHES

▶ WHAT IS A LAND CODE?

A land code is a First Nation-driven land law developed and approved by the First Nation to establish a land governance structure to manage and care for its reserve lands and natural resources. The Framework Agreement supports the flexibility for First Nations to develop their land code to reflect their unique laws, priorities, and traditions. Under the Framework Agreement, Land Code First Nations have full self-governing authority over reserve lands, natural resources, and the environment. **Unlike other land initiatives, this is true self-government, not delegated authority.**



▶ WHAT DOES A LAND CODE INCLUDE?

A LAND CODE INCLUDES PROVISIONS FOR:

- Rules and procedures for land possession, exchange, and use
- Financial accountability to members for land revenues (such as leases)
- The process for developing and approving the First Nation's land laws
- A dispute resolution process

▶ WHAT ARE SOME OF THE BENEFITS OF A LAND CODE?

THE MAIN BENEFITS OF A LAND CODE INCLUDE:

- Recognition of a First Nation's right to manage its lands and resources
- Removal of 44 land-related sections of the *Indian Act*
- Protects First Nation land from ever being diminished in size
- Community control over First Nation land management and development
- Inclusion of on and off-reserve members in important decisions
- Increased transparency and accountability to members in all land matters
- Enhanced ability of the First Nation to protect its environment
- Ability to create a local dispute resolution process
- More efficient decision-making processes (and more)



▶ ▶ ▶ A LAND CODE WILL NOT:

- Affect Treaty/Indigenous rights
- Affect taxation or tax exemption
- Affect additions to reserves or land claims
- Increase provincial or municipal jurisdiction

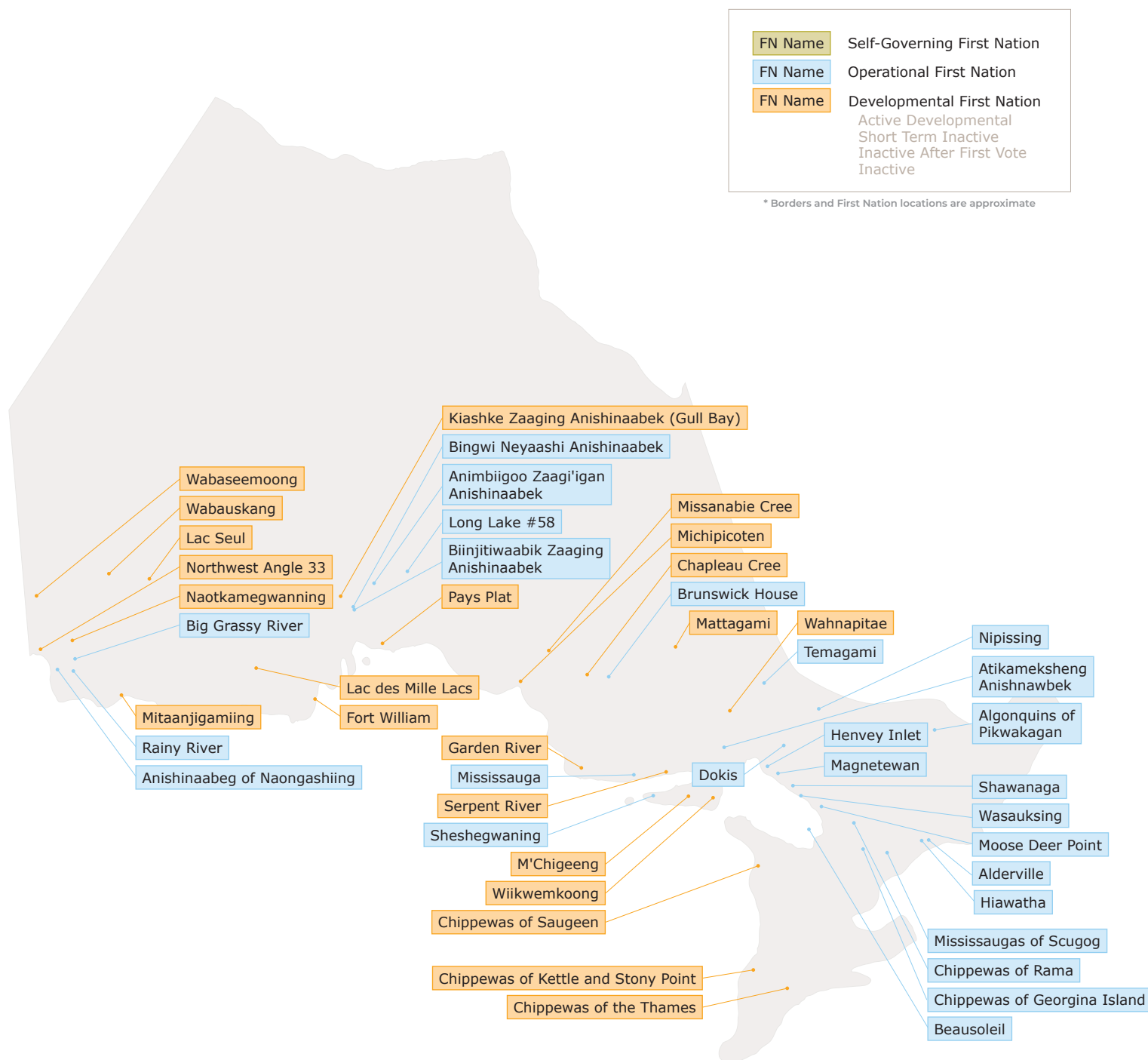
For more information

www.labrc.com



EASTERN REGION: ONTARIO

SIGNATORIES TO THE FRAMEWORK AGREEMENT



Signatories to the Framework Agreement on First Nation Land Management

- Self-Governing or Modern-Treaty First Nation
- Operational Framework Agreement Signatory
- Developmental Framework Agreement Signatory

British Columbia

Aitchelitz First Nation
?akisq'nuk First Nation
?aq'am
Beecher Bay First Nation
Binche Whut'en
Chawathil First Nation
Cheam First Nation
Cowichan Tribes
Ditidaht First Nation
Doig River First Nation
Esquimalt Nation
Fort Nelson First Nation
Gwa'sala-'Nakwaxda'xw Nations
Haisla Nation
Homalco First Nation
Iskut Band Council
K'ómoks First Nation
Katzie First Nation
Kispiox Band
Kitselas First Nation
Kitsumkalum Band
Klahoose First Nation
Kwantlen First Nation
Kwaw-Kwaw-Aplit First Nation
Kwiahah First Nation
Kwikwetlem First Nation
Leq'á:mel First Nation
Lheidli T'enneh First Nation
Lil'Wat Nation
Lower Nicola Indian Band
Lytton First Nation
Malahat Nation
Matsqui First Nation
McLeod Lake Indian Band
Metlakatla First Nation
Musqueam First Nation
Nak'azdli Whut'en
'Namgis First Nation
Neskonlith Indian Band
N'Quatqua First Nation
Osoyoos Indian Band
Penelakut Tribe
Penticton Indian Band
Popkum First Nation

Saulteau First Nations
Seabird Island Band
Shackan Indian Band
Shuswap Band
Shxw'ay Village
Shxw'ówhámél First Nation
Skeetchestn Indian Band
Skidegate First Nation
Skowkale First Nation
Snaw-Naw-As
Snuneymuxw First Nation
Songhees Nation
Soowahlie First Nation
Splatsh
Sq'ewá:lxw Skawahlook First Nation
Sq'ewlets First Nation
Squamish Nation
Squiala First Nation
Sqwá First Nation
Sts'ailes
Stswecem'c Xgat'tem First Nation
Stz'uminus First Nation
Sumas First Nation
Tahltan Band Council
T'it'q'et
Tk'emlúps te Secwépemc First Nation
Tla'amin Nation
Tla-o-qui-aht First Nations
Tobacco Plains Indian Band
Tsartlip First Nation
Tsawout First Nation
Tsawwassen First Nation
Tseycum First Nation
T'Sou-ke First Nation
Ts'kw'aylaxw First Nation
Tsleil-Waututh Nation
Ts'uubaa-asatx
Tzeachten First Nation
We Wai Kai Nation
Wei Wai Kum
Westbank First Nation
Williams Lake First Nation
Xeni Gwet'in First Nations Government
Yakweakwioose First Nation

Alberta

Athabasca Chipewyan First Nation
Driftpile Cree Nation
Enoch Cree Nation
Fort McKay First Nation
Fort McMurray #468 First Nation
Loon River First Nation

Montana First Nation
Peerless Trout First Nation
Siksika Nation
Tsuut'ina Nation
Woodland Cree First Nation

Northwest Territories

Kát'odeeche First Nation

Saskatchewan

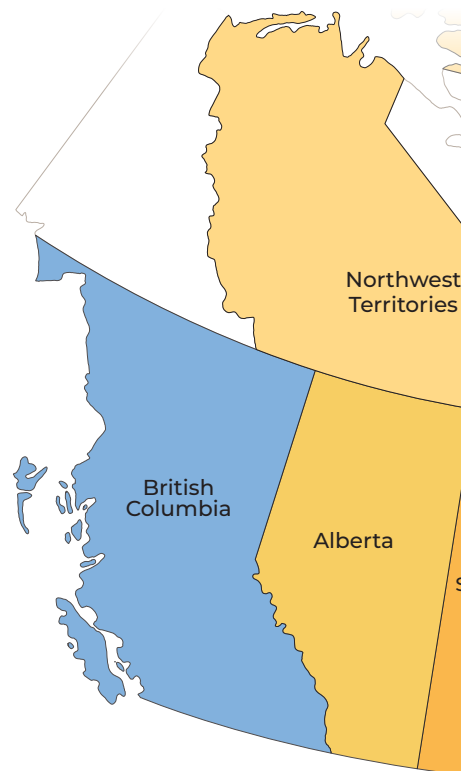
Carry the Kettle First Nation
Cowessess First Nation
English River First Nation
Fishing Lake First Nation
Flying Dust First Nation
George Gordon First Nation
James Smith Cree Nation
Kahkewistahaw First Nation
Kinistin Saulteaux Nation
Lac La Ronge Indian Band
Mistawasis Nēhiyawak

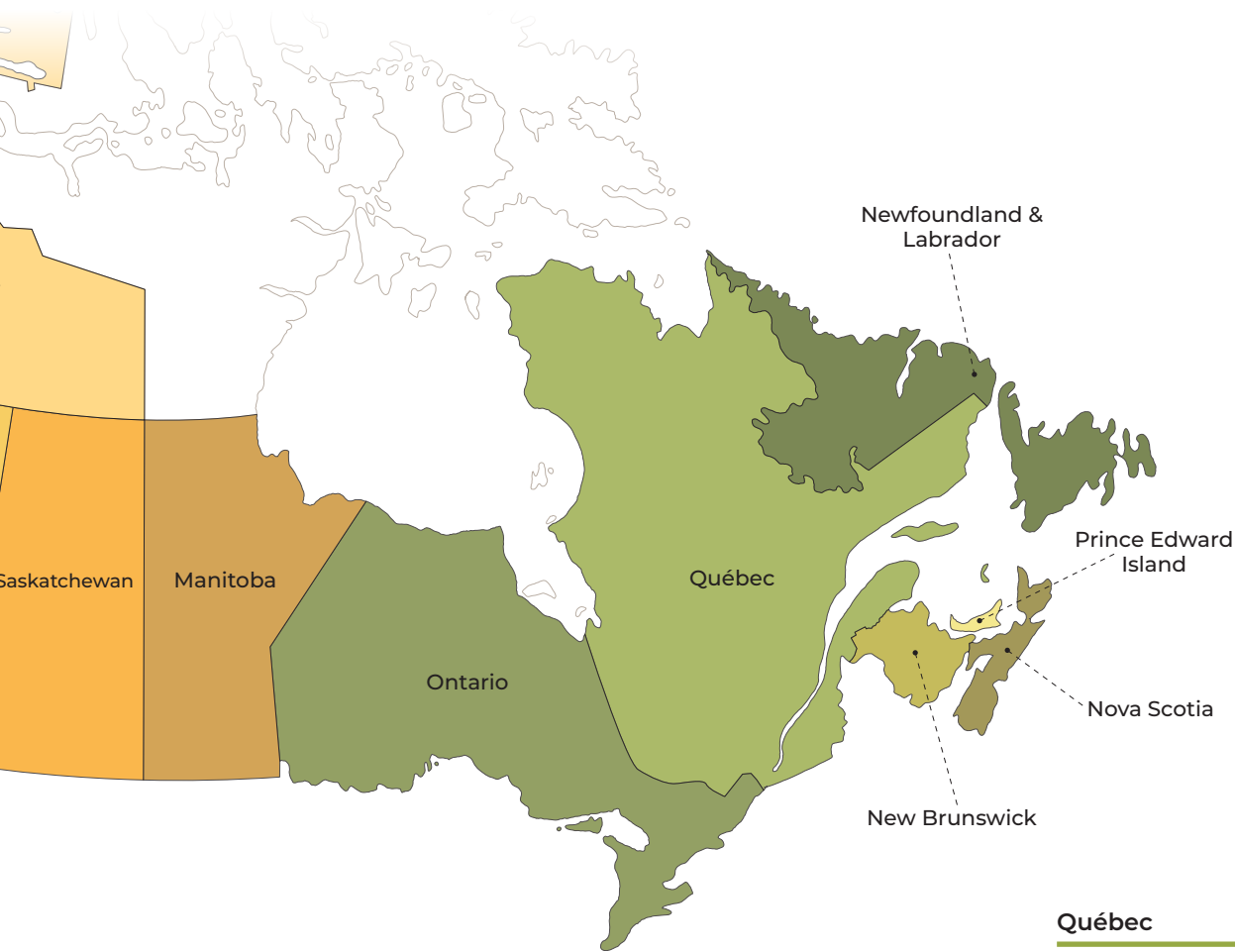
Montreal Lake Cree Nation
Muskeg Lake Cree Nation
Muskoday First Nation
Ocean Man First Nation
One Arrow First Nation
Peepeekisis Cree Nation
Peter Ballantyne Cree Nation
Wahpeton Dakota Nation
Whitecap Dakota First Nation
Yellow Quill First Nation
Zagime Anishinabek

Manitoba

Brokenhead Ojibway Nation
Buffalo Point First Nation
Canupawakpa Dakota Nation
Chemawawin Cree Nation
Fisher River Cree Nation
Gambler First Nation
Long Plain First Nation
Misipawistik Cree Nation
Nisichawayasihk Cree Nation
Norway House Cree Nation

Opaskwayak Cree Nation
Peguis First Nation
Pinaymootang First Nation
Poplar River First Nation
Roseau River Anishnabe First Nation
Sagkeeng First Nation
Sandy Bay Ojibway First Nation
Swan Lake First Nation
Waywayseecappo First Nation
Wuskwisi Siphik





Ontario

Alderville First Nation
 Algonquins of Pikwàkanagàn
 Animbiigoo Zaagi'igan Anishinaabek
 Anishinaabeg of Naongashiing First Nation
 Atikameksheng Anishnawbek
 Beausoleil First Nation
 Big Grassy River First Nation
 Biinjitiwaabik Zaaging Anishinaabek
 Bingwi Neyaashi Anishinaabek
 Brunswick House First Nation
 Chapeau Cree First Nation
 Chippewas of Georgina Island First Nation
 Chippewas of Kettle & Stony Point First Nation
 Chippewas of Rama First Nation
 Chippewas of Saugeen First Nation
 Chippewas of the Thames First Nation
 Dokis First Nation
 Fort William First Nation
 Garden River First Nation
 Henvey Inlet First Nation
 Hiawatha First Nation
 Kiashke Zaaging Anishinaabek
 (Gull Bay First Nation)
 Lac des Mille Lacs First Nation
 Lac Seul First Nation

Long Lake #58 First Nation
 Magnetawan First Nation
 Mattagami First Nation
 M'Chigeeng First Nation
 Michipicoten First Nation
 Missanabie Cree First Nation
 Mississauga First Nation
 Mississaugas of Scugog Island First Nation
 Mitaanjigamling First Nation
 Moose Deer Point First Nation
 Naotkamegwanning First Nation
 Nipissing First Nation
 Northwest Angle 33 First Nation
 Pays Plat First Nation
 Rainy River First Nations
 Serpent River First Nation
 Shawanaga First Nation
 Sheshegwaning First Nation
 Temagami First Nation
 Wabaseemoong Independent Nations
 Wabauskang First Nation
 Wahnapiatae First Nation
 Wasauksing First Nation
 Wiikwemkoong Unceded Territory

Québec

Conseil des Abénakis de Wôlinak
 Conseil des Abénakis d'Odanak
 Conseil de la Première Nation des Innus Essipit
 Listuguj Mi'gmaq Government
 Nation Huronne-Wendat
 Pekuakamiulnuatsh Takuhikan
 Timiskaming First Nation

Newfoundland & Labrador

Miawpukek Mi'kamawey Mawi'omi

New Brunswick

Bilijk First Nation
 Madawaska Maliseet First Nation
 Sitsansk First Nation
 Neqotkuk First Nation
 Woodstock First Nation

Nova Scotia

Membertou
 Paqtnkek Mi'kmaw Nation

Prince Edward Island

Abegweit First Nation

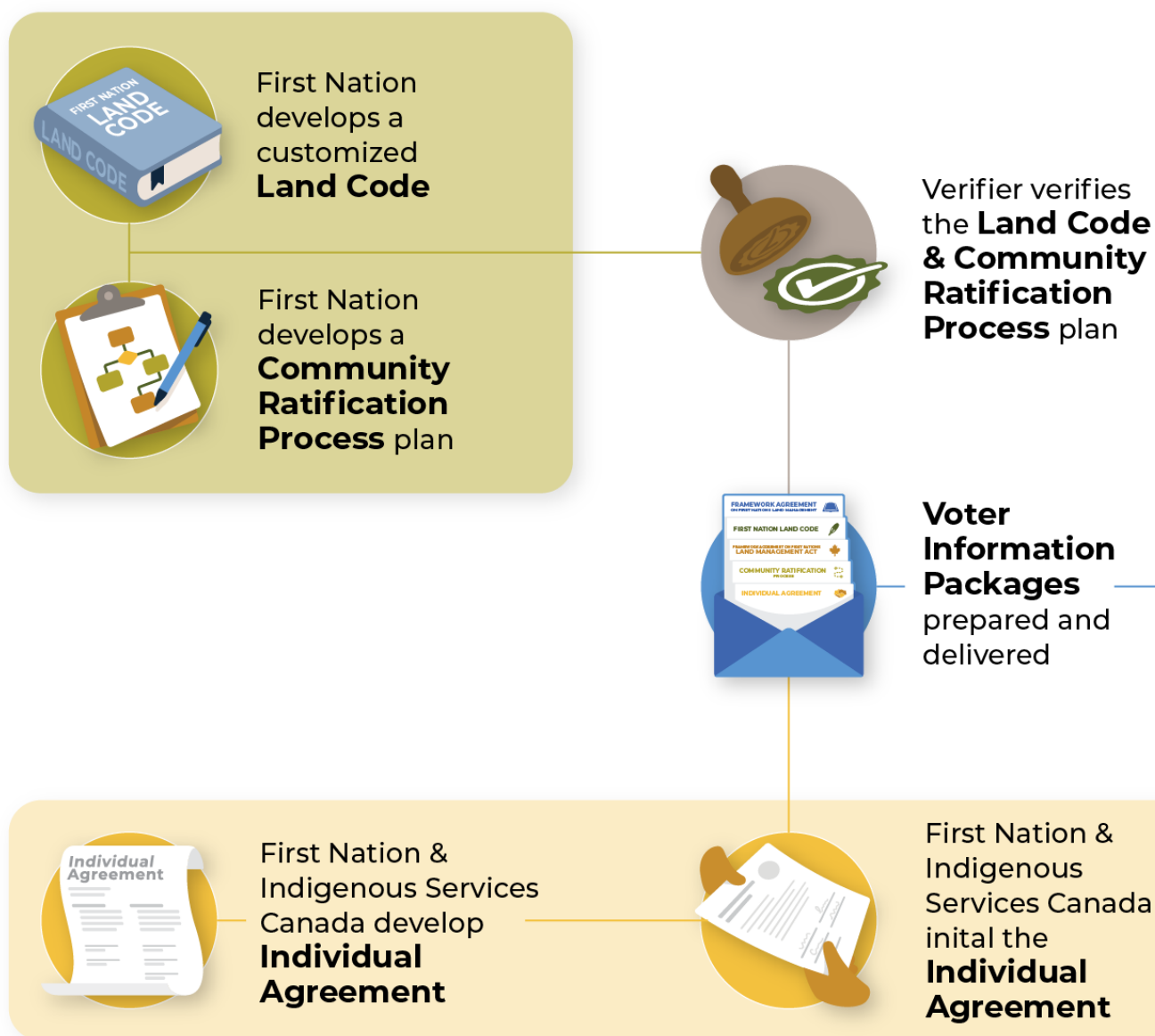
FRAMEWORK AGREEMENT ON FIRST NATION LAND MANAGEMENT

DEVELOPMENTAL PROCESS

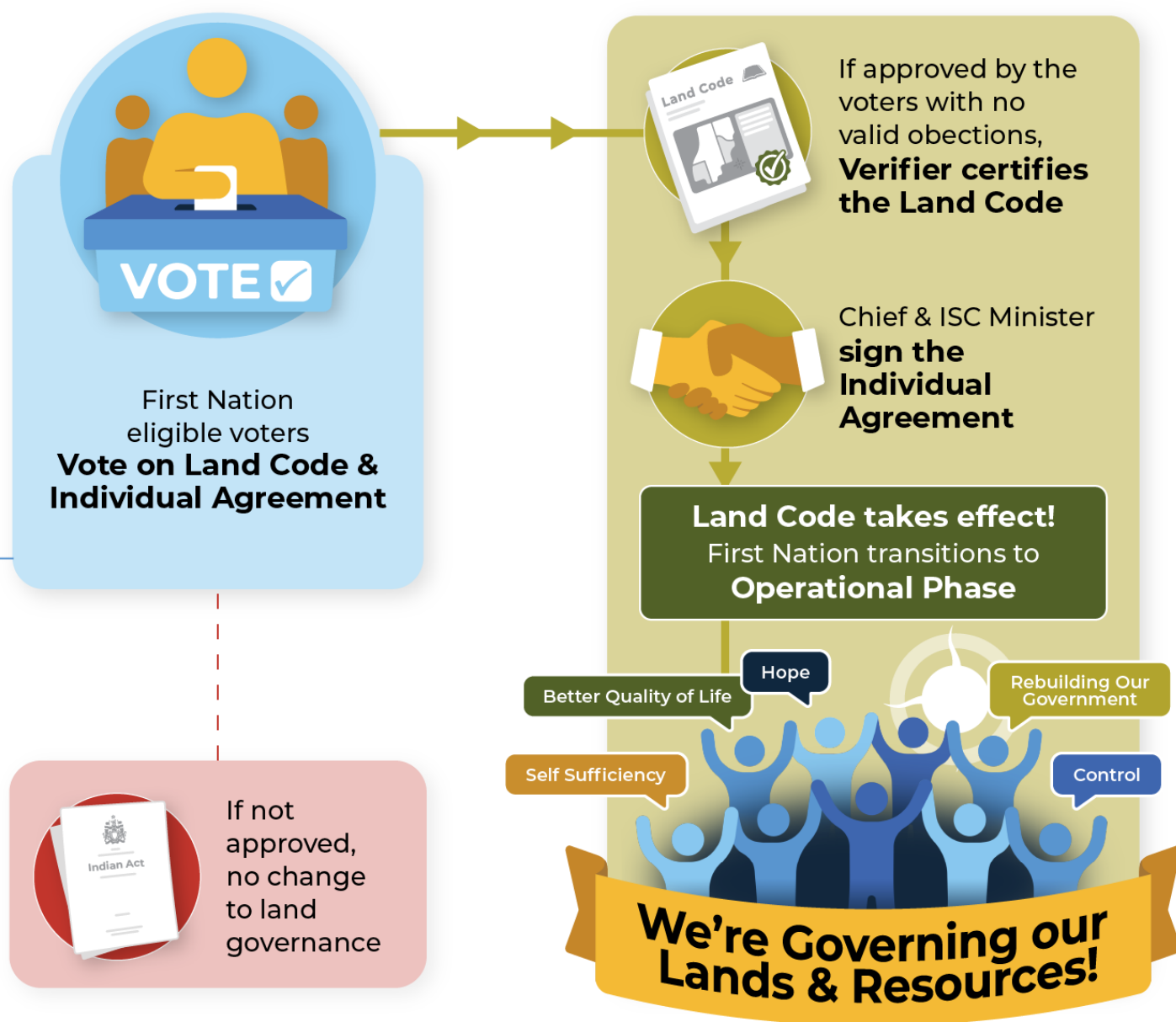


The developmental process is typically completed within two years. This graphic gives an overview of the developmental phase of the Framework Agreement process.

Should the voting members of the First Nation **vote to approve** the land code and Individual Agreement, the First Nation moves into the transitional and operational phases of the Framework Agreement process.



Should the voting members of the First Nation **not approve** the land code and Individual Agreement, then there is no change - - the First Nation remains under *Indian Act* land management.



AUTHORITIES UNDER THE FRAMEWORK AGREEMENT

► WHAT AUTHORITIES ARE PROVIDED UNDER THE FRAMEWORK AGREEMENT?

The Framework Agreement provides legal authorities that are central to the recognition of First Nation Self-Government. These include:

LEGAL STATUS AND POWERS

- Land Management
- Accountability
- Registration of Interests
- Third Party Interests
- Law-Making Powers
- First Nation Expropriation

PROTECTION OF FIRST NATION LAND

- Description of Land and Addition of Land
- Immunity from Seizure
- Environmental Protection
- Voluntary Exchange of Lands
- Enforcement and Dispute Resolution

CONTINUING FEDERAL RESPONSIBILITY

- Federal Acts (for example Indian Oil and Gas, Migratory Birds, Species at Risk, Emergencies, Atomic Energy Control, Fisheries, etc.)
- Wills and Estates
- Additions to Reserve

► WHAT TYPES OF LAWS ARE DEVELOPED THROUGH A LAND CODE?

First Nations often choose to prioritize land law development based on the current or anticipated needs of their communities. Some areas of law development may include:



Land Use,
Zoning &
Development



Trespass,
Enforcement
& Ticketing



Allotments,
Interests &
Licenses



Residential
Tenancy



Environmental
Assessment &
Protection



Business
Permitting &
Licencing



Natural
Resource
Management



First Nation
Expropriation

FUNDING FOR THE FRAMEWORK AGREEMENT PROCESS

▶ WHAT TYPE OF FUNDING IS AVAILABLE TO FIRST NATIONS FOR THE FRAMEWORK AGREEMENT PROCESS?

DEVELOPMENTAL PHASE FUNDING

- \$250k total of grant-based funding available for the developmental phase
- Funding term is two years, but extensions can be granted by written request and acceptance by all funding agreement parties
- Funding supports hiring staff, developing a land code with a committee (if desired), conducting community engagement activities, hiring outside supports, and holding a ratification vote to seek membership approval of the key documents

TRANSITIONAL FUNDING

Is provided to First Nations after community approval of their land code

- Total grant-based funding available is \$200k, and is provided over two years
- Funding supports transitional types of activities related to establishing a Land Governance Office, including developing forms and templates, creating laws, policies and procedures, strategic planning, and purchasing software, equipment and other technological resources

OPERATIONAL FUNDING

This grant-based type of funding is provided to implement a land code.

- Begins when a First Nation votes to approve its land code
- Funding is described in Annex A of the Individual Agreement, completed with Canada during the Developmental Phase
- Funding can be used for hiring staff, ongoing community education and awareness, developing and enforcing land laws, land use planning, zoning, and development procedures, environmental management and establishing an environmental protection regime, building and conducting of a monitoring and compliance framework, and updating software and equipment

OTHER RESOURCE CENTRE FUNDING INITIATIVES

Application-based funding opportunities are available to First Nations for the following types of projects:

- Environmental management planning and implementation
- Land use planning and implementation
- Solid waste management
- Resolution of legacy issues stemming from *Indian Act* land management system
- Conducting of internal-boundary surveys related to outstanding legacy issues

SUPPORT TO FIRST NATION SIGNATORIES TO THE FRAMEWORK AGREEMENT ON FIRST NATION LAND MANAGEMENT

► WHAT IS THE LAB AND WHAT DOES IT DO?

Established within the Framework Agreement, the Lands Advisory Board (LAB) assists First Nations in re-asserting land governance over their reserve lands and resources.

The LAB is comprised of an elected Chairman and 15 regionally elected Directors. The board is determined by the Councils of signatory First Nations with approved land codes. The LAB provides support to First Nations in accordance with the Framework Agreement.

THE ROLES AND RESPONSIBILITIES OF THE LAB INCLUDE:

- Strategic planning at the political level;
- Intergovernmental relations/meetings with Canada;
- Public awareness and promotion;
- Strategic advice to signatory communities;
- Advice to interested communities; and
- Political advocacy for the advancement of the Framework Agreement.



► WHAT IS THE RC AND WHAT DOES IT DO?

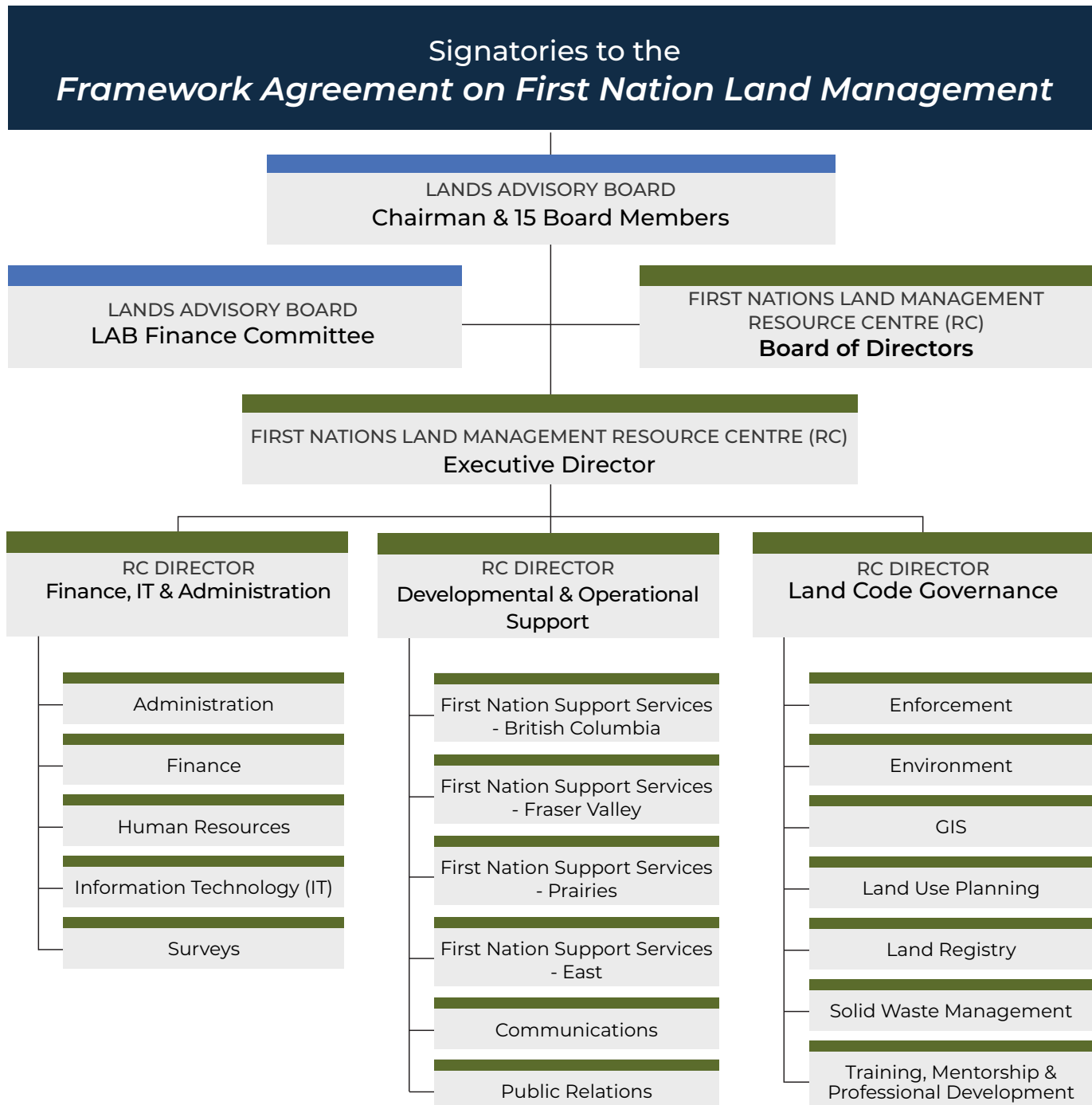
The LAB established the RC to fulfill the LAB's technical responsibilities under the Framework Agreement. This includes arranging the terms of funding arrangements with Indigenous Services Canada (ISC.) The roles of the LAB and the RC occur concurrently.

THE RC ROLES INCLUDE:

- Policy, planning & administration at the technical level;
- Intergovernmental relations with federal, provincial, regional and municipal government organizations to implement the technical aspects of the Framework Agreement;
- Operational support services (transition planning, capacity and training, law making and enforcement, surveys, land use planning and communications, etc.);
- Developmental support services (land code development, land description, environmental site assessment and ratification vote support, etc.); and
- Provide information to interested First Nations.



► WHAT IS THE ORGANIZATIONAL STRUCTURE OF THE LAB AND RC?



SUPPORT TO FIRST NATION SIGNATORIES TO THE FRAMEWORK AGREEMENT ON FIRST NATION LAND MANAGEMENT

► HOW DO I ACCESS INTRODUCTORY, DEVELOPMENTAL, OR OPERATIONAL SUPPORT?

The RC First Nation Support Services Managers and Land Code Governance Advisors work directly with interested, developmental and operational First Nations from coast to coast to coast. They work closely with communities to assist as requested in all aspects of land code development and implementation. Additionally, they are responsible for coordinating specialized support services between First Nation signatories and the RC's land code governance topic experts.





Crystal Restoule
MANAGER, First Nation
Support Services - East



Cassandra Cadeau
Land Code Governance
Advisor, East



Danielle Alain
Land Code Governance
Advisor, East



Katharina Trottier
Land Code Governance
Advisor, East

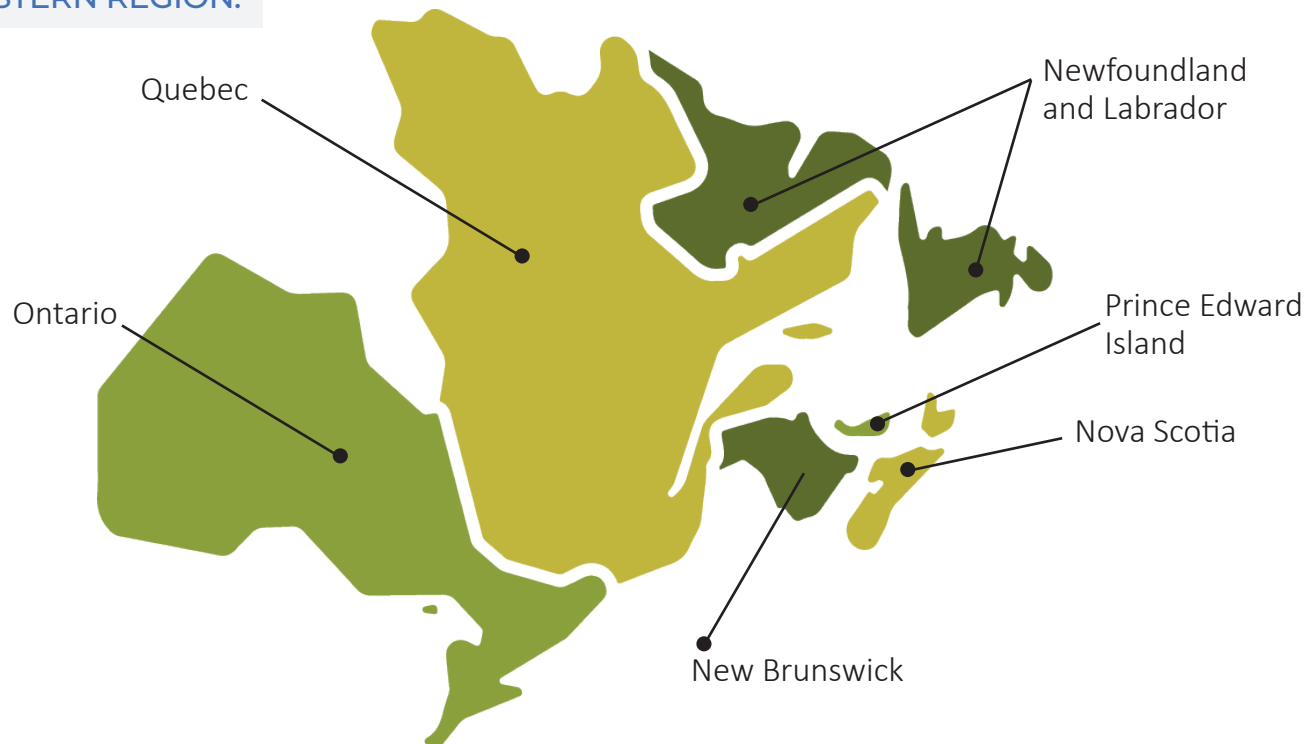


Brenda Belmore
Land Code Governance
Advisor, East



Kiley Shebageget
Land Code Governance
Advisor, East

EASTERN REGION:





**FIRST NATIONS
LAND MANAGEMENT
RESOURCE CENTRE**



**For further information,
please contact:**

CRYSTAL RESTOULE

Manager, First Nation Support Services, East
email: Crystal.Restoule@labrc.com
cell: (705) 918-5511

www.labrc.com

www.vimeo.com/labrc
www.facebook.com/FNLMRC
www.buzzsprout.com/1515202