



LAND CODE RATIFICATION VOTE SUMMARY

COMMUNITY QUESTIONS (TO AUGUST 11, 2017)

General Questions about the Land Code

Q. What is a Land Code?

A. The Land Code will be the basic land law of NCN and will replace 33 land management provisions of the *Indian Act*. It will act as our overriding land law to manage our reserve lands. A Land Code is a land management option to strengthen our Land Governance and manage our reserve lands under a Land Code consistent with the national *Framework Agreement on First Nation Land Management*.

We developed our own *Aski Pumenikewin* (Land Code) to govern and manage our reserve land base outside of the *Indian Act*. If the Land Code and Individual Agreement are approved by the NCN Citizens, our reserve lands and resources will no longer be managed by the Minister of Indian Affairs under the *Indian Act*.

Q. What is the NCN Land Code history?

A. In 1996 a number of First Nations, signed the Framework Agreement on Land Management in order to be able to fast-track development of their lands without having to follow the cumbersome processes in the *Indian Act*. Over the last twenty years, a number of other First Nations have signed onto the process. NCN signed a document called an "Adhesion" to the Framework Agreement on March 3, 2014. We are 1 of 12 First Nations in Manitoba to take on the development and ratification of a Land Code – this number continues to increase annually. The Adhesion started the process for the development of NCN's land code. Since then there have been a number of meetings in the community to discuss land issues. There have been articles in the newsletter, special meet and greets to discuss the land code and door to door delivery of information about the land code.

Q. How will the Land Code benefit off-reserve citizens?

A. Urban reserves benefit all NCN Citizens. These economic development lands increase annual revenues for NCN to provide better programming and services for all NCN citizens – Elders, medical services, post-secondary education etc.

It is estimated that the revenues on the Mystery Lake Hotel Property increased approx. \$2 million a year from it gaining reserve status (VLTs revenues). A Land Code speeds up land development – the *Indian Act* hinders economic development because we need to get Ministerial/INAC approval to develop lands.

Q. Will we need a referendum each time we want to make decisions about our lands?

A. No, we won't if the land code is approved as we will pass our own NCN laws. If the land code is not approved then we will have to have referendums as required by the *Indian Act*. Our laws will spell out when a referendum is required, e.g. if reserve lands are expropriated for a community purpose or if we want to consider exchanging any of our reserve lands for other equivalent or better reserve lands.

Q. Will the Land Code create Fee simple title out of NCN Reserve Lands?

A. No. Reserve lands under the *Indian Act* are held by Her Majesty and are set apart for the use and benefit of a First Nation. This will not change under the Land Code and the *Framework Agreement*. These lands remain a federal responsibility under section 91(24) of the *Constitution Act, 1867*. In addition, NCN lands will be protected against surrender for sale.

Q. Will the Land Code apply to Fee Simple Lands?

A. No. The lands NCN Citizens currently own through fee simple title will not be governed by the Land Code. Only our reserve lands will be.

Q. Will the Land Code turn us into a "Municipality"?

A. No. Municipalities are creations of provincial law and subject to Provincial legislation. First Nations do not gain provincial status as municipalities under a land code or the national Framework Agreement.

First Nations that have approved and implemented their land codes enjoy the ability to pass *laws* according to their own rules. Municipalities can only pass *bylaws* according to provincial statutes.

Q. Will things happen at a faster rate after the ratification vote has gone through?

A. Chief and Council and the lands team are confident that NCN's own procedures will be faster than the *Indian Act* requirements. For example, we waited over 15 years to be able to have our Mystery Lake property converted to an urban reserve. If our *Aski Pumenikewin* is not approved we will then have to have another designation vote like we did for the store. This is time consuming and costly and we believe we can make better use of our funds than holding all these votes required by the *Indian Act*.

Q. Will the Land Code affect our treaty rights?

A. No. There is a provision in the Land Code that says: “NCN’s signing of the Adhesion to the Framework Agreement and the development of this *Aski Pumenikewin* (land code) do not abrogate or derogate from any Aboriginal, Treaty or other rights and freedoms of NCN or NCN Citizens including NCN’s sovereign right to govern itself recognized by international law including the UN Declaration on the Rights of Indigenous Peoples.”

Q. Will the Land Code create taxation? Land Taxes?

A. No, Taxation is not part of this initiative. Taxation falls under section 83 of the *Indian Act* or another federal legislation called the First Nation Fiscal Management Act.

Q. If the Land Code goes through, is it going to be easier for us to have businesses on our lands?

A. Yes, subject to those businesses complying with our NCN laws which we will have the clear authority to pass. If the Land Code and Individual Agreement are approved by NCN Citizens, the lands and resources (reserve land base only) will no longer be managed by the Minister of Indian Affairs under the *Indian Act*.

Q. Can we charge businesses and others taxes on our lands?

A. Chief and Council’s intention is not to impose land taxes. There may be a fee to lease the land in the future taking into consideration that NCN currently provides all the services for the lot for things like sewer, water, fire services, etc. However, the benefit is that people would be able to own their own houses. We would be able to use the leasehold interest option to be able to get mortgages from the bank and build our own houses. We will have further discussions as a community about how to deal with these issues.

We may also want to consider some form of fee as an additional source of revenue on our Mystery Lake property or other reserves to generate additional land revenues that would go towards community programs and services. For example, many First Nations’ obtain significant revenues from their leasehold interests from commercial and residential enterprises on their lands, and this is a direction NCN should consider particularly on our TLE reserves.

Q. Do we need permission to build traditional homes for harvesting seasonally?

A. Generally not if this is part of the exercise of our treaty and aboriginal rights.

Q. What happens to existing environmental problems that occurred historically under Indian Affairs and the Indian Act?

A. The Land Code Team studied the historical and current Environmental issues in an Environmental Site Assessment (ESA) to determine what Canada remains responsible for under during their management of our Reserve lands. Before bringing a reserve under its Land Code, a First Nation is also entitled to full disclosure

on any environmental problem from Canada. There is a list of issues documented in an ESA report and Canada remains liable for these issues up to the date the land code is ratified.

Q. Will we need experts to make environmental laws?

A. Experts can provide valuable information in the development of laws. NCN has been incorporating the expertise of our Elders into our practices though the use of our customary laws and Ethinesewin. This expertise will be incorporated into our environmental laws as have already been including it in our practices for the monitoring of the Wuskwatim Project.

Q. Can we have land leased through the Land Code?

A. Yes, NCN will pass its own laws about how lands can be leased and how they can be passed on to their children and grandchildren.

Q. Can people own their own homes under the land code?

A. Within one year of the Land Code being approved there will be laws passed about these issues. Marital property laws will also be enacted. All proposed laws will be discussed with the community before being passed. Reserve lands will not be subject to individual ownership of NCN Land. Instead there will be a leasehold system option that will grant people the ability to lease NCN lands and buy or build their own houses for up to 99 years after which a lease can then be renewed and willed to family members. Other communities, such as Buffalo Point in South Eastern Manitoba currently grant leasehold interests for up to 75 years and this system works very well for them.

Q. How will land be allocated? Through bidding?

A. There will be further discussion with NCN Citizens about the processes that should be followed for allotting lands and houses. The Land Code indicates that such laws must be enacted within one year.

Questions about the Vote

Q. How was the vote tabled for the NCN Land Code referendum?

A. A special Council meeting was held to comply with the provisions in the Framework Agreement on Land Management and the NCN Community Ratification Process which includes the form of the Council Resolutions that were required to start the voting process. Once the Council Resolutions were passed and signed, the person chosen by NCN and Canada to act as the Verifier for purposes of the Land Code vote. The Verifier then certified that our draft *Nisichawayasi Aski Pumenikewin* complied with the terms of the national Framework Agreement. Once that step took place, NCN’s Electoral Officer, who Chief and Council appointed as the Ratification Officer, sent out the Notice of the vote. A copy of these documents are on NCN’s website.

Q. How were the community consultants hired/ selected?

A. The positions were posted and various people applied for the jobs. A selection committee reviewed the applications submitted and recommended the people to be selected based on the selection criteria. The recommendations were approved by Chief and Council.

Q. Why did we include Electronic Voting (E-vote) and mail-in ballots?

A. Chief & Council and the Land Code team decided to introduce E-voting and mail-in ballots in this vote to try to encourage voter participation, for higher voter turn out, and to make other innovative methods of voting available to NCN Citizens on and off reserve.

Q. Is the e-vote a test run?

A. It is a test run in the sense that it is intended to encourage voter participation especially among youth and NCN Citizens living off-reserve. E-voting is a tool that is being used more and more in First Nation communities. It is not intended to replace in-person voting at Nelson House where the majority of our Citizens live. It is just an additional voting tool to encourage voter turn out.

Q. Who is running the e-vote?

A. NCN's Electoral Officer is running the e-vote with the assistance of an e-voting technology company that specializes in electronic voting platforms.

Q. Why do we have an e-vote? Is the e-vote confidential?

A. To encourage voter participation but in-person voting is also available.

Yes. All votes are secret ballot votes, whether in-person, by mail or e-vote.

Q. Will everyone be able to see how we vote?

A. No. The vote is confidential and only the results will be tabulated along with the ballots cast in-person and through mail-in ballots.

Q. If I am not on the voter's list can I still vote?

A. Yes, you can by asking NCN's Electoral Officer who has been appointed as the Ratification Officer to conduct this vote, to add you to the list. Either the Ratification Officer or her assistant can make the necessary arrangements.

Q. I just got my treaty number so can I still vote? If not, why not as isn't it my right to vote?

A. You can still vote. All NCN Citizens who are or will be 18 years of age as of the last voting day are eligible to vote as long as

they complete the registration form. If you have any questions, contact the Ratification Officer at (204) 679-0506.

Q. Are there rides to go vote?

A. Yes, there will be rides in Leaf Rapids, Thompson, Nelson House and Winnipeg to drive people to the polls to vote.

Q. When will we know the results of the vote?

A. On August 25th if well over 25% of NCN Citizens turn out to vote. If not, likely the second week of September if additional voting days are required. Chief and Council hope there will be a really high turnout during the festival week so that we meet the required threshold of our Citizens who must vote for this to be approved.

Q. When I asked Chief and Council for help, they did not help me so why should I vote if they did not help me?

A. All NCN Citizens 18 years of age and over have the opportunity to vote. It is important to vote as our people have always been spiritually connected to the land. This is an opportunity to regain authority over our lands and resources so even if you feel that Chief and Council did not help you sufficiently about a particular problem, it is important for the future of our Nation, our children and grandchildren for all of us to participate in the vote.

Questions about NCN Reserve Lands

Q. Who selected the lands for the 18 reserves?

A. The original reserves (IR 170, 170 A, B and C) were selected by our ancestors. The compensation lands from the 1996 NFA settlement were selected with community input at that time. A similar process was followed in relation to the TLE lands.

Q. Is the Mystery Lake property already reserve land?

A. Yes, but if the Land Code is not approved, we will have to hold a designation vote under the *Indian Act* to continue our hotel business on our reserve lands.

Q. If the Land Code goes through, will we have all the mineral rights or will the government still own those rights?

A. The Individual Agreement indicates INAC will provide a letter confirming NCN's ownership of the mine and minerals on the TLE and compensation lands. They are excluded on the Mystery Lake lands at this time. As NCN's position is that all mines and minerals are part of our reserve lands we are also undertaking historical research related to the mines and minerals on the original reserve lands (IR 170, 170 A, B, and C) and in accordance with the Individual Agreement, if it and the Land Code are approved, there will be further discussions about this issue over the next year.

Q. If the vote is yes, can NCN Citizens have access to the soil at Mile 20 or anywhere on Hwy 391?

A. NCN Citizens will be able to access soil on our reserve lands if they obtain a permit in accordance with any laws we decide to pass. However, we want to promote good land management and we know we can do it better under our own management system versus the *Indian Act* systems. The Land Code will only **apply to our reserve lands** not to all the lands within our traditional territory.

Q. Why did the First Nation say that all provincial laws apply? It was already a grey area and they did not need to say that.

A. The provision in the Land Code deals with which laws apply if there is a dispute over jurisdiction and the application of the different laws. To resolve such disputes there are legal principles that may apply. The Land Code says that if there is an inconsistency between it and any Land Law that NCN enacts, the Land Code approved by NCN Citizens will apply. It also says that the laws of Canada and Manitoba will continue to apply unless replaced by an NCN Law. For example the Canadian Environmental Assessment Act (CEAA) would still apply as it does now, until we create our own Environmental Assessment Law.

Questions about Implementation of the Land Code

Q. Who is going to create the laws? What will the process be?

A. The process is outlined in the Land Code. In simple terms, Chief and Council, an NCN employee with responsibility for lands and resources, the land advisory committee or at least 5% of our Citizens can propose a law. The Proposal for the law will be considered by Chief and Council and a decision will be made about having the law prepared. Any law that is drafted will be referred to and NCN General Assembly and/or workshops for input from NCN Citizens before again being considered by Chief and Council. At this stage the draft law may be revised based on the community input before it is considered by Chief and Council who must formally pass a Council Resolution to enact the law. There are time limits and checks and balances for the various processes including if Chief and Council decides not to proceed with a particular proposal.

Q. Do we need lawyers to help with the law-making?

A. Lawyers can assist with the law-making as they are trained in not only drafting laws, but the legal principles related to the interpretation and application of laws. However, once the laws are enacted lawyers are generally not needed for the day to day administrative decisions that are made.

Q. Who will manage the lands?

A. NCN currently has some lands and resources staff. Chief and Council also can establish a lands advisory committee once the Land Code and Individual Agreement are approved. As the Land Code is implemented, and laws are established, there will be additional new positions which will be posted.

Q. Will it be possible to get into environmental training?

A. The various positions will be determined as the implementation process unfolds. It may be possible to get into environmental training.

Q. Who is going to provide education and monitoring over lands and laws?

A. The lands and resources staff. There are also provisions in the Land Code that will allow for the enforcement of our laws.

Q. Who is going to monitor the environmental aspects of development?

A. We will be enacting our own environmental laws and monitoring and enforcement will be part of our laws.

Q. Will there be a committee overseeing the whole process once the Land Code is approved?

A. Chief and Council can appoint a Lands Advisory Committee to provide input and advice. The lands and resources staff will be responsible for implementing the Land Code under the overall supervisory authority of Chief and Council similar to all other areas of NCN governance.

Q. Will there be a board set up or will they be appointed?

A. There is no provision for a separate board to be set up or appointed. In the future, a decision could be made to administer lands and resources through a separate operating agency but that is not the immediate plan.

