

LANDS SECTOR 5-YEAR PLAN

2019-2024



 **LOWER NICOLA**
 **INDIAN BAND**

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EXECUTIVE SUMMARY

The 2018 Lower Nicola Indian Band Community Plan defines Sector Priorities and the Lands and Economic Development Sectors priorities are the following.

1. *Policies and Procedures – To put in place user-friendly policies and procedures to inform decision making.*
2. *Create Sustainable Economy – To create the conditions for our members to participate in the economy in a sustainable way.*
3. *Environment/Land & Resource Development – To manage our lands and resources by advancing our Nlaka’pamux world view.*
4. *Implementing Land Code – To achieve greater certainty and transparency on the land base through the implementation of the Land Code.*
5. *Communication – To enable the timely flow of information, internal and external, to our Sectors.*
6. *Sector Effectiveness/Sustainability – To realize Sector sustainability, effectiveness, and efficiency.*

The Lands Sector 5-Year Plan encompasses all 6 priorities but is weighted towards the implementation of the Land Code. Performance indicators will be used annually to evaluate the Sector’s success in completing its goals. The data collected from the 2018-2019 Fiscal Year will be baseline data to determine achievements in subsequent years.

The Plan is separated into key focus areas that include land governance, environmental stewardship, natural resource management on reserve, the resolution of *Indian Act* legacy issues, geographical information systems development, land administration and membership.

Land Governance

Governance in a broad sense consists of the day to day activities, policies, customs and behaviors that an organization utilizes to conduct operations. Without these rules in place, making decisions and the implementation of any change may be extremely difficult and inconsistent.

Similarly, land governance is a framework of practices established to run land administration with various stakeholders. Establishing a land governance framework for the Lower Nicola Indian Band (the “LNIB”) is essential to ensure the Lands Department is accountable, fair and transparent to Council, the Lands Management Advisory Committee and the Members. For the purposes of this plan, land governance can be defined as the land management activities used by the Lands Department and the processes, roles and responsibilities that are associated with them.

The implementation of an efficient and defined land governance framework allows LNIB to operate with a clearly defined set of guidelines as well as roles and responsibilities. A land governance framework describes how the Lands Department will be governed from an organizational (management) perspective. It also identifies the relationship between the different stakeholders and functional areas involved in land administration and defines the organizational authorities and how decisions will be made. These factors can play a key role in an organization's ability to create and execute a sustainable strategy which will allow the Lands Department to become, and remain, efficient over the long term. Simply, a governance framework answers the question: "Who has the authority and responsibility to do what?"

Environmental Stewardship

Prior to the ratification of the *Lower Nicola Indian Band Land Code*, the responsibility for managing LNIB lands and environment rested with Canada through Indigenous and Northern Affairs Canada now called Indigenous Services Canada (the "ISC"). Their management under the *Indian Act* resulted in:

- poor lease terms, allowing land degradation or contamination to occur;
- failure to monitor environmental conditions and to respond to problems;
- excessive focus on minimizing costs of building homes and installation of services; and
- lack of interest in creating attractive, sustainable, livable communities.

Generally, management by ISC resulted in poor responses to environmental problems, including water quality, waste management, and contaminated sites.

Environmental stewardship by LNIB represents a major expression of its control over its lands and resources. It greatly enhances LNIB's ability to protect the overall environment by implementing actions and tools used to exercise control over LNIB lands, water, animals and plants. Effective delivery of environmental management activities will help ensure a healthy environment for present and future generations. The activities may include establishing environmental laws, regulations, policies, plans and guidelines. The Lands Department will help LNIB reduce contamination risks and protect the health of people and ecosystems on our land.

Natural Resource Management on Reserve

There are many theories for resource management and they usually promise sustainability, ecological benefits, economic wealth or other similar benefits. However, all resource management decisions require trade-offs so resource management planning can be a balancing act that requires careful consideration of available options.

In general, resource management refers to the management of human populations that interact with those resources. Simply, resource management is people management and it can be achieved by

establishing guidelines for resource use. The most notable of LNIB resources currently being used include timber, sand, gravel, agricultural lands and water. The Lands Department will develop guidelines for the management of these resources.

Resolution of *Indian Act* Legacy Issues

The absence of adequate funding for legal surveys has led to land title issues within our membership. The *Indian Act* previously enabled members of LNIB to acquire lawful possession of reserve land through an Allotment Process that required the approval of Council and the Minister of ISC. In addition, the member can acquire a Certificate of Possession (CP) which is a document that illustrates evidence of that member's lawful possession of LNIB land. However, a CP cannot be acquired if there is no legal survey for the lot because the legal survey defines a legal description that must be included in the CP document.

INAC stopped funding legal surveys in 2005 and as a result, there are members that have lawful possession of LNIB land that cannot acquire a CP unless a survey is funded by that member or another source. These issues will be addressed by first creating an inventory of surveys required and then providing a proposal to Council that may lead to funding the outstanding surveys.

Non-compliance with the Allotment Process under the *Indian Act* also created land title issues within our membership. The process required an allotment to be approved by Council with a Band Council Resolution, approved by the Minister of ISC and the registration of corresponding documents in the Indian Land Registry system to be valid. However, this process wasn't always followed or accepted by LNIB.

Many of LNIB's members have family ties to parcels of land and in some cases their family interest in that land was recognized by Council in some form. However, there are still many cases where family interests in parcels of land have not been recognized and therefore are legally unenforceable. As a result, there are Traditional Land Holdings associated with reserve land that remain unresolved. Over the years, members associated with the Traditional Land Holdings pass and their unresolved land interests are documented in their estates and passed to their heirs. In some cases, these issues overlap multiple generations. As time passes, the issues get more complicated and create further problems.

The Lands Department has an approach to addressing unsettled, outstanding, or unformalized claims to land holdings by community members on reserve lands. The Lands Department will enable the creation of a community driven process to formally recognize and register land holdings. Especially holdings and claims based on traditional land use and occupancy and this will help bring clarity to decision-making in economic development and infrastructure planning on reserve lands.

Graphical Information Systems Development

To administer LNIB resources and lands effectively, and economically empower the community, LNIB must have location-based information. In just about every Aboriginal community in Canada, maps and the process of map making are being integrated into the local planning and decision-making process. These maps are used for a variety of applications, ranging from land use planning and consultations with third parties, through to economic development and the assertion of Aboriginal Title and Treaty Rights.

Strong Graphical Information System (GIS) capacity can greatly improve the efficiency and effectiveness of our administration, while maps and other information products can help to foster community engagement. Many government agencies and resource development companies have adopted ESRI company-based software and its data formats as standards in their sectors. Most First Nation organizations are using ESRI's ArcGIS software as their main platform for mapping. This standardization has made it easy for Aboriginal organizations to network solutions, share data and gain access to training and support. However, LNIB has chosen to use a different program.

The Lands Department currently uses a program called Lightship Maps and it meets our current needs. However, the program is not being utilized to its full potential so we will build our inhouse capacity through training sessions. We will also investigate the feasibility of integrating ArcGIS into our GIS system.

A comprehensive needs assessment will be conducted to look at LNIB's infrastructure, personnel, hardware, software, data, applications, and training requirements. A needs assessment will help LNIB identify a strategy for moving forward into an enhanced mapping program.

Land Administration

The Lands Department is responsible for the administration land instruments for LNIB. This typically involves administering allotments, land transfers, leases, licences, permits, easements and rights-of-way's associated with LNIB reserve lands. The administration of these land instruments includes processing applications, coordinating surveys, creating and negotiating terms of agreements, registering corresponding documents in the First Nation Land Registry, and monitoring compliance with the agreements. In addition, the Lands Department must ensure that all land instruments comply with all applicable laws including the Land Code, all other LNIB Laws, the *Canadian Environmental Assessment Act*, the *Fisheries Act*, the *Migratory Birds Convention Act*, the *Species at Risk Act*, the *Indian Oil and Gas Act* and the *Cannabis Act*.

The Lands Department is committed to administering LNIB land in a procedurally fair and consistent manner. The Department will improve its efficiency in land administration by creating Land

Management Policies to provide guidance to Council, Department staff, Lands Management Advisory Committee and members with regard to steps which must be taken where a person wishes to grant, change, transfer, terminate or otherwise deal with an Interest or a Licence, or related land instrument.

Membership

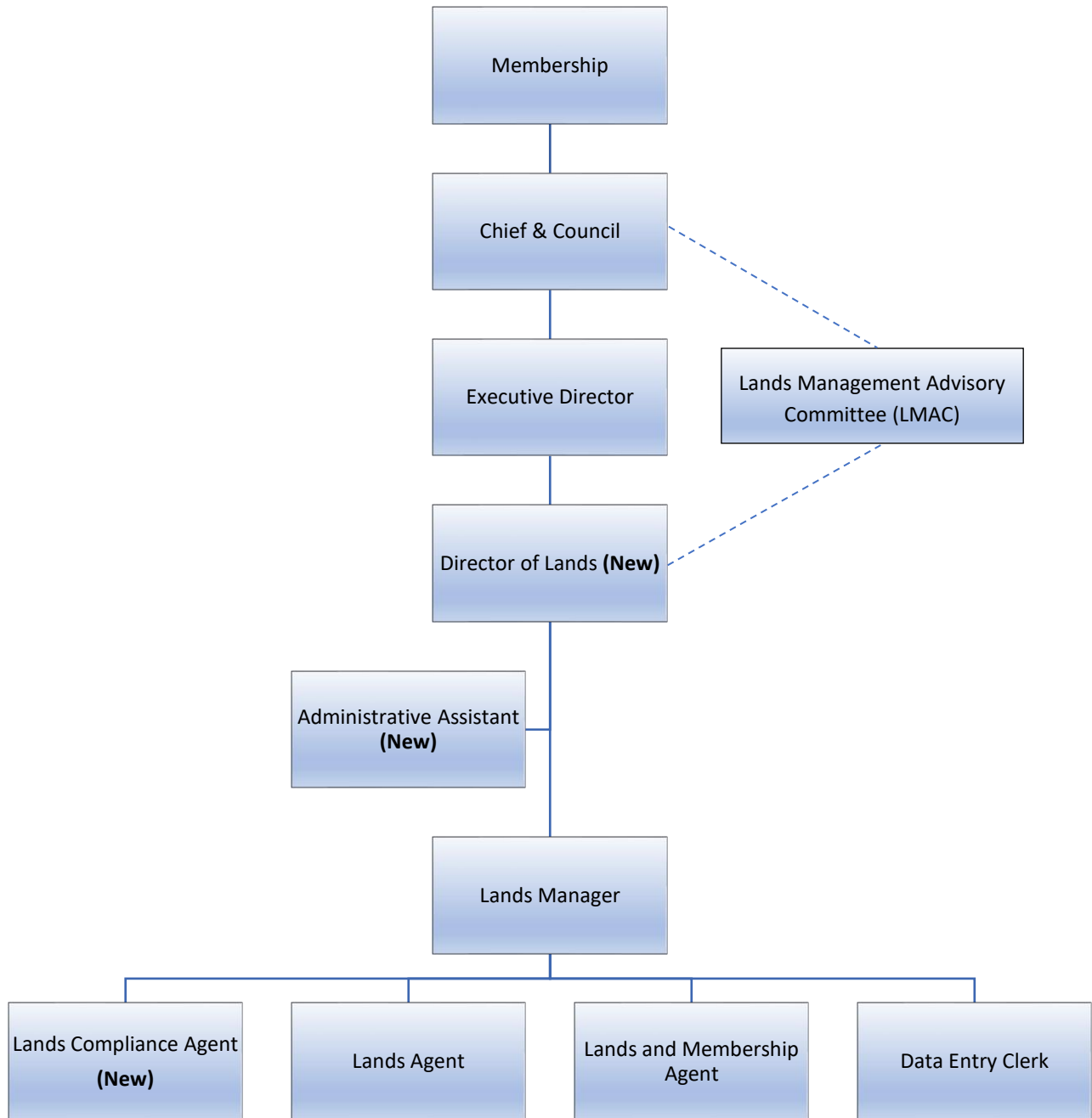
The Lands and Membership Agent is responsible for:

- a. ensuring that members are registered to LNIB and have access to our programs and services;
- b. assisting with processing applications for Certificate of Indian Status Cards; and
- c. administering the LNIB Membership Transfer Policy.

The LNIB has developed a centralized, secure, membership contact list for all registered members and this list is crucial to ensuring membership participation in LNIB Elections and voting on LNIB laws.

The LNIB hosted a successfully Membership Transfer meeting in 2018 that enabled seven people to transfer their membership to LNIB. However, the policy required at least 10% of the voting membership to be present at the meeting and vote in favour of the transfer requests. The Membership Transfer Policy will be amended by the Department to make the voting process more efficient.

LANDS SECTOR STRUCTURE



GUIDING PRINCIPLES

1. **Fiduciary** – We make all our decisions in the best interest of the whole membership and future generations. Every member is entitled to the same benefits from our resources.
2. **Delegation** – We improve our efficiency, enable capacity development and motivate our staff by delegating authority and responsibility. We have faith in and trust our staff, but they are accountable for their actions. We do not micromanage.
3. **Independence from Politics** – We make decisions free from political interference.
4. **Integrity** – We act ethically and with integrity at all times and we are firm against unethical practices.
5. **Law Compliance** – We comply with all applicable laws and policies.
6. **Transparency** – Complete transparency is followed in all actions and situations.
7. **Avoidance of Conflict of Interest** – We obey rules guiding conflict of interest.
8. **Due Diligence** – We act with care, prudence and responsibility in all situations. We make an effort to assess and manage risk related to each option available for the solution to an issue.
9. **Public Process** – We make sure that all relevant information is widely distributed among stakeholders and is available for consultation at any time in an accessible location.
10. **General Application** – We always keep in mind that all provisions apply equally to all interested parties and avoid the advancement of any special interest at any time in any process.
11. **Timelines** – Time is a critical factor on monitoring, predicting, enforcing decisions and transactions.
12. **Disclosure** – We make sure that all information, facts, processes and decisions are disclosed in full to all interested parties in advance, so people have the necessary time and knowledge of the facts to make decisions.
13. **Confidentiality** – As a matter of principle, we are mindful of privacy and confidentiality in all matters, and we do not disclose unnecessary information to unrelated parties.

GOALS AND OBJECTIVES

Land Governance

1. Transparency of the Lands Department's activities will be improved by creating short-term and long-term plans that will be updated and presented annually.
 - a. The Lands Department 5-Year Plan will be presented to the Executive Director for approval and revised annually. Copies will be made available to the Council, LMAC, staff and the Membership.
 - b. The Lands Department Annual Plan will be presented to the Executive Director for approval annually. Copies will be made available to the Council, LMAC, staff and the Membership.
2. Accountability of the Lands Department will be improved by providing regular reports to LMAC, Council and the Membership.
 - a. A minimum of quarterly reports will be provided to LMAC on operations and financial expenditures.
 - b. A minimum of semi-annual reports will be provided to Council on operations and financial expenditures.
 - c. An annual report will be provided to LMAC, Council and the membership on operations and financial expenditures.
3. The efficiency of the land governance activities will be improved through capacity development and establishing land governance guidelines.
 - a. Land management and environmental management training will be provided for all involved land governance activities including Council, LMAC and the Lands Department.
 - b. Short-term land governance guidelines will be established through Land Management Policies adopted by the Executive Director including the following.
 - i. A Land Use Plan

- ii. Land Governance Guidebook
- iii. Land Management Policy Framework
- iv. Roles and Responsibilities in Land Management
- v. Land Instruments
- vi. Registration of Land Instruments
- vii. Creating Allotments
- viii. Transferring Allotments
- ix. Leases, Licences, Permits, Easements and Right-of-Ways Over Land Held Under an Allotment
- x. Leases Over Community Land
- xi. Canceling Leases
- xii. Sub-Leases, Mortgages and Assignments
- xiii. Licences, Permits, Easements and Right-of-Ways over LNIB Community Lands
- xiv. Cancellation of a Licence, Permit or Right-of-Way at the Request of the Licensee, Permittee, or Grantee
- xv. Correcting and Cancelling Interests and Licences Granted in Error, by Mistake or by Fraud
- xvi. Expropriations by LNIB
- xvii. Monitoring
- xviii. Enforcement

- xix. Law Making Process
- c. Long-term land governance guidelines will be established through laws ratified by the Membership through a ratification vote including the following.
 - i. Spousal Property Law
 - ii. Allotment and Custom Interest Law
 - iii. Land Use and Zoning Law
 - iv. Subdivision, Development and Servicing Law
 - v. Business License Law
 - vi. Registration Law
 - vii. Community Protection Law
 - viii. Cannabis Law
 - ix. Trespass Law
 - x. Animal Control/Dog Licensing Law

Environmental Stewardship

- 4. The efficiency of the Lands Department will be improved through outsourcing environmental management services, capacity development and establishing environmental management guidelines.
 - a. Environmental management services and environmental assessments will initially be outsourced to address LNIB's capacity deficiency through service agreement(s) with an Environmental Firm(s).

- b. Lands staff will self-study by reviewing courselets available on the First Nation Land Management Resource Centre Website related to Environmental Governance, Environmental Protection and Environmental Assessment.
- c. Short-term environmental management guidelines will be established through policies adopted by the Executive Director including the following.
 - i. Environmental Management Plan
 - ii. Environmental Review and Assessment
 - iii. Environmental Site Assessments
 - iv. Environmental Requirements for Land Instruments
- d. Long-term environmental management guidelines may be established through laws ratified by the Membership through a ratification vote if it's feasible to develop and implement the regime. The laws may include the following.
 - i. Environmental Management Law
 - ii. Environmental Assessment Law
 - iii. Environmental Protection Law

Natural Resource Management on Reserves

- 5. Incidents related to trespassing, dumping, wildlife poaching and unauthorized harvesting will be reduced.
 - a. A proposal will be presented to Council regarding funding a project that will limit access to the reserves.
 - b. Relationships and protocols will be developed with the RCMP, Conservation Officers and other stakeholders.

6. Resource development guidelines will be established through policies adopted by the Executive Director including the following.
 - a. Guidelines for Unconsolidated Non-Metallic Substances (Sand and Gravel) on LNIB Lands
 - b. Timber Harvesting
 - c. Grazing Licence Use by Members
 - d. Agriculture Land Use
 - e. Irrigation Water Use

Resolution of Indian Act Legacy Issues

7. The Lands Department will enable the resolution of the Membership's land title issues.
 - a. Reduce the number of land title issues involving the Membership.
 - b. Eliminate all buckshee leases over time.

GRAPHICAL INFORMATION SYSTEM

8. The efficiency of the Lands Department's utilization of Lightship will be improved through capacity development and hands on experience.
 - a. Beginner training sessions will be scheduled for new users.
 - b. Advanced training sessions will be scheduled for regular users.
9. The efficiency of the Lands Department will be ensured by conducting a comprehensive user requirements and geospatial data needs assessment.

LAND ADMINISTRATION

10. The Lands Department's efficiency will improve regarding:
 - a. processing land instrument applications, registrations, rent/royalty collection and compliance monitoring through capacity development;
 - b. processing reserve access requests by third parties;
 - c. the coordination and completion of survey requests; and
 - d. responses to land inquiries and requests from the membership.
11. The Lands Department will ensure that all rental premises are maintained to commercial standards.
12. The Land's Department will support the implementation and completion of Infrastructure and Administration projects.

MEMBERSHIP

13. The Lands and Membership Agent will ensure the timely administration of status card applications and renewals regarding the Indian Registry.
14. The Lands and Membership Agent will enable the amendment of the Membership Transfer Policy to improve efficiency of the transfer process.