

LNIB SUBDIVISION, DEVELOPMENT AND SERVICING LAW

Enacted on _____

Authorized Signatory for LNIB

[Print Name]

DEPOSITED IN THE **REGISTRY OF
LAWS**

ON ____/____/____
(Day/Mo/Year)

Signature of Law Clerk

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PREAMBLE

WHEREAS since time immemorial, the members of the Lower Nicola Indian Band have continuously and without interruption occupied our territory and exercised Aboriginal title to our traditional lands;

AND WHEREAS our relationship with the land governs our responsibility to respect, monitor, maintain, manage, protect, and benefit from the land;

AND WHEREAS Lower Nicola India Band has an inherent right to self-government which emanates from its people, culture, language, and land, and which is recognized and affirmed by section 35 of the Constitution Act, 1982;

AND WHEREAS our Nation has chosen to assume control of its Indian Reserve Lands pursuant to the First Nation Lands Management Act, S.C. 1999 C. 24 by entering into the Individual Agreement on First Nation Land Management between Lower Nicola Indian Band and Her Majesty The Queen In Right Of Canada and by adopting the Lower Nicola Indian Band Land Code;

AND WHEREAS under sections 6.1 and 6.2 of the Land Code, Council is authorized to establish laws relating to lands, including the development of our land and relating to Licences in relation to our land;

AND WHEREAS section 14.2 of the Land Code provides that Council may, after full and fair consideration of any recommendations of the Lands Management Advisory Committee, establish mandatory standards, criteria and forms for Licences in LNIB Land;

AND WHEREAS section 16.1 of the Land Code provides that Council may by Resolution, upon a recommendation from the Lands Management Advisory Committee, grant Licences in LNIB Land including Licences to take Natural Resources from LNIB Land;

AND WHEREAS section 31.2 of the Land Code provides that Council may, by enacting a Law, delegate administrative authority to an individual or body established or authorized under the Land Code or a Law;

AND WHEREAS section 2.1 of the Land Code authorizes the Lands Manager to, among other things, oversee the day to day operations of the Lands Department and the administration of the Land Code;

AND WHEREAS Lower Nicola Indian Band has a vision of a healthy and prosperous community respecting the environment and all of Creation;

NOW THEREFORE the Council enacts as follows:

PART 1 - CITATION, APPLICATION, DEFINITIONS AND INTERPRETATION

Citation

1. This Law may be cited as the Subdivision, Development and Servicing Law.

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Purpose

2. The purpose of this Law is to promote environmentally sustainable, healthy, safe and well-planned development of LNIB Land that also meets the strategic goals and supports the socio-economic objectives of LNIB.

Application

3. (1) This Law applies to all LNIB Land.
(2) This Law binds the LNIB government.

Paramountcy

4. If there is a conflict between this Law and the Land Code, the Land Code will prevail.

Definitions

5. (1) In this Law:

“authorization” means a written authorization issued under section 12 in a form approved by Council;

“authorization form” means the Subdivision, Development and Servicing Application authorization form provided in the Development Authorization Guide.

“building” includes a structure;

“B.C. Building Code” means the British Columbia Building Code established under the Building Act (British Columbia) or related legislation;

“construction” includes alteration, repair, removal and demolition;

“contamination” means the presence of substances on LNIB Land that exceed applicable standards contained in the Contaminated Sites Regulation (British Columbia) or that exceed the applicable standards in a Law related to contamination;

“Cultural Heritage Policy” means the LNIB Cultural Heritage Policy;

“Development Authorization Guide” means the policy document approved by Council that sets out land development procedures on LNIB Land;

“Director of Lands” means the LNIB Director of Lands;

“enforcement officer” means the Lands Manager and any person appointed by Council, from time to time, to ensure compliance with this Law, and includes any delegate, the RCMP and any peace officer;

“General Requirements for Engineering” means the General Requirements for Engineering on LNIB Land at Schedule “A”;

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“General Requirements for Environmental Assessments” means the General Requirements for Environmental Assessments on LNIB Land at Schedule “B”;

“General Requirements for Timber Permits” means the LNIB General Requirements for Timber Permits at Schedule “C”;

“LNIB Land Use and Zoning Law” means the Lower Nicola Indian Band Land Use and Zoning Law, DATE;

“place” means

- (a) a dwelling,
- (b) a building or structure or any part of a building or structure other than a dwelling, or
- (c) a vehicle, vessel, or trailer;

“polluting substance” means a substance that, if added to a water body, is likely to degrade or alter or form part of a process of degradation or alteration of the physical, chemical or biological conditions of the water body to an extent that is detrimental to its use by plants, animals and humans;

“soil” includes sand, gravel, rock and other materials of which land is formed;

- (3) In addition to the terms defined in this Law, terms used in this Law may be defined in the Land Code.

Interpretation

- 6. (1) A reference in this Law to an enactment is to be construed as including a reference to that enactment as it may be amended from time to time.
- (2) Unless otherwise specified, a reference in this Law to a section is a reference to a section of this Law.
- (3) Unless otherwise specified, a reference in this Law to a subsection or paragraph is a reference to a subsection or paragraph of the section or subsection in which the reference occurs.
- (4) A word in the singular form may be read in the plural form if the context allows it and a word in the plural form may be read in the singular form if the context allows it.
- (5) Unless otherwise expressly provided, the structures, organizations, bodies, principles and procedures established or used in this Law will be guided and interpreted in accordance with the culture, traditions and customs of LNIB.

Severability

- 7. The provisions of this Law are severable, and where any provision of this Law is for any reason held to be invalid by a decision of a court of competent jurisdiction, the invalid

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portion must be severed from the remainder of this Law and the decision that it is invalid must not affect the validity of the remaining portions of this Law.

Validity

8. Nothing under this Law must be rendered void or invalid by
- (a) an error or omission in a notice, form, permit or other document given or authorized under this Law; or
 - (b) a failure of LNIB, a LNIB official or their delegate to do something within the required time.

PART 2 - ADMINISTRATIVE PROVISIONS

Delegation

9. (1) Council delegates to the Lands Manager Council's authority to grant an authorization and otherwise exercise the necessary administrative authority to administer this Law.
- (2) The Lands Manager may delegate his or her duties set out at section 16 to Lands Department staff.

PART 3 - GENERAL DEVELOPMENT REQUIREMENTS

Approving requirements as schedules

10. (1) Council may approve requirements as a schedule to this Law imposing additional conditions on development on LNIB Land.
- (2) A requirement approved by Council and added as a schedule to this Law under subsection (1)
- (a) has the force of law; and
 - (b) must not be approved except in accordance with section 7 of the Land Code and, if the schedule relates to a matter listed in sections 12.3 (a) through (i) of the Land Code, in accordance with section 12 of the Land Code.
- (3) Subject to section 15(2), a reference to "this Law" includes any requirements approved as schedules to this Law.
- (4) For certainty, requirements approved as a schedule to this Law under this section will apply to subject matter beyond the scope of this Law.

Conflict

11. If there is a conflict between the standards of the B.C. Building Code and the General Requirements on Engineering, the standards of the B.C. Building Code will prevail to the extent of any inconsistency.

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Prohibited activities without authorization

- 12.** Subject to the exemptions at section 13, a Person must not undertake any of the following activities on LNIB Land except in strict compliance with an authorization, an applicable land use plan and environmental management plan, the Cultural Heritage Policy, the B.C. Building Code and any applicable policies and enactments:
- (a) the subdivision of LNIB Land;
 - (b) the construction, alteration, enlargement, addition, demolition, or removal of a building, including for certainty, signs, swimming pools and decks;
 - (c) the installation of a street, intersection, sewer system, water system or other infrastructure of any kind;
 - (d) the clearing, grading, blasting, excavating or other alteration of LNIB Land;
 - (e) the deposit or removal of more than 10 m³ of soil;
 - (f) the removal of trees; and
 - (g) other activities designated by Council in a regulation.

Exemptions

- 13.** (1) Subject to section 14, a Person with an Interest or Licence in the parcel of LNIB Land or who has permission from the holder of the Interest or Licence, upon which any of the following activities is proposed, does not require an authorization if the activity complies with the relevant standards provided in the B.C. Building Code, an applicable land use plan and environmental management plan, the Cultural Heritage Policy and all applicable enactments:
- (a) the construction, alteration, enlargement, addition, demolition, or removal of a non-residential building having a footprint of less than 18.5 m² (approximately 200 square feet);
 - (b) non-structural alterations or repairs of a building;
 - (c) the construction of trails, driveways, or internal roads for single family residential sites on which the internal road or driveway is located entirely on a single parcel of land;
 - (d) landscaping and yard work that does not require an excavation deeper than 1.5 m or the removal or deposit of more than 10 m³ of soil;
 - (e) the removal of trees that qualifies for an exemption provided in the General Requirements for Timber Permits; and
 - (f) the installation of recreational or storage trailers and temporary structures, provided such trailers and temporary structures are not used for permanent residence and have no hook-ups or connections to services.

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- (2) To qualify for an exemption under subsection (1), the instrument granting the Interest or Licence in the parcel of LNIB Land upon which an activity is proposed must not prohibit the proposed activity.
- (3) Council does not require an authorization to approve, by Resolution, dyking, erosion control, flood protection, tree removal or any other activity for which an authorization is required under this Law, if
 - (a) Council has determined that such activity is urgently and immediately necessary to prevent loss of life or damage or injury to people or property; and
 - (b) any necessary contact is first made with BC One Call, or other service that replaces BC One Call with respect to the location of underground lines.
- (4) The LNIB government is deemed to have an Interest or Licence in LNIB Community Land.

Activity ineligible for exemption

14. An exemption under section 13(1) does not apply
 - (a) if the proposed activity involves the likely release of contamination or a polluting substance into a water body; or
 - (b) to any of the following proposed activities if they will be carried out within 30 metres of a water body:
 - (i) an activity described at section 13(1)(a), or
 - (ii) an activity described at section 13(1)(b), with the exception of painting.

Authorization for tree removal

15. (1) The following applications or portions of applications must be made and considered in accordance with the General Requirements for Timber Permits:
 - (a) an application for an authorization to remove trees from LNIB Land for timber harvesting purposes; or
 - (b) any portion of an application for an authorization that involves removing trees to clear land to undertake another component of the proposed activity.
- (2) For certainty, this Law applies to regulate the removal of trees from LNIB Land with the exception of sections 16 to 21.
- (3) For an application identified at subsection (1)(b) that includes a separate review process for different aspects of the application, the Lands Manager may take any reasonable steps to facilitate a coordinated review of the application to reduce any duplication or redundancy in the review process.
- (4) If there is any conflict between the provisions of the General Requirements for Timber Permits and this Law, this Law will prevail to the extent of any inconsistency.

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Application for authorization

- 16.** (1) Subject to subsection (2), every applicant applying for an authorization to carry out an activity described in section 12 must provide to the Lands Manager
- (a) an application that includes the information required in the authorization form to the Lands Manager;
 - (b) any supporting documents, information or approvals that demonstrate compliance with:
 - (i) the General Requirements for Environmental Assessments,
 - (ii) the provisions of the General Requirements for Engineering that the Lands Department advises are applicable to the activity,
 - (iii) any additional requirements set out as a schedule to this Law,
 - (iv) the requirements in the Development Authorization Guide, and
 - (v) any applicable fees as described in the Development Authorization Guide or in a schedule to this Law.
- (2) An applicant must provide any additional information and documents that are requested by the Lands Manager or the Lands Management Advisory Committee.

Referral and comment on application

- 17.** As soon as practicable after receiving a complete application and any applicable fees under section 16, the Lands Manager must:
- (a) refer the application to a meeting of the Lands Management Advisory Committee with all relevant information and documents for their review;
 - (b) circulate the application and all relevant information and documents to LNIB administration for comment;
 - (c) for applications for subdivisions, multi-family structures or significant changes in use or increases in density, refer the application to all adjacent Interest-holders for comment; and
 - (d) if appropriate, refer aspects of the application to the City of Merritt and the Thompson Nicola Regional District for comment.

Lands Management Advisory Committee review

- 18.** (1) As soon as practicable following their receipt of an application under section 16, the Lands Management Advisory Committee must:
- (a) account for the principles and factors provided at section 21, all applicable information, documents and any comments received under section 17; and

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- (b) make a recommendation to the Lands Manager on whether to approve or refuse to approve the application supported with written reasons.
- (2) If the Lands Management Advisory Committee recommends that the Lands Manager approve the application, their recommendation must specify the date the authorization should expire.
- (3) Without limiting the generality of the Lands Management Advisory Committee's discretion to make a recommendation under subsection (1), the Lands Management Advisory Committee's recommendation may include or relate to the items provided at section 21.
- (4) The Lands Management Advisory Committee must provide the following to the Lands Manager within 14 days of making their recommendation:
 - (a) a written record of their recommendation;
 - (b) the application;
 - (c) all relevant information and documents; and
 - (d) any comments received under section 17.

Lands Manager decision

- 19. (1) As soon as practicable following the Lands Manager's receipt of the materials provided under section (4), the Lands Manager must:
 - (a) account for the principles and factors provided at section 21, all applicable information, documents and any comments received; and
 - (b) decide whether to approve or refuse to approve the application supported with written reasons.
- (2) The Lands Manager may approve an application with any reasonable terms or conditions that may include or relate to the items provided at section 22.
- (3) The Lands Manager's approval under subsection (2) must specify the date the authorization will expire.

Issuing instrument demonstrating authorization

- 20. Following the Lands Manager's decision under section 19, the Lands Manager must do either of the following in accordance with his or her decision:
 - (a) issue a permit or other form of authorization to the applicant that shows all applicable terms or conditions, and which must include the date the authorization expires; or
 - (b) notify the applicant that the application has been refused with a copy of the Lands Manager's written reasons.

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General principles to be considered in reviewing applications

- 21.** In addition to any other considerations set out in this Law and other applicable enactments, the following general principles and factors must be considered by the Lands Management Advisory Committee and the Lands Manager when considering an application for an authorization:
- (a) the promotion of health, safety, convenience and welfare of Members and of Interest-holders, residents, occupants of LNIB Land;
 - (b) the well-planned and orderly development of LNIB Land and the preservation of amenities and special features of LNIB Land;
 - (c) compliance with any applicable land use plan, environmental management plan, zoning requirements and other LNIB Laws and policies and with applicable federal, provincial and municipal laws and standards;
 - (d) environmental protection and enhancement;
 - (e) flood plain measures;
 - (f) adherence to LNIB housing policies;
 - (g) the provision of community benefits and the development of community amenities;
 - (h) the protection and enhancement of cultural and heritage sites;
 - (i) compatibility with LNIB culture;
 - (j) viewscales, aesthetics and visual qualities;
 - (k) the provision of adequate parking, access and emergency access;
 - (l) the character of the proposed activity or project in relation to the character of the zone, neighbourhood, and the existing buildings in the area;
 - (m) the conservation of property values;
 - (n) the potential impacts on adjacent uses, Interest-holders and occupants;
 - (o) the development of the zone, neighbourhood and LNIB Land in a manner that contributes to the economic, environmental, cultural and community health of LNIB, Members and the occupants of LNIB Land;
 - (p) any information provided and any authorizations granted by LNIB, including any terms or conditions, in relation to the same project or the same lands; and
 - (q) any other factors which may have an impact on the community or LNIB Land.

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Examples of recommendations, terms or conditions

- 22.** The following may form the basis for a Lands Management Advisory Committee recommendation under section 18(1)(a) or the Lands Manager's terms or conditions on an authorization under section 19(2):
- (a) relating to the general principles set out at section 21;
 - (b) posting of bonds, irrevocable letters of credit or other form of security, and the necessary percentage or amount;
 - (c) dedication of up to 5% of the applicable land for parks, greenspace or community use, or a cash donation in lieu of a land dedication;
 - (d) preferred lot reconfigurations to ensure viable subdivisions;
 - (e) construction of intersections, access and emergency access routes;
 - (f) construction of parking spaces;
 - (g) construction of sidewalks;
 - (h) purchase and installation of street lights;
 - (i) completion of or adherence or compliance with servicing agreements with the City of Merritt or the Thompson Nicola Regional District, if applicable;
 - (j) provision of updated plans, reports or studies, including as-built drawings after the completion of the development or project;
 - (k) requirements for staging or sequencing of the development or project including requirements for interim reports;
 - (l) set-backs or buffers including from property lines and environmental features;
 - (m) mitigation measures incorporating flood plain requirements, erosion control and sediment control;
 - (n) noise and dust prevention; and
 - (o) any other relevant measures.

PART 4 - ENFORCEMENT

Suspending or revoking an authorization

- 23.** (1) In addition to any other remedies or penalties under this Law, or any other applicable Laws, the Lands Manager may, with reasonable cause after giving notice to the authorization-holder
- (a) suspend the authorization for all or part of the year; or

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- (b) revoke the authorization.
- (2) Upon suspending or revoking an authorization under subsection (1), the Lands Manager may restrict a Person from holding an authorization for up to three years for reasonable cause.
- (3) Without limiting the interpretation of reasonable cause under subsections (1) or (2), the following may serve as grounds to suspend or revoke a Person's authorization or restrict a Person from being issued an authorization:
 - (a) the Person is convicted of any offence under any Law or federal or provincial law relating to the activity for which they are authorized, or with respect to the land identified in the authorization;
 - (b) the Person has ceased to meet the lawful requirements to carry on the activity for which they are authorized or relating to the land identified in the authorization.
- (4) A Person whose authorization has been suspended or revoked or whose ability to hold an authorization has been restricted under subsections (1) or (2) may appeal to Council in accordance with section 28 on the grounds that there was no reasonable cause for the decision.

Authority of enforcement officers

- 24.** (1) In addition to any powers set out in a Law addressing the enforcement of Laws and the authority of enforcement officers and without limiting an enforcement officer's powers at law, an enforcement officer is authorized to do the following for the purpose of performing his or her duties or exercising his or her powers in relation to this Law:
- (a) issue compliance notices;
 - (b) issue tickets;
 - (c) issue a stop work order to order any Person who has not received full and proper authorization to cease carrying out any activities prohibited under section 12, which includes for certainty, carrying out activities if the Person's authorization is suspended or was revoked under section 23(3)(b);
 - (d) order any of the following to occur within 30 days:
 - (i) the removal of buildings, other structures or installations, or parts of them, that are constructed, altered or installed in violation of this Law or an authorization,
 - (ii) the remediation and restoration of the applicable parcel of land to standards satisfactory to the Lands Manager to address any structural damage, the creation of a potential hazard or environmental risk, or the introduction of contamination on the land.
- (2) A stop work order imposed under subsection (1)(c) may be registered in court and enforced as a court order and continues in force until the condition that led to it is

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remediated or until the activity that is the subject of the stop work order receives an authorization.

- (3) If a Person fails to comply with an order under subsection (4)(d) within 30 days, the Lands Manager may order the following be carried out at the Person's expense:
- (a) buildings, other structures or installations, or parts of them, be removed; or
 - (b) remediation or restoration of the land to standards satisfactory to the Lands Manager.

PART 5 - OFFENCES AND PENALTIES

Offences

25. A Person who does any of the following commits an offence:

- (a) provides false or misleading information in order to obtain an authorization;
- (b) carries out an activity prohibited under this Law without having first received a valid authorization;
- (c) contravenes an authorization;
- (d) neglects or refrains from doing anything required to be done pursuant to the provisions of this Law;
- (e) contravenes an order made by a court in relation to this Law;
- (f) obstructs, interferes with or denies access onto any land or into any building to an enforcement officer whose entry is authorized under this Law; or
- (g) otherwise contravenes this Law.

Penalties

- 26.** (1) A Person who commits an offence under section 25 is guilty of an offence and liable on summary conviction to a fine of not more than \$10,000 or to imprisonment for a term of not more than three months, or to both.
- (2) Where any contravention of this Law is committed or continued on more than one day, it constitutes a separate offence for each day on which the contravention is committed or continued.
- (3) A fine payable under subsection (1) must be remitted to LNIB by the court, after reasonable court costs have been deducted.
- (4) For certainty, despite subsection (1), an enforcement officer is authorized to issue a ticket under section 24(1)(b) to impose a sanction or fine for contraventions of this Law.
- (5) Outstanding monetary penalties or fines are recoverable by LNIB as a debt due to it.

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- (6) Subject to a LNIB land registry law or enforcement law and without limiting the application of subsection (5), LNIB may register a debt instrument for any debt owing under subsection (5) against the applicable parcel of LNIB Land in the First Nations Land Registry.
- (7) The Person named in a debt instrument registered on a parcel of LNIB Land in the First Nations Land Registry may not transfer any Interest or Licence in the parcel until
 - (a) the Person pays to LNIB the debt amount; and
 - (b) LNIB authorizes the discharge of the debt instrument from the applicable parcel.

Liability

- 27.**
- (1) The granting of an authorization does not
 - (a) constitute evidence that the applicable activity is valid or legal; or
 - (b) create any liability on behalf of LNIB.
 - (2) The refusal to grant an authorization does not create any liability on behalf of LNIB.
 - (3) The following parties are jointly and severally liable for any structural damage, for creating a potential hazard or environmental risk, or for introducing contamination on a parcel of land in connection with an authorization or a matter regulated under this Law:
 - (a) the authorization-holder;
 - (b) the holder of the Interest or Licence in the applicable parcel of land; and
 - (c) any other Person who causes or contributes to the structural damage, potential hazard, environmental risk or the introduction of contamination on the land.
 - (4) Further to section 24(3)(b), if a Person is liable under that section and does not remediate or restore the land to standards satisfactory to the Lands Manager, the Person is responsible for the cost of any remedial work and restoration, any related expenses, and administrative and professional fees and costs that may be incurred by LNIB remediating or restoring the site and any sites adjacent to the applicable parcel of land, including land located outside LNIB Land.
 - (5) No person, including without limitation, Council, members of Council, employees of the LNIB government, a volunteer and any other person appointed, authorized or required to carry out measures relating to an emergency or disaster pursuant to section 13(3), is liable for any loss, cost, expense, damage or injury to persons or property that results from:
 - (a) the person in good faith doing or omitting to do anything that the person is appointed, authorized or required to do under this Law, unless, in doing or omitting to do the act, the person is grossly negligent; or

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- (b) any acts done or omitted to be done by one or more of the persons who, under this Law, were appointed, authorized or required by the person to do the acts, unless in appointing, authorizing or requiring those persons to do the acts, the person was not acting in good faith.

PART 6 - APPEALS

Appealing decision to suspend or revoke

- 28. (1) Subject to a Law that addresses dispute resolution, any person whose authorization has been suspended or revoked in accordance with section 23 may appeal the decision by filing a notice of appeal to the Director of Lands setting out
 - (a) the nature of the dispute;
 - (b) the facts and arguments upon which the person initiating the dispute relies; and
 - (c) the relief that is sought.
- (2) For certainty, there is no right of appeal of the Lands Manager's decision to refuse to approve an application for an authorization.

Time limit

- 29. (1) A notice of appeal must be delivered within 30 days of the decision or action to which the dispute applies.
- (2) Delivery will be effected by:
 - (a) hand delivery;
 - (b) registered mail; or
 - (c) email.

Council consideration of appeal

- 30. Council will consider the notice of appeal within 30 days of delivery of the notice to the Lands Department and, acting reasonably, will either confirm or set aside the suspension or revocation in writing.

Council decision final and binding

- 31. A decision of Council on an appeal under section 30 is final and binding.

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PART 7 - GENERAL PROVISIONS

Delivery

- 32.** (1) A copy of an order or notice made under this Law may be delivered in any of the following ways:
- (a) in person;
 - (b) by leaving a copy of the order or notice with a person who appears to be at least 16 years of age at the actual or last known address of the addressee;
 - (c) by posting a copy of the order prominently on a door of a building at the actual or last known address of the addressee; or
 - (d) by mailing a copy of the order to the actual or last known address of the addressee.
- (2) A copy of an order or notice delivered under subsection (1) is presumed to have been received by the addressee on the fifth (5th) day after mailing.

PART 8 - REGULATIONS

Regulations

- 33.** (1) Council may make any regulations it considers necessary or advisable for purposes under this Law.
- (2) For certainty, the powers of Council under subsection (1) include the power to make regulations:
- (a) respecting the form and content of applications, notices, reports, permits, authorizations and other documents that are required or permitted under this Law;
 - (b) prescribing consultation and public input requirements in respect of applications Provide for in this Law;
 - (c) setting fines for specific contraventions of this Law;
 - (d) defining words and expressions that are used but not defined in this Law; and
 - (e) generally for the purpose of giving effect to this Law.
- (3) Subsection (2) does not restrict Council from approving matters listed in that subsection by Resolution.

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PART 9 - AMENDMENT

Substantive amendments to this law

- 34.** Subject to sections 35 and 36, an amendment or repeal of this Law must only be made by Council as recommended by the Lands Advisory Committee in accordance with the Land Code.

Amendments to the General Engineering Requirements

- 35.** Council may approve amendments to the General Requirements for Engineering by Resolution.

Minor amendments

- 36.** (1) Council may approve a minor amendment to this Law by Resolution.
- (2) For the purposes of subsection (1), minor amendments mean:
- (a) amendments to correct typographical errors;
 - (b) amendments required to reference any relevant new or amended Law;
 - (c) amendments ordered by any court of competent jurisdiction; and
 - (d) amendments which serve to clarify this Law, where there is no reasonable dispute about the intention underlying the original provision.

PART 10 - COMING INTO FORCE

Coming into force

- 37.** This Law comes into force on the date it is passed by Resolution after complying with section 7 of the Land Code.

THIS LAW IS HEREBY DULY ENACTED by Council on the ___ day of _____, 20__, at _____, in the Province of British Columbia

*SUBDIVISION, DEVELOPMENT, AND SERVICING LAW
AND SCHEDULES*

SCHEDULES

*SUBDIVISION, DEVELOPMENT, AND SERVICING LAW
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Schedule A General Requirements for Engineering

SCHEDULE A
LNIB
General Requirements for Engineering on
LNIB Land

*SUBDIVISION, DEVELOPMENT, AND SERVICING LAW
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**LNIB
GENERAL REQUIREMENTS FOR ENGINEERING
ON LNIB LAND**

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**GENERAL REQUIREMENTS FOR ENGINEERING
ON LNIB LAND**

In addition to other applicable Laws, LNIB requires these General Engineering Requirements be complied with in order to qualify for an approval to carry out a project, development, activity or procedure set out in section 12 of the *Subdivision, Development and Servicing Law*.

LNIB requires that certain planning and design criteria be met before an application for an Authorization will be accepted and before an Authorization or other approval is issued.

The planning and design requirements are based on the MMCD-based guidelines with some modifications. The Lands Department will consult with a Professional Engineer on the following:

- (a) the Lands Department's determination of the applicable provisions of these General Requirements for which an applicant for an Authorization must comply (section 16(1)(b)(ii) of the *Subdivision, Development and Servicing Law*), and
- (b) the Lands Department's assessment of an applicant's compliance with these General Requirements.

Authorization under the Subdivision, Development and Servicing Law

The applicant is further advised that an Authorization must be obtained before any development, improvement or construction work on LNIB Land may begin, irrespective of whether these General Requirements have been complied with, or whether a lease is applicable or has been executed. Any work constructed before obtaining the Authorization is potentially illegal and is done at the applicant's or developer's own risk.

SUBDIVISION, DEVELOPMENT, AND SERVICING LAW
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PART 1 - INTERPRETATION

INTERPRETATION

Unless otherwise defined in this section, terms used in these General Requirements have the same meaning as in the *Subdivision, Development and Servicing Law* and the *LNIB Land Code*:

“Authorization” means an authorization issued under the *Subdivision, Development and Servicing Law*;

“Contamination” means the presence of substances that exceed applicable standards contained in the *Contaminated Sites Regulation* (British Columbia);

“EA Requirements” means the LNIB General Requirements for Environmental Assessment on LNIB Land;

“MMCD” means the Master Municipal Specifications, Standard Detail Drawings, and Design Guidelines of the latest edition of the Master Municipal Construction Documents published by the Master Municipal Construction Documents Association and incorporated by reference into and forming part of these General Requirements;

“Professional Engineer” means a person registered as a professional engineer with Engineers and Geoscientists British Columbia;

“Public Works” means the LNIB Public Works department;

“Registered Architect” means a person registered as a member or “Architect AIBC” with the Architectural Institute of British Columbia;

“Soil” means topsoil, silt, clay, sand, gravel, rock, peat, compost, or other substance of which natural land is composed and includes materials added to or existing in combination with any of these;

“Subdivision, Development and Servicing Law” means the *LNIB Subdivision, Development and Servicing Law*.

SUBDIVISION, DEVELOPMENT, AND SERVICING LAW
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PART 2 - PLANNING AND DESIGN

PHASED APPROVAL

Preliminary Review

Prior to submitting an application for an Authorization under section 16 of the *Subdivision, Development and Servicing Law*, the person proposing the development (the “proponent”) must prepare a (i) site plan and (ii) a description of infrastructure requirements for the proposal and meet with the Lands Manager to review these documents.

The Lands Manager will determine if the proposal requires an Authorization, and if yes, whether the proposal is permitted under applicable land use plans and environmental management plans, policies and applicable laws. The Lands Manager will consult with the LNIB Public Works department to make this determination.

Where the Lands Manager is satisfied the proposed development complies with the noted plans, policies and laws, the Lands Manager will advise the proponent the components of these General Requirements indicated by **[Conceptual]** that must be submitted for review.

If applicable, the Lands Manager will advise the proponent on any issues that must be addressed for the proposed development to comply with the noted plans, policies and laws.

Conceptual Review and Provisional Approval

Upon receipt of the proponent’s conceptual design documents, the Lands Manager and Public Works will review to ensure the design conforms with the applicable provisions of these General Requirements. The Lands Manager may also seek input or a recommendation on the proposed development from the Lands Management Advisory Committee.

Where Public Works approves the conceptual design, the Lands Manager may grant provisional approval of the proposed development, taking into consideration any input or recommendation provided by the Lands Management Advisory Committee, if they were engaged, and advise the proponent

- (a) they may apply under section 16 of the *Subdivision, Development and Servicing Law* for an Authorization;
- (b) the components of these General Requirements indicated by **[Final]** that must be submitted with the application.

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Despite paragraph (b) above, the Lands Manager may require the proponent to comply with additional requirements or other terms or conditions than are included in these General Requirements.

The Lands Manager may retain a Professional Engineer for any aspect of the phased review and approval.

The refusal to grant a provisional approval does not create any liability on behalf of LNIB and the granting of a provisional approval does not bind LNIB to issue an authorization under the *Subdivision, Development and Servicing Law*.

GENERAL

1. Professional Seal and Signature [Conceptual and Final]

All submission reports, designs, drawings, calculations, specifications and technical documents must bear the seal and signature of a Professional Engineer and/or Registered Architect qualified for the work; the seal on submitted documents will certify that the design of the proposed works is in general conformance with these General Requirements. Exceptions to general conformance must be noted and documentation provided to explain the noted exceptions. Where applicable, each Professional Engineer or Registered Architect of record must submit a BC Building Code Schedule B “Assurance of Professional Design and Commitment for Field Review.”

- Provide for Conceptual*
- Provide for Final*

2. Design Drawings

State on the design drawings that all work is designed to meet or exceed the MMCD standards for design drawings. If work is proposed to be designed to standards other than the MMCD standards, provide certifications of equivalence from a Professional Engineer or Registered Architect and obtain pre-approval from LNIB by providing justifications and a copy of the relevant section of the standard used.

- Provide for Conceptual*
- Provide for Final*

3. General Plans [Conceptual and Final]

a) Provide a Location Plan showing the geographical area of the proposed development and surrounding roads, highways, waterbodies and topographic features. Identify the proposed development’s proximity to the 1:500 year flood elevation.

- Provide for Conceptual*
- Provide for Final*

b) Provide a Layout Plan showing the legal description of the lands to be developed, the boundaries of the LNIB Land and an outline of the footprint of the proposed development.

- Provide for Conceptual*
- Provide for Final*

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- c) Provide a detailed Site Plan showing all existing and proposed works, buildings, streets, lanes, highways, intersections, driveways, parking and loading areas, pathways, street lighting, utilities and utility easements, waterbodies and other topographic features of the site. The Site Plan should identify the distance between key features such as buildings, landscaping, waterbodies, drainage infrastructure, wells, and septic systems both on the lot and adjacent lots. It should also identify the distance to major roads.
- Provide for Conceptual
 - Provide for Final

4. Geotechnical Assessment [Conceptual]

Provide a geotechnical assessment to verify the viability of the development on site. Include the existing and proposed grades and their relations to the elevations on adjoining properties, and details of any necessary excavations. The proposed scope of the geotechnical assessment should be reflective of the development and reviewed with LNIB. For example, this may require a geohazards assessment, subsurface investigation for septic fields, etc.

- Provide for Conceptual (discussion)
- Provide for Final (any reports)

5. Off-Site Work [Conceptual and Final]

If work relating to the development is required to be constructed outside of the lands that are the subject of the development, or will encroach into private land, or that is subject to an exclusive interest, obtain rights-of-way or other legal permissions to accommodate the work. Show such rights-of-way or other permissions on design drawings.

- Provide for Conceptual
- Provide for Final

BUILDING

6. Building Plans [Conceptual and Final]

Provide conceptual plan and elevations of proposed buildings [Conceptual] and detailed design drawings of architectural, structural, mechanical, plumbing, fire protection and electrical works [Final].

- Provide for Conceptual
- Provide for Final

7. Time Schedule [Conceptual]

Provide a proposed schedule of construction and an estimated start and completion date.

- Provide for Conceptual

8. Professional Certifications [Final]

Provide a copy of relevant signed and sealed B.C. Building Code Schedules A, B-1 and B-2, or equivalent letters of assurance, on architectural, structural, mechanical, plumbing, fire suppression systems, electrical and geotechnical works for the proposed buildings.

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- Provide for Final*

WATER SERVICE

9. Conceptual Water Design [Conceptual]

Indicate domestic and fire flow requirements, and the proposed water source to meet these demands. Indicate the minimum fire flow available to the development and the minimum pressure available assuming maximum flow demand plus fire flow.

- Provide for Conceptual*

10. Conceptual Water Design Drawings [Conceptual]

Provide conceptual design drawings to show the existing and the proposed water works to service the development.

- Provide for Conceptual*

11. Water Supply from Own Well [Conceptual and Final]

If water supply is to be obtained from the development's own well, provide test data from the well to show that the well water meets the Guidelines for Canadian Drinking Water Quality and that the well has sufficient yield to supply the domestic and fire flow needs. Provide all necessary certifications from the First Nations Health Authority [Final]. Must include indication that well has been registered with the province and provide wellhead protection details and well log.

- Provide for Conceptual*
 Provide for Final

12. Proximity of Development to Existing Wells [Conceptual]

Illustrate the location of existing domestic wells. Ensure that any new proposed well and proposed development is at least 100 metres from existing domestic wells.

- Provide for Conceptual*

13. Wellhead Protection Area

Identify a wellhead protection area of 100 metres around new wells and identify how the well will be protected (i.e. fencing) as well as how the underlying aquifer will be protected.

- Provide for Conceptual*

14. Water Supply from Surface Water [Conceptual]

If water supply is to be obtained from a surface water body, the developer must obtain authorization under the *Water Sustainability Act* (British Columbia). Provide design for water treatment facilities.

- Provide for Conceptual*

15. Water Supply from Existing System [Conceptual]

If water supply is to be obtained from an existing water distribution system, verify by network analysis calculations, modelling or other means that the existing water distribution system has the

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capacity to deliver the required domestic and fire flow to the development. Provide all models to LNIB.

- Provide for Conceptual*

16. Fire Protection [Conceptual]

Identify proximity of nearest fire hydrants to the proposed development. If hydrant spacing is greater than 150 metres or a proposed future building is more than 90 metres from the nearest hydrant, justification should be provided including Fire Underwriters Survey calculations. Confirmation of sufficient fire flows and residual pressures is also required.

- Provide for Conceptual*

17. Watermain Looping [Conceptual]

Loop watermains whenever possible to provide redundancy and improve fire flow.

- Provide for Conceptual*

18. Water Service Agreement – where connecting to a water system other than the LNIB water distribution system [Conceptual and Final]

Provide letter of intent or draft servicing agreement [Conceptual] and signed servicing agreement [Final] with the owner of the existing water system for providing water service to the development (either LNIB or relevant local government), where applicable.

- Provide for Conceptual*
 Provide for Final

19. Delivery Capacity – where connecting to LNIB water distribution system [Final]

Verify by network analysis calculations, modelling or other means that the LNIB water distribution system has the capacity to deliver the required domestic and fire flow to the development.

- Provide for Conceptual*

20. Decommissioning Plan for Abandoning Existing Well [Conceptual]

Provide a decommissioning plan if any existing well is to be abandoned.

- Provide for Conceptual*

21. Detailed Water Design Drawings [Final]

Provide detailed design drawings for all proposed water works and treatment facilities to service the development. In particular, show details of connection point to an off-site distribution system, horizontal and vertical profiles of watermains, offsets of watermain from reference objects, horizontal and vertical separation with a sewer, material specifications, trench details, water meters, and details of appurtenances such as valves, air valves, chambers, hydrants, thrust blocks and bearing areas.

- Provide for Final*

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22. Disinfection of New Watermain [Final]

Indicate on design drawing method and procedure for disinfecting a new watermain in accordance with American Water and Wastewater Association (AWWA) standards. Indicate on design drawing method of disposal of chlorinated water after completing watermain disinfection such that aquatic life will not be adversely impacted. Developer must submit to the Lands Manager a detailed water analysis report showing the coliform count. Samples must be obtained from each extremity of the newly installed watermains. Samples must be obtained and tested by an approved independent testing agency or as otherwise approved by the Lands Manager [PM]

Provide for Final

23. Service Connection Details, Standards and Identification [Final]

Show on design drawings water service connection details and specify service connections in accordance with the current version of the MMCD. Specify on design drawings blue marker stakes for identification of any future water service connections.

Provide for Final

SANITARY SERVICE

24. Conceptual Sanitary Design Drawings [Conceptual]

Provide conceptual design drawings to show the existing and the proposed sanitary facilities to service the development. Developments must be serviced by an existing sanitary sewer system. If a connection to an existing sanitary sewer system is not possible, the developer must identify it will be connected to either an on-site septic system or a community septic system.

Provide for Conceptual

25. Sanitary Service from Existing System [Conceptual]

Verify, through network analysis calculations or other means, that the existing sewer system has the spare capacity to service the development.

Provide for Conceptual

26. Sanitary Service Agreement [Conceptual and Final]

Provide a letter of intent or draft servicing agreement [Conceptual] and signed servicing agreement [Final] with the owner of the existing water system (either LNIB or the City of Merritt) for providing sanitary service to the development.

Provide for Conceptual

Provide for Final

27. In-Ground Sewage Disposal [Conceptual]

If a collection system exists, then it should be used first. If a self-contained in-ground disposal system is to be used, provide a hydro-geological assessment to verify the viability of in-ground sewage disposal in respect to Contamination impact on groundwater and any adjacent water body. Systems should be developed in accordance with the BC Ministry of Health's Sewerage System Standard Practice Manual and First Nations Health Authority.

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28. Grease Traps [Conceptual]

For development that may generate fats, oils, or grease in sewage or greywater, such as a restaurant, provide details of grease traps and other means of protecting the downstream sewer / septic system.

Provide for Conceptual

29. Decommissioning Plan for Abandoning Existing Septic Facilities [Conceptual]

Provide a decommissioning plan if any existing septic facilities are to be abandoned. Plan to meet or exceed standards applicable by the First Nations Health Authority.

Provide for Conceptual

30. Detailed Sanitary Design Drawings [Final]

Provide detailed design calculations and drawings for all proposed sanitary works to service the development. In particular, show horizontal and vertical profiles of the sewers and forcemains, offsets of sewer and forcemain from reference objects, material specifications, sewer slopes, invert elevations, manhole rim elevations, sewer trench details, forcemain thrust block bearing areas, and details of manholes, cleanouts, oil separators, air valves and chambers.

Provide for Final

31. Effluent Permit Limits [Final]

If the development will result in a new treatment facility, verify that the Effluent Quality Parameters discharged to a disposal or reclaimed water use facility do not exceed the Municipal Wastewater Regulation (B.C. Environmental Management Act) limits for the particular facility.

Provide for Final

32. Service Connection Details, Standards and Identification [Final]

Show on design drawings sewer service connection details. Provide inspection chamber. Specify service connection to meet the MMCD and BC Building Code. Specify on design drawings red marker stakes for identification of any future sewer service connections.

Provide for Final

DRAINAGE

33. Stormwater Management Plan [Conceptual]

Provide a stormwater management plan showing how the post-development minor (1:2 Year) and major (1:50 Year) flows are to be managed. The plan should incorporate low impact development techniques to rainwater management where appropriate. Requirements for stormwater storage for peak flow attenuation should be considered. Potential implications to receiving environments should also be considered including water quality requirements, erosion / scour potential, sediment deposit, and similar. Erosion and sediment controls measures for construction should be outlined in the plan in addition to the proposed post development stormwater management approach.

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Provide for Conceptual

34. Stormwater Disposal by Drywell [Conceptual]

If stormwater runoff is proposed to be disposed of by drywells, verify by calculations that the drywells have the capacity to dispose of a minor (1:2 year) storm flow.

Provide for Conceptual

35. Stormwater Disposal to Surface Water Body [Conceptual]

If any stormwater runoff is proposed to be discharged into an adjacent surface water body, provide details of sediment control devices and confirm permission with Department of Fisheries and Oceans and Environment Canada.

Provide for Conceptual

36. Stormwater Disposal to Roadside Ditch [Conceptual]

If any stormwater runoff is proposed to be discharged into an adjacent roadside ditch, confirm permission with the owner of the roadside ditch (either the Band, municipal, regional or provincial jurisdiction).

Provide for Conceptual

37. Oil – Water Separator [Conceptual]

For any developments that may pose a risk of oil or other contaminants entering the storm infrastructure or running off the site, such as a gas station, truck wash, or similar use, provide details of oil – water separator and other means of protecting the receiving environment.

Provide for Conceptual

38. Detailed Drainage Design Drawings [Final]

Provide detailed design drawings for all proposed drainage works servicing the development. In particular, show horizontal and vertical profiles of storm sewers and ditches, offsets of storm sewer from reference objects, material specifications, sewer slopes, invert elevations, manhole rim elevations, trench details, and details of manholes, cleanouts, oil and debris separators, drywells, silt traps and detention ponds.

Provide for Final

FLOODPLAIN MANAGEMENT

39. Floodplain Management Plan [Conceptual] 500 Year Flood Level [Conceptual]

State on the conceptual design drawing that the building habitable floor slab elevation is not less than 0.6 m above the 1:500 year flood level.

Provide for Conceptual

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ROADS, ACCESS AND PARKING

40. Parking [Conceptual]

Provide the estimated number of parking spaces required for the development and the plans to accommodate them. Minimum number of parking spaces and dimensions must be consistent with the requirements applicable in the City of Merritt Zoning Bylaw, including for handicapped parking. Identify whether parking areas will be paved or gravel.

Provide for Conceptual

41. Traffic Volume [Conceptual]

Provide the estimated volume of traffic in trips per day that will be generated by the development, based on the Institute of Transportation Engineers Trip Generation Rate Manual, and an analysis of the impact of the traffic to be generated on the use of nearby and adjacent land if more than 50 trips per day are anticipated

Provide for Conceptual

42. Conceptual Road Design Drawings [Conceptual]

Provide conceptual design drawings to show the existing and the proposed access and road facilities to service the development, including entry and exit routes and access by fire and emergency vehicles. The maximum grade must be in compliance with Transportation Association of Canada (TAC) guidelines for rural local and collector roads. Drawings must also reference the location of off-street pathways. For non-through roads over 500 m long, identify emergency access/egress routes.

Provide for Conceptual

43. Non-through Road Length [Conceptual]

Limit length of any non-through road to 1 km or whatever the maximum is indicated by the jurisdiction providing firefighting services in consideration of emergency access and deployment of fire-fighting equipment.

Provide for Conceptual

44. Utilities in Adjacent or Public Roads [Conceptual]

If utilities servicing the development are to be laid crossing or within the fronting road allowance, confirm permission with the owner of the fronting road (adjacent CP-holder, LNIB, City of Merritt, or the provincial government)

Provide for Conceptual

45. Bridge Across Creek [Conceptual]

Provide applicable federal authorizations related to an access bridge across river or creek.

Provide for Conceptual

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46. Access Permit [Conceptual and Final]

Provide letter of intent **[Conceptual]** and access permit, easement or right-of-way **[Final]** from the owner of the fronting road (adjacent CP-holder, LNIB, a municipality, or the provincial government) for allowing access to the development.

- Provide for Conceptual*
- Provide for Final*

47. Detailed Parking Design [Final]

Provide detailed design calculations and drawings for all proposed parking areas and spaces. Reference City of Merritt, paved or gravel lots acceptable.

- Provide for Final*

48. Detailed Road Design Drawings [Final]

Provide detailed design calculations and drawings for all proposed road and access to service the development.

- Provide for Final*

49. Road Details [Final]

Show design speed, horizontal and vertical road profile, vertical curve data, cross sections, intersection details and pavement structure on design drawings.

- Provide for Final*

50. Signage [Conceptual and Final]

Show the proposed [Conceptual] and actual [Final] location, size, height, colour, lighting and orientation of all signs. Sign designs may need to be reviewed and sealed by a professional engineer.

- Provide for Conceptual*
- Provide for Final*

GREENSPACE AND AMENITIES

51. Greenspace and Public Amenities [Conceptual and Final]

Show the proposed [Conceptual] and actual [Final] location and treatment of parks, green space, common areas, open spaces, trails, landscaping, fences, recreation features and any other public amenities.

- Provide for Conceptual*
- Provide for Final*

52. Community Services

Identify the local community services and public facilities that would be affected by the development, including the projected increase in users of existing community services and public

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facilities, potential increased costs to LNIB, and strategies to mitigate any negative impacts to community services and public facilities.

- Provide for Conceptual*

FUEL HANDLING

53. Fuel Storage and Dispensing [Final]

For gas station development, provide details of fuel storage tanks, connection piping, dispenser pumps, spill containment, oil – water separators, alarm system and an emergency response plan.

- Provide for Final*

FIRE PROTECTION

54. Fire Protection Service Agreement [Conceptual and Final]

Unless there is an existing fire protection service agreement in place, provide letter of intent **[Conceptual]** and service agreement for providing fire protection service to the development **[Final]** with, as applicable (i) LNIB, (ii) the City of Merritt, or (iii) a regional jurisdiction.

- Provide for Conceptual*
- Provide for Final*

55. LNIB's Fire Fighting Capability [Conceptual]

If fire protection service is to be obtained from LNIB, verify the existing capability of LNIB. If fire protection service is to be obtained by the City of Merritt under a formal agreement, verify adequate equipment and resources to respond to and provide firefighting service to the development.

- Provide for Conceptual*

UTILITIES

56. Utility Service Agreements [Conceptual and Final]

Provide letter of intent **[Conceptual]** and service agreement **[Final]** with utility companies for electricity, telephone, gas and solid waste disposal services.

- Provide for Conceptual*
- Provide for Final*

WORKS AND SERVICES

57. Municipal Type Servicing Agreement [Conceptual]

Provide copies of any Municipal Type Servicing Agreement that the developer has entered into.

- Provide for Final*

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58. Works and Services Agreement [Final]

Provide a Works and Services Agreement for all works or services that are owned and will be operated by LNIB. This agreement will include provisions for inspection, compliance with LNIB's approved products list, bonding of 125% of estimated construction costs for works and services, warranty period (2 years following construction, 15% of the estimated costs of works and services), transfer of works and services from the developer to LNIB, and any other provisions LNIB deems necessary.

- Provide for Conceptual (template agreement)*
- Provide for Final (signed agreement)*

COMPLETION DOCUMENTATION

59. FNHA Permits for Individual Homes [Final]

Provide written commitment from the Professional Engineer or Registered Architect to provide First Nations Health Authority permits for in-ground sewage disposal for individual homes **[Final]**. Actual permits are to be provided as part of the completion documentation.

- Provide for Final*

60. Restaurant Permit [Final]

Provide written commitment from the Proponent to provide a copy of Ministry of Health Permit to Operate A Food Service Establishment if kitchen or restaurant service is proposed **[Final]**. Actual permit is to be provided as part of the completion documentation.

- Provide for Final*

61. Registration of Rights of Way, Permits and Easements [Final]

Provide written commitment from the Professional Engineer or Registered Architect to provide copies of all registered rights of way plans, permits and easements **[Final]**. Actual plans and proof of registration must be provided as part of the completion documentation.

- Provide for Final*

62. Registration of Fuel Storage Tanks [Final]

Provide written commitment from the Professional Engineer or Registered Architect to provide a copy of the registration of all underground storage tanks and exterior aboveground storage tanks larger than 4000 litres **[Final]**. Actual registration documents are to be provided as part of the completion documentation.

- Provide for Final*

63. Construction Supervision [Final]

Provide written commitment from the Professional Engineer to provide all necessary construction supervision, inspection, site testing and record keeping during construction of the site work **[Final]**.

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Provide for Final

64. O&M Manuals [Final]

Provide written commitment from the Professional Engineer or Registered Architect to provide Operation & Maintenance Manuals for the electrical and mechanical systems upon completion **[Final]**. Actual Operation & Maintenance Manuals are to be provided as part of the completion documentation. The manual should also provide an estimation of the yearly cost for operations and maintenance.

Provide for Final

65. As-Built Drawings [Final]

Provide written commitment from the Professional Engineer or Registered Architect to provide accurate signed and sealed as-built drawings upon completion **[Final]**. Actual as-built drawings are to be provided as part of the completion documentation for all buried infrastructure, buildings, structures, roads, and works.

Provide for Final

66. Completion Report [Final]

Provide written commitment from the Professional Engineer or Registered Architect to provide a completion report detailing work progress, inspection records, testing results, and problems encountered on site **[Final]**. Actual completion report is to be provided as part of the completion documentation.

Provide for Final

67. Completion Certification [Final]

(a) Provide written commitment from the Co-ordinating Professional Engineer or Registered Architect who signed the BC Building Code Schedule A for the building to provide the BC Building Code Schedules C-A and C-B **[Final]**.

Provide for Final

(b) Provide written commitment from the Professional Engineer submitting the supporting services plans to provide an Engineer's Certificate certifying that all work is constructed in accordance with approved drawings and specifications **[Final]**.

Provide for Final

Schedule B General Requirements for Environmental Assessments

**SCHEDULE B
LOWER NICOLA INDIAN BAND
General Requirements for Environmental
Assessments on LNIB Land**

*SUBDIVISION, DEVELOPMENT, AND SERVICING LAW
AND SCHEDULES*

LOWER NICOLA INDIAN BAND

**GENERAL REQUIREMENTS FOR ENVIRONMENTAL ASSESSMENTS ON
LNIB LAND**

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LOWER NICOLA INDIAN BAND
GENERAL REQUIREMENTS FOR ENVIRONMENTAL ASSESSMENTS ON
LNIB LAND

PART 1 - INTRODUCTION

An Environmental Assessment is:

“the process of identifying, predicting, evaluating and mitigating the biophysical, social and other relevant effects of development proposals prior to major decisions being taken and commitments made”

(International Association of Impact Assessment)

An Environmental Assessment examines effects of proposed Projects on soil, air quality, water quality and supply, vegetation, fisheries, wildlife, traffic, noise, community health, economic development, archaeology and a variety of other social, economic, and environmental topics. An Environmental Assessment also examines the Cumulative Effects of a proposed Project combined with other past and foreseeable future human activities. Environmental Assessments also identify ways of avoiding or reducing adverse Environmental Effects.

An Environmental Assessment is a planning tool, a means of reviewing the effects of development, a process of community engagement, and an instrument for complying with regulatory requirements.

LNIB seeks the following benefits through the conduct of Environmental Assessment of activities on, or uses of, its lands:

- ❖ Gather information sufficient to enable the LNIB to exercise its decision-making authority over use of its lands
- ❖ Identify components of proposed Projects or plans that could adversely affect natural or human environments, the community, or the economy
- ❖ Propose ways of avoiding or minimizing adverse effects on environment, society and culture
- ❖ Improve Project design, construction, and operation
- ❖ Engage the community in the process of reviewing proposed developments
- ❖ Support better development decisions

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PART 2 - DEFINITIONS

1. (1) Unless otherwise defined in this section, definitions in these General Requirements have the same meaning as in the *Subdivision, Development, and Servicing Law* and the *LNIB Land Code*:

“Cumulative Effect” means the combined environmental, cultural or socio-economic impacts that accumulate from a series of actions, contaminants, or Projects;

“Environment” means the components of the Earth, and includes

- (a) land, water and air, including all layers of the atmosphere,
- (b) all organic and inorganic matter and living organisms, and
- (c) the interacting natural systems that include components referred to in paragraphs (a) and (b);

“Environmental Assessment” or “EA” means, in respect of a Project, an assessment of the Environmental Effects of the Project that is conducted in accordance with these General Requirements;

“Environmental Effect” means in respect of a Project,

- (a) any change that the Project may cause in the Environment, including any change it may cause to a listed wildlife species, its critical habitat or the residences of individuals of that species, as those terms are defined in subsection 2(1) of the *Species at Risk Act* (Canada),
- (b) any effect of any change referred to in paragraph (a) on
 - (i) health and socio-economic conditions,
 - (ii) physical and cultural heritage,
 - (iii) the current use of lands and resources for traditional purposes by aboriginal persons, or
 - (iv) any structure, site or thing that is of historical, archaeological, paleontological or architectural significance, or
- (c) any change to the Project that may be caused by the Environment,

and for certainty, includes Cumulative Effects;

“Framework Agreement” means the *Framework Agreement on First Nation Land Management*, as amended;

“Mitigation Measures” means economically and technically feasible measures for avoiding, eliminating, reducing or controlling the adverse Environmental Effects of a Project, and includes restitution for any damage to the Environment caused by those effects through replacement, restoration, compensation or any other means;

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“Project” means

- (a) an activity listed under section 12 of the *Subdivision, Development and Servicing Law* that is not exempt under section 13 of the *Subdivision, Development and Servicing Law*, including, but not limited to, in relation to a physical work, any proposed construction, operation, modification, decommissioning, abandonment or other undertaking in relation to that physical work on LNIB Land, or
- (b) a grant or disposition of an Interest in LNIB Land to a Person who is not a Member, or
- (c) a land use plan or regulation that specifies proposed uses of LNIB Land, or changes in land use designations for commercial, industrial, or institutional uses of LNIB Land;

“Proponent” means, with respect to a Project, the person, business, other body, government (including the LNIB government), or government agency that proposes a Project. Proponents can be developers, proposed lessees, licence or permit holders, a Member, or Council;

“Riparian Assessment Area” means

- (a) for a stream, the 30 metre strip on both sides of the stream, measured from the high water mark,
- (b) for a ravine less than 60 metres wide, a strip on both sides of the stream measured from the high water mark to a point that is 30 metres beyond the top of the ravine bank, and
- (c) for a ravine 60 metres wide or greater, a strip on both sides of the stream measured from the high water mark to a point that is 10 metres beyond the top of the ravine bank;

“*Subdivision, Development and Servicing Law*” means the *LNIB Subdivision, Development and Servicing Law*;

“Waterbody” means a lake, pond, stream, canal, wetland, river and its tributaries, or an ocean, up to the annual high water mark, but does not include a sewage or waste treatment lagoon.

(2) A reference to

- (a) a section number is a reference to a section of these General Requirements; and
- (b) a subsection or paragraph is a reference to a subsection or paragraph of the section or subsection in which the reference occurs.

PART 3 - APPLICATION OF THESE GENERAL REQUIREMENTS

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2. Unless an exemption applies under section 10, an Environmental Assessment of a Project is required in accordance with these General Requirements before LNIB exercises one of the following powers or performs one of the following duties or functions:
 - (a) approves a Project;
 - (b) regulates a Project;
 - (c) funds a Project; or
 - (d) undertakes a Project.

Scope of Environmental Assessment

3. As a matter of general application, LNIB will scope an Environmental Assessment to correspond with the size and complexity of a Project and its potential Environmental Effects.
4. The key elements in the scoping process which must be considered in all EAs are:
 - (a) the project undertakings and activities that must be assessed as part of the EA;
 - (b) the factors and issues that must be considered in the EA; and
 - (c) who will be involved in the EA, their interests and concerns.

Lands Manager's Discretion

5. Subject to the powers of Council under section 8, these General Requirements do not limit the Lands Manager's ability to:
 - (a) require an Environmental Assessment as part of an approval, permit, leasing or licensing process if the Lands Manager determines, in his or her sole discretion, that an Environmental Assessment is warranted in the circumstances despite the Project qualifying for an exemption under section 10; or
 - (b) subject to section 6, waive the requirement for an Environmental Assessment of a Project if the Lands Manager determines that an Environmental Assessment is not warranted in the circumstances because the proposed Project clearly does not have the potential to cause adverse Environmental Effects.
6. The Lands Manager may only waive the requirement for an Environmental Assessment under section 5(b) if the Lands Manager has obtained a written report from an environmental professional concluding that the Project's potential to cause adverse Environmental Effects is minor or negligible.
7. If the Lands Manager waives the requirement for an Environmental Assessment under section 5(b), he or she must provide notice of this decision to Council with reasons, a copy of the environmental professional's written report and any additional relevant supporting materials.

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Council Review of Decision to Waive an Environmental Assessment

8. A decision by the Lands Manager to waive the requirement for an Environmental Assessment under section 5(b) is subject to review by Council.

No Council Review of Decision to Require an Environmental Assessment

9. A decision by the Lands Manager to proceed with an Environmental Assessment under section 5(a) is not subject to review by Council.

**PART 4 - PROJECTS AND APPROVALS THAT ARE EXEMPT FROM THE REQUIREMENT
FOR AN ENVIRONMENTAL ASSESSMENT**

10. An Environmental Assessment is not required for the following, unless otherwise determined by the Lands Manager under section 5, or by Council under section 11:
- (a) administrative actions that do not affect land or resources;
 - (b) emergency repairs or action needed on an urgent basis to avert or respond to emergencies;
 - (c) responses to accidents or threats to public health;
 - (d) the exempted projects provided in Schedule 1 of the *Canadian Environmental Assessment Act Exclusion List Regulations, 2007*; or
 - (e) a Project proposed to occur on LNIB Land that meets all of the following criteria:
 - (i) the Project complies with applicable land use plans, environmental management plans and zoning regulations,
 - (ii) the affected land is not located in a Riparian Assessment Area,
 - (iii) the affected land is located more than 30 meters from an environmentally sensitive area identified in a land use plan or environmental management plan, fish habitat, migratory bird habitat, or land considered important for cultural reasons, including traditional use areas,
 - (iv) the Project would not emit or release substances that have the potential to pollute air or water,
 - (v) the Project would not result in increases of more than 30 vehicle trips per day to and from LNIB Land;
 - (vi) the Project would not add more than 20 residents on LNIB Land, and
 - (vii) for commercial or industrial development, the Project would not employ more than 10 people.

Council May Require Environmental Assessment

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11. Despite section 10(d) or 10(e), Council may require an Environmental Assessment where Members have raised a reasonable concern, or where Council believes on reasonable grounds that the Project may have harmful Environmental Effects.

PART 5 - HARMONIZING ENVIRONMENTAL ASSESSMENTS CONDUCTED BY MULTIPLE PARTIES

12. LNIB recognizes that the federal government has statutory responsibilities to conduct federal environmental assessments on LNIB Land in certain circumstances, and components of Projects occurring on lands adjacent to LNIB Land may be subject to an environmental assessment under provincial legislation. In an effort to avoid duplication, when LNIB determines that an Environmental Assessment is required for a Project occurring on its lands, or when other governments inform LNIB that their respective legislation requires conduct of an environmental assessment on LNIB Land or adjacent to LNIB Land, then the Lands Manager will make best efforts to schedule a meeting with the governments of Canada or British Columbia, as applicable, to seek agreement on the following issues:
- (a) the agency and individual that will be the main contact and coordinator of the environmental assessment for each involved jurisdiction;
 - (b) the common information requirements under the federal, provincial and LNIB environmental assessment processes;
 - (c) how the parties will develop a specific work plan for each Project undergoing a multi-jurisdictional environmental assessment;
 - (d) how the parties will co-ordinate their environmental assessment decisions and associated regulatory decisions with respect to a Project; and
 - (e) for future Projects, how each party will notify the others when an environmental assessment process is initiated under that jurisdictions' law.

LNIB's Environmental Assessment process

13. LNIB recognizes that under clause 25.6 of the Framework Agreement, LNIB and Canada will make best efforts to ensure LNIB's Environmental Assessment process will be used where there is overlapping jurisdiction. This priority will be reflected in any environmental assessment harmonization plan developed between LNIB, Canada, and British Columbia under clause 25.7 of the Framework Agreement.

PART 6 - THE LNIB ENVIRONMENTAL ASSESSMENT PROCESS

14. For most Projects, the procedures outlined in the **PART 7 - ENVIRONMENTAL ASSESSMENT STEPS** will be followed. Council or the Lands Manager may alter or amend steps as appropriate. The LNIB Environmental Assessment process is designed to meet the requirements of the Framework Agreement, including:
- (a) an Environmental Assessment is triggered in appropriate cases where the LNIB is approving, regulating, funding or undertaking a Project on LNIB Land;

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- (b) the Environmental Assessment process must be consistent with requirements of the *Canadian Environmental Assessment Act*; and
- (c) Environmental Assessments must be conducted as early as possible in the planning stages of the Project, before an irrevocable decision is made.

Environmental Assessment Approval Required

15. For Projects determined to require an Environmental Assessment under these General Requirements, Council must issue an Environmental Assessment approval under, Step 51(E) before Council will consider issuing a permit or any other approval under a LNIB law. It is recommended that the Proponent complete all required Environmental Assessments prior to completing any lease or sub-lease agreements.

PART 7 - ENVIRONMENTAL ASSESSMENT STEPS

Step 1: Screening – Submission of the Project Description (Lands Manager determines whether Environmental Assessment is required)

- (A) A Proponent is expected to review applicable LNIB land use plans, environmental management plans and zoning regulations to determine whether the proposed Project is permitted on the land in question before taking steps to advance a proposed Project.
- (B) For all Projects for which an Environmental Assessment is required under sections 2 to 9 of these General Requirements, the Proponent will prepare and submit a detailed Project Description to the Lands Manager containing the information set out in Appendix “B”.
- (C) Council may require a Proponent to provide additional information than what is provided at Appendix “B”.
- (D) The Proponent must pay the administration fee provided in Appendix “A” before the Lands Manager will review the Project Description.
- (E) If the Lands Manager believes a Project Description submitted by a Proponent is incomplete, the Lands Manager may, within a reasonable time of receiving the Project Description, notify the Proponent that additional information is required. Upon determining a Project Description is complete, the Lands Manager will date-stamp the Project Description and provide a copy to the Proponent.
- (F) The Lands Manager will review the Project Description to ensure the proposed Project is permitted by applicable land use plans and zoning regulations. If the Project is not permitted, the Lands Manager will notify the Proponent that LNIB will not consider the Project.
- (G) Following the Lands Manager’s confirmation that a proposed Project is permitted by applicable land use plans and zoning regulations under Step 1(F), the Lands Manager may forward the Project Description, or direct the Proponent to forward the Project Description, to LNIB administration, Indigenous and Northern Affairs Canada, the Lands Advisory Board, Fisheries and Oceans Canada, the Canadian Wildlife Service, adjacent

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municipalities, or other government departments or authorities, and will advise on the deadline for providing comments to LNIB on the Project Description.

The decision to involve other governments may be based on whether those departments or other entities have decisions to make or can contribute expert or specialist advice.

The Lands Manager may determine that additional time is required to obtain input from other governments or authorities who have been forwarded the Project Description and will provide notice to the Proponent before the initial deadline expires if further time is required.

Step 2: Determining the Need for an Environmental Assessment

- (A) The Lands Manager, using the information contained in the Project Description, will determine whether an Environmental Assessment is required.
- (B) Unless an Environmental Assessment is waived under Step 1(E), the Lands Manager will provide notice of his or her determination to the Proponent.
- (C) The Lands Manager will provide public notice of the Environmental Assessment determination and a copy of the Project Description in the LNIB administration office and/or on the LNIB website as soon as practicable after the determination is provided to the Proponent by the Lands Manager under Step 2(B), or by Council under Step 2(F). The publicly-posted notice will advise the public where to access the Lands Manager's report.
- (D) A determination that an Environmental Assessment is not required under these General Requirements (including if an Environmental Assessment is waived) does not exempt the Proponent from complying with federal environmental assessment requirements or the need to obtain authorizations under applicable LNIB, federal, or provincial laws and regulations.

Decision to Waive an Environmental Assessment

- (E) If the Lands Manager decides to waive the requirement for an Environmental Assessment based on an environmental professional's written report in accordance with section 5(b) and section 6, the Lands Manager will prepare a report setting out the reasons for the determination and will provide notice to Council with a copy of the Lands Manager's report, a copy of the environmental professional's written report and any additional relevant supporting materials. For certainty, notice of the decision on whether to waive an Environmental Assessment will not be provided to the Proponent until Council has made a determination under Step 2(F).
- (F) Under section 8, Council will review a determination by the Lands Manager to waive an Environmental Assessment for a Project. Within a reasonable time of Council's receipt of the Lands Manager's report under Step 2(E), Council will:
 - (a) confirm the determination of the Lands Manager; or

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- (b) require an Environmental Assessment notwithstanding the Lands Manager's determination; and
- (c) provide notice to the Proponent.

If further time is required by Council, Council will seek agreement with the Proponent on an appropriate timeline for finalizing Council's decision.

- (G) If Council decides to confirm the Lands Manager's determination and waive the requirement for an Environmental Assessment, Council must provide public notice to Members advising that Members may object to the determination by submitting a written notice to the Lands Manager within a 30-day notice period.
- (H) The Lands Manager will summarize any objections received by Members and provide to Council within 15 days of the close of the notice period provided under Step 2(G).
- (I) Council will consider the Lands Manager's summary of Members' objections provided under Step 2(H) and will determine whether to change their determination.
- (J) The Lands Manager will provide public notice of Council's consideration of Member objections and any change to their decision to waive an Environmental Assessment in the LNIB administration office and/or on the LNIB website as soon as practicable after the determination is provided by Council under Step 2(I).

Step 3: Environmental Assessment

- (A) If a Project requires preparation of an Environmental Assessment, the Lands Manager will provide the Proponent with an overview of the Proponent's obligations in undertaking the Environmental Assessment, including the anticipated timeline, and the approximate costs associated with LNIB's review of the Terms of Reference to determine the appropriate level of assessment for the Project (the "Screening Fee").
- (B) The nature of the Proponent's obligations, the duration of the Environmental Assessment and the amount of the Screening Fee will depend on the following factors:
 - (a) the degree of complexity of the Project;
 - (b) the volume of baseline information required to be collected;
 - (c) the extent of the Project's impact on the community during construction, operation and decommissioning phases;
 - (d) the magnitude, geographic range and duration of the Project;
 - (e) the likelihood and significance, and extent of reversibility of Environmental Effects of the Project, and the ecological and social context of the Project; and
 - (f) the costs/time of the LNIB administration and Council.
- (C) The Lands Manager will notify the Proponent of the following within a reasonable time of the Proponent's receipt of notice that an Environmental Assessment is required under Step 2:

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- (a) the Proponent's obligations;
 - (b) the timeline for the Environmental Assessment; and
 - (c) the Screening Fee under Step 3(A).
- (D) For certainty, providing the Proponent with an overview under Step 3(A) does not bind LNIB to the scope and administrative cost of the Environmental Assessment communicated to the Proponent. The Lands Manager may reassess the Proponent's obligations, timeline for the Environmental Assessment and any supplementary Screening Fee at any time following the Proponent's submission of the Environmental Assessment report under Step 4: Review the draft Environmental Assessment report.

Terms of Reference

- (A) The Proponent is responsible for preparing Terms of Reference, which will describe the approach to and methods for carrying out an Environment Assessment. The Lands Manager will oversee the development of, and ultimately approve the Terms of Reference.
- (B) Accordingly, the Proponent is expected to consult with the Lands Manager throughout the Proponent's development of the Terms of Reference to ensure that the Environmental Assessment will include information considered necessary by the LNIB. This consultation is critical to avoid delays in the Environmental Assessment process.
- (C) The Generic Terms of Reference at Appendix "C" will serve as a framework for a Project's Terms of Reference, which may be modified by the Lands Manager to account for the degree of complexity of the Project and any other factors that, in the opinion of the Lands Manager, are relevant to the Environmental Assessment. The Lands Manager may require that an Environmental Assessment include some or all topics listed in Appendix "D", or additional topics at the Lands Manager's sole discretion.
- (D) The Lands Manager may retain the assistance of specialists in relevant fields to assist in reviewing Terms of Reference submitted by the Proponent. The Proponent is required to cover any costs incurred by LNIB in retaining such specialist assistance.
- (E) Where a Project has the potential to have a significant adverse Environmental Effects on LNIB Land or resources, or on the interests of the LNIB community, the Lands Manager may:
 - (a) engage Members in a review of the Terms of Reference; or
 - (b) circulate the draft Terms of Reference to LNIB administration and other governments for review and comment.

The Lands Manager will determine the appropriate period of time, from 15 to 45 business days, depending on the complexity of the Project and the potential Environmental Effects, within which to engage Members and seek feedback from other governments. The Lands Manager may determine that a further 15 to 45 business days is required to review the Terms of Reference and obtain comments and will provide notice to the Proponent within the first designated timeframe if further time is required.

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- (F) As soon as practicable following the Proponent's submission of the Terms of Reference, or following the close of the review under Step 2(H), if applicable, the Lands Manager will, upon consideration of any feedback obtained, approve the Terms of Reference if:
- (a) the Terms of Reference addresses all issues necessary for inclusion in the subsequent Environmental Assessment; and
 - (b) the process for preparing the Environmental Assessment is considered adequate.

The Lands Manager will notify the Proponent of the Lands Manager's determination and may also request additional information from the Proponent to be provided within a timeline agreed to by the Lands Manager and the Proponent.

- (G) If the Proponent submits additional information in response to the Lands Manager's request under Step 3(I), the Lands Manager may direct that the new information be the subject of additional consultation under Step 3(H), before the Lands Manager reconsiders the draft Terms of Reference under section Step 3(I).

Conducting the Environmental Assessment

- (H) After the Lands Manager approves the Terms of Reference, the Proponent will assume responsibility for conducting the Environmental Assessment. Typically, the Proponent is expected to retain professionals with the requisite expertise to study specified issues, identify potential Environmental Effects, propose measures to mitigate those effects, and prepare resulting reports.

Environmental Assessment Report

- (I) The Proponent will prepare and submit a draft Environmental Assessment report to the Lands Manager. The report will be accompanied by a table indicating that the topics and actions specified in the Terms of Reference have been completed and will identify the authors of the report and describe their professional qualifications.
- (J) LNIB desires clear Environmental Assessments that provide information on specified topics and reach clear conclusions about Environmental Effects and Mitigation Measures. Excessive data collection, superfluous text, or unnecessarily complex analysis is discouraged. Honest and unbiased assessment of impacts is an absolute requirement. Failure to meet this requirement will result in the Proponent being required to revise and re-submit the report.

Step 4: Review the draft Environmental Assessment report

- (A) The Lands Manager will determine the process for reviewing the draft Environmental Assessment report and will specify the parties to be involved, including how the Members will be consulted.
- (B) The Lands Manager will advise the Proponent of the process under Step 4(A) within a reasonable time from the Lands Manager's receipt of the draft Environmental Assessment report, which may include:

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- (a) the requirement to conduct an independent technical review of any materials submitted by the Proponent, which may involve retaining an independent specialist and working jointly with LNIB staff;
 - (b) the requirement to appoint and fund a LNIB Project Manager for larger Projects;
 - (c) the approximate duration of time required to complete the Environmental Assessment including any associated technical reviews and applicable deadlines; and
 - (d) the level of community consultation required.
- (C) The Proponent is responsible for all costs associated with LNIB's review of the Environmental Assessment report, including related to community consultation, retaining technical support under Step 4(A), and administrative costs incurred by LNIB staff.
- (D) An important function of an Environmental Assessment is to communicate findings to the community. For large Projects with the potential to affect the entire community, community meetings, open houses or workshops may be required. For smaller Projects, it may be adequate to notify the membership that a report is available for Members' review and comment. The Lands Manager will determine how community engagement will be conducted.
- (E) The Lands Manager will direct the internal LNIB administrative review of the draft Environmental Assessment report, conduct community consultation, and may direct the Proponent to circulate the draft Environmental Assessment report to federal or provincial agencies or to local governments for their review and comment.
- (F) As soon as practicable following the completion of the review and consultation under Step 4(E), the Lands Manager will organize the feedback on the draft Environmental Assessment report and will provide to the Proponent.
- (G) In accordance with any applicable deadlines imposed by the Lands Manager, the Proponent will submit to the Lands Manager the revised final version of the Environmental Assessment report that accounts for all comments and feedback raised by all applicable parties set out at Step 4(F), including a table outlining all concerns identified during the public consultation process, and how each concern was addressed.

Step 5: Environmental Assessment Decision

- (A) Upon receipt of the revised final version of the Environmental Assessment report, the Lands Manager may:
- (a) obtain feedback on the report from specialist experts at the cost of the Proponent;
 - (b) circulate the report with LNIB administration and to staff of other government agencies; and
 - (c) conduct community consultation in accordance with the level of consultation determined under Step 4(A).

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- (B) As soon as practicable following the Lands Manager's receipt of the revised final version of the Environmental Assessment Report and any feedback received under Step 5(A), the Lands Manager will prepare an Environmental Assessment completion report that includes the following components:
- (a) a summary of comments from specialists, experts, Members, or others on the quality and findings of the Environmental Assessment report;
 - (b) a presentation of conclusions about the nature and significance of potential Environmental Effects and the effectiveness of Mitigation Measures identified; and
 - (c) the Lands Manager's comments on conditions that may be attached to future approvals or permits that would likely mitigate identified Environmental Effects or enhance identified benefits, which may include, but are not limited to, preparing and conducting a monitoring program to verify the findings of the Environmental Assessment and to assess the effectiveness of the Mitigation Measures. In the event of such a condition, the Proponent may be required to fund monitoring to be conducted by LNIB.
- (C) For certainty, the Lands Manager's Environmental Assessment completion report must not conclude whether a Project should proceed, but rather will focus on the potential Environmental Effects of implementing a Project.
- (D) The Lands Manager will refer the following to Council for Council's review and decision on whether to issue an Environmental Assessment approval:
- (a) the Proponent's submission under Step 4(G); and
 - (b) the Environmental Assessment completion report under Step 5(B).
- (E) As soon as practicable upon receipt of the Environmental Assessment completion report under Step 5(C), Council will:
- (a) issue an Environmental Assessment approval where, taking into account the implementation of any Mitigation Measures provided in the Environmental Assessment completion report,
 - (i) the Project is not likely to cause significant adverse Environmental Effects, or
 - (ii) the Project is likely to cause significant adverse Environmental Effects, but those effects can be justified in the circumstances; or
 - (b) refuse to issue an Environmental Assessment approval where, taking into account the implementation of any Mitigation Measures provided in the Environmental Assessment completion report, the **Project is likely to cause significant adverse Environmental Effects that cannot be justified in the circumstances.**
- (F) Council's decision under Step 5(E) will set out the following:

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- (a) the reasons for Council's decision;
 - (b) if Council issues an Environmental Assessment approval, any monitoring and Mitigation Measures, and, if applicable, Council's justification for issuing an Environmental Assessment approval despite significant Environmental Effects; and
 - (c) if Council refuses to issue an Environmental Assessment approval, the process for disputing Council's decision.
- (G) For certainty, Council's decision under Step 5(E) does not extend to Project approval and is restricted only to a determination of the Environmental Effects of a Project. Decisions about Project approval or rejection occur at the permitting stage in accordance with LNIB Laws and policies. Permits and other approvals may also be required under other applicable legislation (e.g., *Fisheries Act*), the issuance of which is not controlled by LNIB.

Step 6: Implement Mitigation and follow-up program, as appropriate

Step 6 applies if Council issues an Environmental Assessment approval under Step 5(E)(a).

- (A) The Mitigation Measures identified in the Environmental Assessment completion report will be incorporated into any design plans, site plans, permits, construction tender, and implemented with the Project, which may include the requirement to prepare an environmental protection plan that specifies how impacts will be avoided or mitigated, how land will be restored following construction, etc. Note that an environmental protection plan may be required as part of the Environmental Assessment (see Appendix "C" Generic Terms of Reference, section 6).

Schedule C General Requirements for Timber Permits

**SCHEDULE C
LOWER NICOLA INDIAN BAND
General Requirements for Timber Permits**

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**LOWER NICOLA INDIAN BAND
GENERAL REQUIREMENTS FOR TIMBER PERMITS**

PART 1 - PURPOSE

1. The objectives of these General Requirements are:
 - (a) to set out a standardized set of rules and processes that apply to obtaining a timber permit on LNIB Land to harvest timber, including for the purposes of fuel management, and, in some circumstances, to sell timber harvested on LNIB Land; and
 - (b) to clearly define the roles and responsibilities of the Lands Manager, the Lands Management Advisory Committee, the Lands Department and applicants during the application process.

PART 2 - GENERAL

Definitions

2. The definitions in section 2.1 of the Land Code and section 5(1) of the *Subdivision, Development and Servicing Law* apply to these General Requirements.
3. For the purposes of these General Requirements
 - “archaeological assessment” means an archeological overview assessment, a preliminary field reconnaissance, an archaeological impact assessment, or other assessment or investigation conducted in accordance with LNIB’s policies and practices, which may include the LNIB Cultural Heritage Policy,
 - “clearing land” means to remove timber for the purpose of development, including construction;
 - “environment” means the air (including all layers of the atmosphere), land (including soil, sediment and fill deposited on land), water (including groundwater and surface water) and all other external conditions or influences under which humans, animals and plants live or are developed, and “environmental” has a corresponding meaning,
 - “fuel management” means reducing forest fuel to manage risk of forest fires,
 - “fuel management prescription” means a document setting out the information required at section 23(g) of these General Requirements,
 - “General Requirements” means these LNIB General Requirements for Timber Permits;
 - “permittee” means a Person to whom the Lands Manager has issued a timber permit in accordance with these General Requirements,
 - “site plan” means a plan described at section 23(f) of these General Requirements,
 - “timber permit” means a permit that has been issued by LNIB as an authorization under the *Subdivision, Development and Servicing Law* to authorize the harvesting of timber on LNIB Land, which may also include the authority to sell the timber.

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4. The term “harvest” or any modification of that term (e.g. harvested, harvesting) in relation to timber, includes the removal or clearing of timber regardless of the purpose for which the timber will be used.
5. A reference to
 - (a) a section number is a reference to a section of these General Requirements; and
 - (b) a subsection or paragraph is a reference to a subsection or paragraph of the section or subsection in which the reference occurs.

Role of Council

6. Council has delegated its authority, to grant a timber permit and to impose conditions on a timber permit in accordance with these General Requirements, to the Lands Manager.

Role of the Lands Manager

7. The Lands Manager is responsible for:
 - (a) receiving and reviewing applications for a timber permit;
 - (b) referring complete applications for a timber permit to harvest timber to the Lands Management Advisory Committee;
 - (c) taking into account the input from the Lands Management Advisory Committee, deciding whether to approve or refuse applications for a timber permit, including subject to terms and conditions;
 - (d) issuing timber permits and written reasons if an application is refused;
 - (e) advising on applicable stumpage rates, or other fees for the commercial sale of timber;
 - (f) receiving and reviewing timber harvest completion reports; and
 - (g) delegating permissible duties to Lands Department staff.

Role of the Lands Management Advisory Committee

8. The Lands Management Advisory Committee is responsible for:
 - (a) reviewing applications for a timber permit to harvest timber in order to determine whether to recommend that the Lands Manager approve or refuse the applications; and
 - (b) recommending that a timber permit to harvest timber be subject to certain terms and conditions, if applicable.

Role of the Lands Department

9. The Lands Department is responsible for:
 - (a) ensuring all requirements under these General Requirements are complied with during the assessment of applications;
 - (b) ensuring the monitoring and enforcement of timber permits;

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- (c) maintaining a file in the Lands Department for all timber permits; and
- (d) carrying out any tasks under the supervision of the Lands Manager or delegated by the Lands Manager.

PART 3 - GENERAL REQUIREMENTS

Application of these General Requirements

- 10. These General Requirements apply to any timber harvesting on LNIB Land, including for the purposes of clearing land, fuel management, and to the sale of timber harvested on LNIB Land.
- 11. For certainty, the commercial sale of all timber harvested on LNIB Land is regulated under these General Requirements.

Delegation

- 12. The Lands Manager may delegate his or her duties set out at sections 24-26, 34 and 35 to staff in the Lands Department.

Subject to LNIB Laws

- 13. These General Requirements are subject to all LNIB Laws.

Timber Permit Required to Harvest Timber

- 14. Subject to the exemption at section 17, a Person may only harvest timber from LNIB Land in accordance with a timber permit issued to the Person.

Applicant Eligibility

Members and LNIB-owned entities

- 15. A timber permit may authorize a Member or LNIB-owned entity to harvest timber for the following purposes:
 - (a) firewood for either personal use or donated for the use of LNIB Elders or other Members,
 - (b) fuel management,
 - (c) clearing land, or
 - (d) commercial sale.

Other applicants

- 16. A timber permit may only authorize a Person who is not a Member of LNIB-owned entity to harvest timber from LNIB Land for the purpose of clearing land.

Exemption

- 17. Subject to the Person obtaining consent from the holder of the CP Land, a Person must not obtain a timber permit, or other authorization, to harvest the following on CP Land in any calendar year:

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- (a) up to four trees of 50 centimetres diameter or less at 1.4 metres height; or
- (b) not more than two trees of 50 centimeters diameter or greater at 1.4 metres height.

Clearing Land

- 18. Subject to section 19, the Lands Manager may authorize the permittee of a timber permit issued for the purposes of clearing land to use the timber as firewood.
- 19. If a permittee under section 18 is not a Member or LNIB-owned entity, the Lands Manager may only authorize the permittee to donate the timber to LNIB Elders or other Members for their use as firewood.

Sale of Timber

- 20. Subject to LNIB obtaining a timber mark from the Province of British Columbia, a Member or LNIB-owned entity may only sell timber harvested on LNIB Land if the sale is authorized in a timber permit.

No Assignment

- 21. A timber permit may not be assigned.

PART 4 - PROCESS

Applying for a Timber Permit to Harvest Timber

- 22. A Person may apply to the Lands Manager for a permit to harvest timber by submitting to the Lands Department an application in a form approved by Council.
- 23. A complete application to harvest timber will include the following:
 - (a) an overview map at 1:20,000 scale, showing area where the proposed timber harvesting will be located, the applicable LNIB Reserve boundary, and if applicable any individual land holdings (e.g. Certificate of Possession);
 - (b) 1:5,000 and 1:10,000 scale maps showing where the proposed timber harvesting will be located and includes, where applicable:
 - (i) north arrow
 - (ii) legend
 - (iii) land parcel boundaries, lot numbers and either a sketched-out site plan or fuel management prescription boundaries, as applicable, showing the exact proposed harvest area
 - (iv) contour lines
 - (v) established roads
 - (vi) proposed roads
 - (vii) labeled and classified water courses (e.g. W1 wetland, S4 stream)
 - (viii) bridges and culverts

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- (ix) landings
- (x) terrain features
- (xi) forest cover information
- (xii) elevation
- (xiii) skidding/yarding direction
- (xiv) existing infrastructure (e.g. buildings, camps)
- (xv) identification of the following values provided for in the site plan (for an application to harvest timber other than for fuel management):
 - A. cultural use sites and heritage sites
 - B. wildlife habitat in accordance with section 23(f)(iv)
 - C. fisheries
 - D. community watersheds
 - E. recreation features
- (xvi) identification of the values listed at section 23(g)(v) Provide for in the fuel management prescription (for an application to harvest timber for the purpose of fuel management);
- (c) a Land Status Report;
- (d) an archaeological assessment;
- (e) any supporting documents, information or approvals that demonstrate compliance with the General Requirements for Environmental Assessments;
- (f) for an application to harvest timber for a purpose other than for fuel management, a site plan that will include/identify the following:
 - (i) species composition and density
 - (ii) forest health concerns (e.g. prevalence of gall rust or stem rust)
 - (iii) cultural use sites and heritage sites
 - (iv) wildlife habitat, including any habitat protected by the Species at Risk Act and provincial endangered species legislation upon its enactment and coming into force
 - (v) fisheries
 - (vi) community watersheds
 - (vii) recreation features
 - (viii) harvesting methods to be used

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- (ix) equipment to be used
 - (x) the applicable dates for all activities
 - (xi) location of work relative to water courses and other values identified by LNIB as significant
 - (xii) post-harvest prescription
 - (xiii) slash disposal method
 - (xiv) deactivation and rehabilitation plans for roads and landings
 - (xv) reforestation prescription
 - (xvi) site preparation methods, if applicable;
- (g) for an application to harvest timber for fuel management, a fuel management prescription that will include/identify the following:
- (i) project identifier and description
 - (ii) stand description and treatment units
 - (iii) fuel management treatments to be used, e.g. hazard tree removal, thinning, pruning, brush removal, pile and burn, hand-felled or machine felled, any equipment or skidding involved
 - (iv) resource values: timber management objectives, forest health, species at risk
 - (v) management approach for the following values:
 - A. wildlife habitat and biodiversity, e.g. wildlife trees, fisheries
 - B. community watershed or domestic water use, riparian management
 - C. cultural heritage management, aboriginal plant use
 - D. rare plant communities
 - E. recreation, visual quality, other resource values, public interests;
- (h) consent of CP-holder: if the timber harvesting is proposed on CP land, the application to harvest timber must be signed by the CP-holder demonstrating consent to the proposed harvest;
- (i) an application fee of \$500, or other fee approved by Council, which will serve to reimburse LNIB for their time reviewing the application and supporting materials; the Lands Manager may decide to reduce or waive the application fee where the Lands Manager decides, within his or her full discretion, it would be appropriate taking into account the nature of the proposed timber harvesting and the applicant's circumstances.

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Review of Application to Harvest Timber

24. The Lands Manager will review the application to harvest timber and supporting materials for completeness and may request additional information from the applicant.
25. The Lands Manager may access and review the applicant's credit history to help assess whether the applicant can likely manage the financial costs associated with the proposed timber harvesting.
26. Following this review, the Lands Manager will refer the application and supporting materials to the Lands Management Advisory Committee.

Lands Management Advisory Committee Review

27. The Lands Management Advisory Committee will review the application to harvest timber and all supporting information and determine whether to recommend that the Lands Manager approve or refuse the application to harvest timber based on consideration of the following factors:
 - (a) the promotion of health, safety, convenience and welfare of Members and of Interest Holders, residents, occupants of LNIB Land;
 - (b) the well-planned and orderly development of LNIB Land and the preservation of amenities and special features of LNIB Land;
 - (c) compliance with any applicable land use plan, zoning requirements, and other LNIB enactments and with applicable federal, provincial and municipal laws and standards;
 - (d) any potential impacts on habitat for fish or wildlife;
 - (e) environmental protection and enhancement;
 - (f) flood plain measures;
 - (g) the protection and enhancement of cultural and heritage sites;
 - (h) viewscales, aesthetics and visual qualities;
 - (i) the conservation of property values;
 - (j) the potential impacts on adjacent uses, Interest Holders and occupants;
 - (k) the development of the zone, neighbourhood and LNIB Land in a manner that contributes to the economic, environmental, cultural and community health of LNIB, Members and the occupants of LNIB Land;
 - (l) any information provided and any authorizations granted by LNIB, including any terms or conditions, in relation to the same lands; and
 - (m) any other factors which may have an impact on the community or LNIB Land.
28. The Lands Management Advisory Committee may:
 - (a) request additional information from the applicant; or
 - (b) recommend the Lands Manager

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- (i) approve the application, or
- (ii) refuse the application.

- 29.** If the Lands Management Advisory Committee recommends the Lands Manager approve the application, the Committee may recommend that the approval be subject to certain terms and conditions in addition to the mandatory terms and conditions of all timber permits provided at sections 37 and 38.
- 30.** The Lands Management Advisory Committee will notify the Lands Manager of their recommendation on the application to harvest timber including any terms or conditions imposed under section 29. The Committee's decision will include reasons if the Committee recommends the Lands Manager refuse the application.

Lands Manager Decision

- 31.** Upon receipt of the recommendation under section 30, the Lands Manager will review the application to harvest timber and all supporting information, including the Lands Management Advisory Committee's recommendation and consider the factors provided at section 27, and may
- (a) request additional information from the applicant; or
 - (b) decide either
 - (i) to approve the application, or
 - (ii) refuse the application.
- 32.** If the Lands Manager approves the application, his or her decision must specify whether he or she modified the applicant's site plan or fuel management prescription, as applicable. For example, if the harvesting area, the volume of timber or tree species has been changed.
- 33.** In addition to the mandatory timber permit terms and conditions provided at sections 37 and 38, the Lands Manager may approve the application to harvest timber with any reasonable terms or conditions.
- 34.** The Lands Manager will notify the applicant of the Lands Manager's decision and will either
- (a) issue a timber permit with applicable terms or conditions; or
 - (b) provide a copy of the Lands Manager's reasons for refusing the application to harvest timber.

Stumpage Rate

- 35.** If the applicant is seeking to both harvest and sell the timber, the Lands Manager will advise the applicant of the applicable stumpage rate, or if LNIB will impose a separate fee.
- 36.** The stumpage rate will be based on:
- (a) rates set out in the B.C. Interior Appraisal Manual for Timber Pricing, as amended from time to time,
 - (b) on provincial stumpage rates for similar harvest on off-reserve lands, or

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- (c) a stumpage rate approved by the Lands Manager after taking into account the circumstances and factors relevant to the specific harvest on reserve lands.

Permit Terms

- 37.** A timber permit will include the following terms and conditions, in addition to any discretionary conditions imposed by the Lands Manager:
 - (a) the permittee must ensure the activity under the timber permit is authorized by all CP-holders for the land in question, if applicable;
 - (b) the permittee may only harvest timber in strict compliance with the approved site plan or fuel management prescription, as applicable (which may have been modified by the Lands Manager as a term of approval);
 - (c) the permittee must comply with the terms and mitigation measures imposed by LNIB under the General Requirements for Environmental Assessments;
 - (d) the permittee may only use a faller certified by the B.C. Forest Safety Council;
 - (e) the permittee must follow all applicable laws and policies, including, but not limited to those related to safety and noise control;
 - (f) timber harvested pursuant to a timber permit that authorizes harvesting for the sole purpose of providing the timber to LNIB Elders and other Members or for fuel management must only be Provide forthat purpose, and must not be sold or bartered for;
 - (g) the permittee must carry insurance coverage in an amount and subject to the terms provided in the timber permit by the Lands Manager;
 - (h) the permittee must obtain Workers' Compensation Insurance for all applicable activities carried out under the timber permit;
 - (i) the timber permit will expire two years from the date of the permit's issuance.
- 38.** In addition to the terms provided at section 37, a timber permit authorizing the harvest and sale of timber will include the following terms and conditions:
 - (a) the permittee must provide a certified forest professional's assessment of the volume and quality of the timber to be harvested obtained by a timber cruise or timber evaluation;
 - (b) the permittee must pay to LNIB the applicable stumpage fee calculated at the stumpage rate, or other fee communicated by the Lands Manager under section 35;
 - (c) all timber that is removed from LNIB Land under the timber permit must be scaled, stamped/marked and licensed in accordance with the Province of British Columbia's standards;
 - (d) any non-marketable timber must be made available to LNIB Elders and other Members for firewood.

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Timber Harvest Completion Report

- 39.** The permittee must file a timber harvest completion report with the Lands Manager following the completion of timber harvesting activities authorized under a timber permit.

Timber harvesting other than for fuel management

- 40.** The timber harvest completion report for timber harvesting other than for fuel management must include the following:
- (a) a reference to the site plan and timber permit (include permit number);
 - (b) a description of and rationale for any deviations in activities described in the original site plan;
 - (c) a summary of the actual scaled volume of timber by species for each block or other designated area;
 - (d) a schedule of all post-harvest surveys and other activities that are to be completed for a particular block or other designated area in accordance with the site plan;
 - (e) GPS data of the final block boundary, location and status of roads and landings, streams, lakes and wetlands adjacent to blocks.

Timber harvesting for purpose of fuel management

- 41.** The timber harvest completion report for timber harvesting for the purpose of fuel management must include the following:
- (a) a reference to the fuel management prescription and fuel management permit (include permit number);
 - (b) a description of and rationale for any deviations in activities described in the original fuel management prescription.

PART 5 - REFERENCES

- 42.** In addition to these General Requirements, consult the following resources:
- (a) the *Subdivision, Development and Servicing Law*;
 - (b) the LNIB Amended Land Code;
 - (c) the First Nations Lands Management Act;
 - (d) the Individual Agreement on First Nation Land Management between LNIB and Her Majesty the Queen in Right of Canada.