

# Lower Nicola Indian Band Cultural Heritage Policy



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# RESPECT, RESPONSIBILITY AND RELATIONSHIPS

zumíntm tékmme he  
tmíx<sup>w</sup>kt

“We really care for all our land”



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## 1. DECLARATION OF THE NLAKA'PAMUX<sup>1</sup> NATION

Since time immemorial, we the Nlaka'pamux have held Aboriginal Title to the traditional lands of our Nation.

For countless generations, we have exercised sovereignty over the land, the waters, the salmon, the animals and all other resources through the government of our Nation. This sovereignty has never been extinguished through treaty, superseded by law, nor lost through conquest to the Crown or any other foreign power.

Over this time, we have continuously and without interruption used and occupied this territory. Those parts now controlled by others than Nlaka'pamux people were taken without our consent and without compensation.

In defense of Nlaka'pamux Aboriginal rights and title, a comprehensive claim was filed with the federal government in 1984 asserting our title to the land of the Nlaka'pamux Nation and to the resources upon, above and below these lands and asserting our full Aboriginal rights and including the authority to operate and define our system of government within Canada and our right to complete freedom from any and all taxation by any other government.

These rights have been asserted many times by our leaders who came before us. It is in their remembrance and in hope for those to come, that this declaration is made on behalf of all Nlaka'pamux so that we may negotiate a fair and just settlement of the Nlaka'pamux land question.



<sup>1</sup> Where historic documents use the spelling "Nlaka'pamux", it will not be changed. However, the current and preferred spelling used by the Lower Nicola Indian Band is "Nle?kepmx".

## 2. VISION STATEMENT OF THE LOWER NICOLA INDIAN BAND, DECEMBER 1996

We, the people of the Lower Nicola Indian Band, commit ourselves to being a peaceful, prosperous and secure community made up of healthy individuals rooted in the Nlaka'pamux culture, respecting ourselves, each other, the environment and all Creation. We will honor and protect our children, the sacred gifts from the Creator, and our elders, the wisdom keepers.

Together as one, we will take responsibility to regain control of our own destiny and rebuild our relationship with other people on a firm footing of respect and justice.

We will possess our traditional territories and defend our hereditary and Aboriginal rights as Nlaka'pamux people, and promote unity and strength of the Nlaka'pamux Nation as a whole.

We will be a sovereign community with a government based on traditional values, guided by leaders who know and respect the language, culture and people.

We recognize that injustices have been committed against our people: our lands have been occupied, our culture eroded, and our sovereignty denied. We will not allow this to continue and will ensure that it never happens again.

In this, the Lower Nicola Indian Band will be a model community that others look to for direction and inspiration. We will realize true power, fulfill our responsibility to our ancestors, and create peace and prosperity for future generations.



### 3. PREAMBLE LOWER NICOLA LAND CODE, 2016

**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 customs, laws, traditions and teachings bind us to the land;

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

**AND WHEREAS** for countless generations we have exercised governance authority over the land, the waters, the salmon, the animals and all other resources of the land;

**AND WHEREAS** the land is a living entity that gave life to our ancestors and will continue to support our community now and into the future;

**AND WHEREAS** the Lower Nicola Indian Band aspires to move ahead as an organized, highly-motivated, determined and self-reliant nation;

**AND WHEREAS** the Lower Nicola Indian Band is comprised of proud, united people whose purpose is to establish a future that will ensure a high quality of life while living in harmony with the environment;

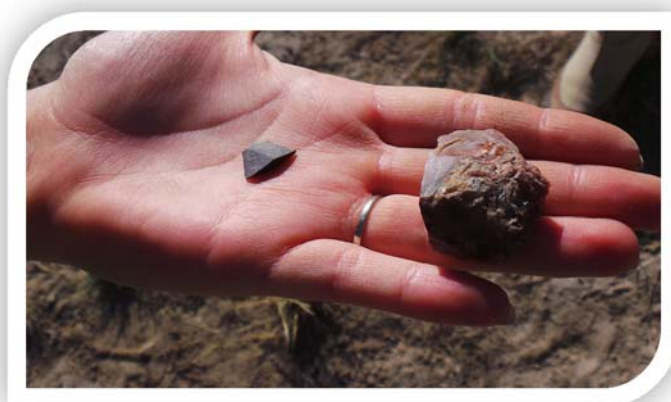
**AND WHEREAS** the Lower Nicola Indian Band recognizes the wealth and opportunity in our lands and will continue to pursue responsible economic development on our lands to support our community now and into the future;

**AND WHEREAS** Nlaka'pamux traditions and cultural beliefs are the driving force of our success and destiny; and

**AND WHEREAS** the Lower Nicola Indian Band no longer wants our lands and resources to be managed by Canada under the Indian Act, but instead wants to manage our lands and resources under our own land code;

**AND WHEREAS** the Lower Nicola Indian Band membership has chosen to manage its lands and resources under the First Nations Land Management Act;

**NOW THEREFORE**, the Lower Nicola Indian Band Land Code is hereby enacted as the fundamental land law of the Lower Nicola Indian Band.



## 4. INTRODUCTION

*Taté? xe? n ʔéye kx scaqʷmíntm. “This place here we do not own by ourselves.”*

We are the Scw'exmx, the People of the Creek. We are the Lower Nicola Indian Band (“LNIB”) and our traditional laws bind us to the tmíxʷ (“land”). As Nl̓eʔkepmx, our language and customs are those of the Nl̓eʔkepmx Nation. We, the Interior Salish people, have lived for thousands of years in our territory in the Southern Interior of British Columbia.

Before the arrival of European explorers, traders and settlers, our skiʔkiye (“ancestors”) had elaborate spiritual and cultural connections to the land and all that is above, below and in it. Our unique understanding of our territory and our traditional system of management has always recognized the connection between all things. Our traditional laws and protocols guide us. Today we slméc'íʔ (“share”) the responsibility to care for tékm Nl̓eʔkepmx he tmíxʷ (“all our territory”)<sup>2</sup> and to maintain the balance between all things. We do this on behalf of the Creator, our skiʔkiye and for our future generations.



We must show respect for the land, the waters, the air, the salmon, the plants, the animals, the forests, the minerals and all other resources of our Nation, just as our skiʔkiye have done. We owe our strength, our cultural identity and our very existence to the relationship that our people have always had with the tmíxʷ. If we respect and look after the land and resources, they will take care of us, just as they have taken care of our ancestors.

Our traditions tell us that our world has always existed. We, the Nl̓eʔkepmx people, were put on the land by the Creator. Before everything in the natural world was made, the Creator said, “I have seen you. I really love what I saw”. The Creator made the land, the animals, the plants, the fish and all the beauty and strength that we see in the world today. She put people onto the land. The spirit of everything beautiful in the natural world was made by the Creator.

When we were put onto the land, we carried the Creator’s message in our hearts. She said “You will look after all the land that I have given you. You will face adversaries that also want to take everything beautiful.” The Nl̓eʔkepmx people were entrusted by the Creator to take care of all in the natural realm. This responsibility lives in our hearts, souls and bodies. Our hearts never forget.

In the beginning, the Creator sent guides like the ɣaʔɣaʔ, the animals, the qʷílqʷáqʷəłt (“Transformers”), to show the Nl̓eʔkepmx people everything that we must do to care for the land and all that lives in, on and above it. She could not follow us into the natural realm, but her guides showed us the proper way to live on, and care for, the land. When the guides sent by the Creator left this realm, the Creator continued to talk to the Nl̓eʔkepmx people through our

<sup>2</sup> We also know this as “tmxʷulaxʷ” (“Nl̓eʔkepmx Territory”).



dreams and our personal spirit guides. Our people would come together on the land to meet, share these messages, and determine the way forward. They would gather, sit together in circular fashion and each person would share their dreams and lessons from the Creator. They would affirm our responsibilities to *tmx<sup>w</sup>ulax<sup>w</sup>*, all the Nl̓eʔkepmx land.

Our people have always lived together with the animals, the fish, the plants and the other living and spiritual beings of this world. Our ancestors intermarried, living in villages throughout the Southern Interior of British Columbia. We have past, present and future connections with our neighbors through kinship ties. A network of trails connected our people to each other and to every part of our *tmíx<sup>w</sup>*. Each season, we travelled to different parts of our *tmíx<sup>w</sup>* using the land, water, air, animal and plant resources and interacting with the spiritual places throughout our territory.

*Tətəʔ xeʔ n ʔéye kx scəq<sup>w</sup>míntm* (“*This place here we do not own by ourselves*”). As stewards of the land and resources, we are accountable to those who came before us. We carry the responsibility to manage, protect and enhance our land on behalf of the Creator, the Nl̓eʔkepmx people and all things. We are obligated to take care of the land for those who will come after us and to *xʔenłtémx*, to continue to be responsible for showing them the way

This document outlines the Lower Nicola Indian Band’s Cultural Heritage Policy (“*CHP*”)<sup>3</sup>. It is a living document. It is intended to communicate our traditions and protocols regarding the care, use, collection, management, conservation or distribution of LNIB cultural heritage. It applies to all land, water, fish, animal and other cultural heritage resources within our territory. It is intended to provide guidance for the governance of our heritage resources and for proponents and researchers wanting to work within our asserted traditional territory. This cultural heritage policy is based on LNIB aboriginal rights and title and derives from our unique relationship with our *tmíx<sup>w</sup>*. It applies to *tékm Nl̓eʔkepmx he tmíx<sup>w</sup>*, all the Nl̓eʔkepmx Territory.

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<sup>3</sup> LNIB define “cultural heritage” as including tangible and intangible heritage and heritage resources. We do not limit the definition to material culture.

## 5. Purpose

*Wektm páq tékm he tmíxʷ. “We are going to show responsibility for our land.”*

The Lower Nicola Indian Band Cultural Heritage Policy provides a framework for the protection, preservation, promotion, respect and revival of Nt̓eʔkepmx cultural heritage. This policy provides a specific process for conducting cultural heritage work within our territory. It is intended to provide clarity and to promote a collaborative working relationships with businesses, governments, researchers, proponents and other people or entities who wish to conduct cultural heritage work in our tmxʷulaxʷ. Anyone planning to undertake work in our asserted traditional territory or regarding our Nation, must be aware of and adhere to this Policy.

Our cultural heritage policy derives from the message we carry in our hearts and the lessons we have learned in fulfilling our responsibility to care for the land and resources. It embraces our traditional laws, values and protocols. The principles of yémes, sʔémit and łúmuʔstn or “respect”, “responsibility” and “the relationship between our land, water, air and resources” are at the core of our Cultural Heritage Policy.

As a living document, this Policy, and the statements presented, are subject to reconsideration and revision from time to time.



## 6. AUTHORITY

*Tculxauéiem. “To show the way”.*



The Declaration of the Nlaka’pamux Nation asserts aboriginal title to our traditional lands and our responsibility to exercise sovereignty over the lands and resources within our territory. The Vision Statement of the Lower Nicola Indian Band commits us to honor and protect, to respect, possess and defend our hereditary and aboriginal and territorial rights. The preamble of the Lower Nicola Indian Band Land Code asserts our title and responsibilities to LNIB land and resources. Together, these documents demonstrate our responsibilities as Nlaka’pamux people. These are our

traditional laws which take precedence over and above all existing federal and provincial laws. Our legal traditions have existed prior to contact with non-indigenous people.<sup>4</sup>

In addition to our traditional laws and responsibilities, our authority to enact this LNIB Cultural Heritage Policy derives from existing legislation and legal decisions, including but not limited to:

### A. Lower Nicola Indian Band Land Code

The authority of LNIB to govern its lands and resources flows from our aboriginal title and our inherent right of self-government. With the enacting of the LNIB Land Code, LNIB gave effect to its aboriginal title to that portion of its territories comprised of LNIB Land. Specifically, LNIB Land Code applies to LNIB lands including:

- i. 2.8 (a) the water, beds underlying water, riparian rights, air rights, minerals and subsurface resources, and all other renewable and non-renewable Natural Resources in and of that land, water or air to the extent that these are under the jurisdiction of Canada or LNIB; and
- ii. 2.8 (b) All the Interests and Licences granted by Her Majesty in right of Canada listed in the Individual Agreement.
- iii. The authority to govern is detailed in section 3.1:  
Section 3.1: LNIB has never ceded, surrendered, or in any way relinquished aboriginal title and will continue to assert its interests and exercise its aboriginal rights over its traditional territory.
- iv. Under Subsection 6.2(j), the LNIB Council may make laws relating to “setting aside and regulation of heritage lands and sacred sites”.

<sup>4</sup> Our indigenous legal traditions supersede and have precedence over any colonial law imposed on LNIB.

v. Under Section 12.3, three subsections address heritage issues:

12.3(c), Community Approval must be obtained for any development on a heritage site designated in a land use plan.

12.3(f) further requires community approval for “a law under section 29 [Heritage Sites].

12.3(g) Law enabling development or loss of protection of a heritage site relating to any cemeteries.

vi. Section 29 of the LNIB Land Code applies to heritage sites:

29.1 The Council shall within a reasonable time after this Land Code comes into effect, propose a Law regarding heritage sites for Community Approval<sup>5</sup>.

29.2 No amendment may be made to a Land Use Plan to delete a heritage site designated under that plan unless the amendment receives Community Approval.

vii. Finally, as stipulated in Section 2.3 of the Lower Nicola Indian Band Land Code:

Subject to section 38.3 [Paramountcy], if there is inconsistency or conflict between this Land Code and any other enactment of LNIB, this Land Code prevails to the extent of the inconsistency; and if there is an inconsistency or conflict between this Land Code and the Framework Agreement, the Framework Agreement prevails to the extent of the inconsistency or conflict.

## B. **United Nations Declaration on the Rights of Indigenous Peoples**

i. Article 31.1: Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.

ii. Article 32: (1). Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.

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<sup>5</sup> Note: The Lower Nicola Indian Band Land Code, Section 6.2J, refers to the development of a Cultural Heritage Law for the setting aside and regulation of heritage lands and sacred sites. Under Section 11.6 of the LNIB Land Code, the development of a Cultural Heritage Law sets out the requirements for community approval under that process. It is intended that the Lower Nicola Indian Band Cultural Heritage Policy, which outlines the unique cultural heritage principles and methods and procedures for the protection of LNIB cultural heritage, will complement the development of the LNIB Cultural Heritage Law. The LNIB Cultural Heritage Policy does not abolish, repeal or otherwise abrogate, or detract, diminish or otherwise derogate from, any Aboriginal, treaty or other rights or freedoms that pertain now or in the future to LNIB or its Members. As the LNIB Cultural Heritage Policy is a living document, it will be amended as required to compliment other LNIB cultural heritage work.

(2) States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of minerals, water or other resources.

(3) States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

C. **Section 35 of the Constitution Act, 1982.**

i. 35. (1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.

D. **Tsilhqot'in v. British Columbia, 2014 SCC.**

i. Paragraph 73: Aboriginal title confers ownership rights similar to those associated with fee simple, including: the right to decide how the land will be used; the right of enjoyment and occupancy of the land; the right to possess the land; the right to the economic benefits of the land; and the right to pro-actively use and manage the land.

ii. Paragraph 76: The right to control the land conferred by Aboriginal title means that governments and other seeking to use the land must obtain the consent of the Aboriginal title holders.



## 7. RELEVANT FEDERAL LEGISLATION

*hatlſtcáms a tEmúx kútLo xínkîn. “The Earth has mercy on me therefore I live long”.*

Beyond our authority to enact the LNIB Cultural Heritage Policy, existing Federal and Provincial legislation require the protection of our cultural heritage. The application of this legislation is dependent on the nature of the heritage site, its location and how it was discovered. Such Federal legislation specifically related to heritage may include<sup>6</sup>:



### A. **Indian Act (R.S.C., 1985, C.1-5).**

i. Section 91. (1) No person may, without the written consent of the Minister, acquire title to any of the following property situated on a reserve, namely,

- a. An Indian grave house;
- b. A carved grave pole;
- c. A totem pole;
- d. A carved house post; or
- e. A rock embellished with paintings or carvings.

ii. (2) Subsection (1) does not apply to chattels referred to therein that are manufactured for sale by Indians.

iii. (3) No person shall remove, take away, mutilate, disfigure, deface or destroy any chattel referred to in subsection (1) without the written consent of the Minister.

iv. (4) A person who contravenes this section is guilty of an offence and liable on summary conviction to a fine not exceeding two hundred dollars or imprisonment for a term not exceeding three months.

### B. **Cultural Property Export and Import Act (R.S.C., 1985, c.C-51).**

i. (3) No object shall be included in the Control List if that object is less than fifty years old or was made by a natural person who is still living.

ii. 4.(2) Subject to subsection (3), the Governor in Council may include in the [Canadian Cultural Property Export] Control List, regardless of their place of origin, any objects or classes of objects herein described in this subsection, the export of which the Governor in Council deems it necessary to control in order to preserve the national heritage of Canada:

- a. Objects of any value that are of archaeological, prehistorical, historical, artistic or scientific interests and that have been recovered from the soil of Canada, the

<sup>6</sup> Section 322 of the *Criminal Code*, R.S.C., c. C-46, 1985 defines “theft” and may also apply to the fraudulent taking of animate or inanimate objects. Increasingly, First Nations in Canada are devising their own systems of restorative justice incorporating indigenous laws and protocols. In the past, Nle7kepmx people often used traditional ceremonies (known as “hettec”) to determine the correct course of action.

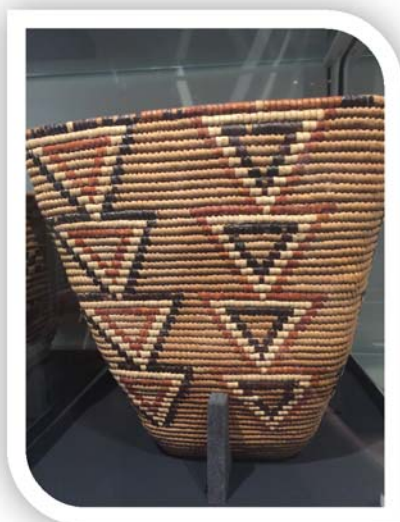
territorial sea of Canada or the inland or other internal waters of Canada;

- b. Objects that were made by, or objects referred to in paragraph (d) that relate to, the aboriginal peoples of Canada and that have a fair market value in Canada of more than five hundred dollars;
- c. Objects of decorative art, herein described in this paragraph, that were made in the territory that is now Canada and are more than one hundred years old;
  - i. Glassware, ceramics, textiles, woodenware and works in base metals that have a fair market value in Canada of more than five hundred dollars, and
  - ii. Furniture, sculptured works in wood, works in precious metals and other objects of decorative art that have a fair market value in Canada of more than two thousand dollars;
- d. Books, records, documents, photographic positive and negatives, sound recordings, and collections of any of those objects that have a fair market value in Canada of more than five hundred dollars;
- e. Drawings, engravings, original prints and water-colours that have a fair market value in Canada of more than one thousand dollars; and
- f. Any other objects that have a fair market value in Canada of more than three thousand dollars.



## 8. RELEVANT PROVINCIAL LEGISLATION

*hatlscáms a tEmúx kútLo xínkîn. “The Earth has mercy on me therefore I live long”.*



Relevant Provincial legislation may include:

### A. **Constitution Act, 1867**

92. In each Province of the Legislature may exclusively make Laws in relation to Matters coming within the Classes of Subjects hereinafter enumerated; that is to say,....

13. Property and Civil Rights of the Province.

### B. **Heritage Conservation Act [RSBC 1996] Chapter 187**

**3** (1) The minister must establish and maintain one or more registers, to be known collectively as the Provincial heritage register, for the recording of the

following:

(c) heritage sites and heritage objects that are included in a schedule under section 4 (4) (a);

**4** (1) The Province may enter into a formal agreement with a first nation with respect to the conservation and protection of heritage sites and heritage objects that represent the cultural heritage of the aboriginal people who are represented by that first nation.

(2) An agreement under subsection (1) must be in writing and must be approved by the Lieutenant Governor in Council.

(3) Subsection (2) does not apply to an agreement that is entered into under section 20 (1) (b) or 28 (1) (b).

(4) Without limiting subsection (1), an agreement made under this section may include one or more of the following:

(a) a schedule of heritage sites and heritage objects that are of particular spiritual, ceremonial or other cultural value to the aboriginal people for the purpose of protection under section 13 (2) (h);

(b) a schedule of heritage sites and heritage objects of cultural value to the aboriginal people that are not included in a schedule under paragraph (a);

(c) circumstances under which the requirements of sections 13 (1) and (2) and 14 (1) do not apply with respect to heritage sites and heritage objects, or to types of heritage sites and heritage objects, for which the first nation administers its own heritage protection;

(d) policies or procedures that will apply to the issuance of or refusal to issue a permit under section 12 or 14 with respect to



- (i) sites and objects identified in a schedule under paragraph (a) or (b), or
- (ii) other sites and objects or types of sites and objects identified in the agreement;

(e) provisions with regard to the delegation of ministerial authority under sections 12 and 14 (4);

(f) any other provisions the parties agree on.

(5) For the purpose of section 13 (2), if an agreement includes a schedule under subsection (4) (a), the agreement must identify actions which would constitute a desecration or which would detract from the heritage value of scheduled sites and objects, and different actions may be identified for different sites or objects or for different classes of sites or objects.

**8** For greater certainty, no provision of this Act and no provision in an agreement entered into under section 4 abrogates or derogates from the aboriginal and treaty rights of a first nation or of any aboriginal peoples.

**13** (1) Except as authorized by a permit issued under section 12 or 14, a person must not remove, or attempt to remove, from British Columbia a heritage object that is protected under subsection (2) or which has been removed from a site protected under subsection (2).

(2) Except as authorized by a permit issued under section 12 or 14, or an order issued under section 14, a person must not do any of the following:

(a) damage, desecrate or alter a Provincial heritage site or a Provincial heritage object or remove from a Provincial heritage site or Provincial heritage object any heritage object or material that constitutes part of the site or object;

(b) damage, desecrate or alter a burial place that has historical or archaeological value or remove human remains or any heritage object from a burial place that has historical or archaeological value;

(c) damage, alter, cover or move an aboriginal rock painting or aboriginal rock carving that has historical or archaeological value;

(d) damage, excavate, dig in or alter, or remove any heritage object from, a site that contains artifacts, features, materials or other physical evidence of human habitation or use before 1846;

(e) damage or alter a heritage wreck or remove any heritage object from a heritage wreck;

(f) damage, excavate, dig in or alter, or remove any heritage object from, an archaeological site not otherwise protected under this section for which identification standards have been established by regulation;

(g) damage, excavate, dig in or alter, or remove any heritage object from, a site that contains artifacts, features, materials or other physical evidence of unknown origin if the site may be protected under paragraphs (b) to (f);

(h) damage, desecrate or alter a site or object that is identified in a schedule under section 4 (4) (a);

(i) damage, excavate or alter, or remove any heritage object from, a property that is subject to an order under section 14 (4) or 16.

**14 (1)** A person must not excavate or otherwise alter land for the purpose of archaeological research or searching for artifacts of aboriginal origin except under a permit or order issued under this section.

### C. **Other provincial legislation**

Other relevant legislation that may protect our cultural heritage in British Columbia may include:

- *Coal Act* Section 21
- *Cremation, Internment and Funeral Services Act* [SBC 2004] Chapter 35
- *Environmental Assessment Act* [SBC 2002] Chapter 43 Part 11(2)f and 50(2)e
- *Environmental Land Use Act* Section 7
- *Forest and Range Practices Act*
- *Land Act* Section 15, 16, 17, 66, 93.4
- *Land Title Act* Section 219
- *Local Government Act* Part 27
- *Mineral Tenure Act* Section 22, 17
- *Wildlife Act* Section 4

LNIB maintains that at a minimum, existing international, federal and provincial heritage legislation must be applied throughout our territory. Often, this legislation does not go far enough to protect our heritage resources. Those wishing to undertake heritage work within our asserted territory should embrace the laws and procedures established by or under existing legislation and shall interpret such in a fair, large and liberal manner accordance with the culture, traditions and customs of LNIB. Further, adherence to the Lower Nicola Indian Band Cultural Heritage Policy, or any additional heritage laws as set forth by LNIB, does not abolish, repeal or otherwise abrogate, or detract, diminish or otherwise derogate from, any Aboriginal, treaty or other rights or freedoms that pertain now or in the future to LNIB or its Members, including, without limitation, rights to land, water, air, Natural Resources or heritage objects.



## 9. ABOUT THE LOWER NICOLA INDIAN BAND

*zumíntm tékmme he tmíxʷkt. “We really care for all our land.”*



The LNIB is one of 15 bands of the Nl̓eʔkepmx Nation. We are one of the largest Bands in the Nicola Valley, with ten reserves covering more than 7,000 hectares. Today, we have over 1,250 members. In ethnographic and historic records, we were referred to as the “Thompson River Indians”, after the Thompson River, one of three principal streams in the Nl̓eʔkepmx territory. Our territory, the land that we shared with other Nl̓eʔkepmx communities, measures over 37,000 square kilometers.

Our oral traditions tell us that since time immemorial our people have had historical, cultural, social, spiritual connections to our territory. We came from the Creator. We, and everything in the natural realm, were put on the land by the Creator. We were

entrusted to take care of the natural realm. Our connection to our territory has always been strong:

We know about our origin and our ancestors, and we have inhabited this country for a very long time. The earth is full of the bones of our ancestors. Our traditions tell us that even in mythological times our ancestors lived here.

Nl̓eʔkepmx sptékʷl̓ (creation stories) and spíl̓əxm̓ (mythology) say that animals such as Snk̓ýép (Coyote) were sent by the Old-One (kʷúpiʔ) to guide the Nl̓eʔkepmx people and to make things right in the Nl̓eʔkepmx world. Our connection to ancient places goes back to the beginning, to the time when Nl̓eʔkepmx people were placed on the land with the Creator’s message in our hearts.

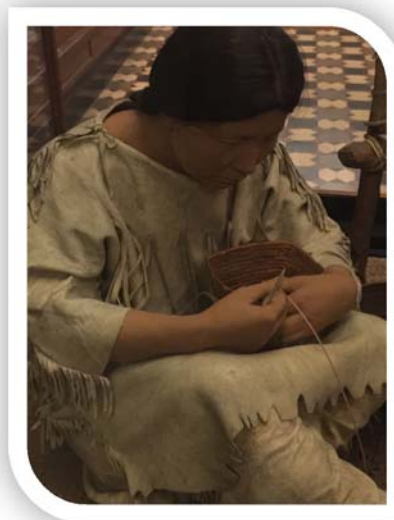
Traditionally, Nl̓eʔkepmx believed in both a physical world and a spiritual world. All things in the land, water and air were living things with a spirit of their own. We believed in time as “present” and “not present” or “visible” and “not visible”. A fundamental principle of our cosmology is that one day our ancestors will return from the land of the souls. Unlike the conventional definition of heritage, our concept heritage extends to both tangible and intangible aspects of our culture. A central principle is that our heritage belongs to those who made and used them. If the original owners or users are no longer in this realm, the responsibility passes to their descendants and their community. It is our responsibility to manage, protect, preserve and ensure the continuation of our cultural resources and the tmxʷulaxʷ for those present and not present, in this realm and beyond. This responsibility has always been in the hearts of the Nl̓eʔkepmx people. It has passed from generation to generation, since the beginning. Our hearts never forget.



## 10. TERRITORY COVERED

*Tmx<sup>w</sup>ulax<sup>w</sup>. Tékm Nłeʔkepmx he tmíx<sup>w</sup>. Nłeʔkepmx/LINB Land.*

This policy applies to all lands, water, air and resources within the unceded asserted traditional territory of the Lower Nicola Indian Band as shown in the attached map (Appendix A). As Nłeʔkepmx people, LNIB members have made use of extensive lands and resources throughout the south-central interior of British Columbia. Our responsibilities, knowledge and use of this area has been governed by our traditions, our laws and through our own protocols with neighbouring communities. This map is not intended to jeopardize, prejudice or otherwise compromise any LNIB asserted aboriginal title and rights.



## 11. PROJECTS COVERED

*tekmúym'x<sup>w</sup>sc. Every place.*



This policy applies to all projects or works that may impact the cultural heritage of the Lower Nicola Indian Band. This includes investigations, research, study, collection and treatment of Lower Nicola Band's cultural heritage.

Other such projects or works include, but are not limited to:

### A. Land Development and Resource Management Projects

The LNIB Cultural Heritage Policy applies to any and all proposed and ongoing land development and resource management projects by indigenous and non-indigenous governments, businesses and individuals within our asserted traditional territory. The *Tsilhqot'in* decision recognized that aboriginal title lands are held collectively for the present and all succeeding generations. LNIB maintains that our land and resources cannot be developed or misused in any way that would substantially deprive future generations of the benefit of the land.<sup>7</sup>

Our priority is to protect and conserve all resources within our territory. LNIB expects that all land development and resource management projects will be conducted to the highest standards, with full information on the proposed project provided to LNIB prior to commencement of any work in our asserted traditional territory. The onus is on the developer to identify any and all potential impacts (both short term and long term) of the proposed development projects.

### B. Research Projects

The LNIB Cultural Heritage Policy applies to any and all research projects, or proposed research projects, that may be proposed by academic researchers, anthropologists, archaeologists, ethnobotanists, historians, linguists, students and others where any aspect of LNIB cultural heritage is the subject of study. Permission or approval must be obtained, in writing, from LNIB from any party not working with or on behalf of LNIB. The party must demonstrate how the LNIB cultural heritage principles of respect, responsibility, and relationships will be incorporated into their

<sup>7</sup> Where interpretation of this is unclear, consult with LNIB for direction.

work. LNIB expects that all heritage research projects will be conducted to the highest ethical standards and with the prior informed consent of LNIB.

**C. Archaeological Projects**

All consulting archaeologists and independent researchers, not working for or hired by LNIB, must obtain permission or the approval of LNIB, in writing, prior to entering our asserted traditional territory. Consulting archaeologists must demonstrate how the LNIB cultural heritage principles of respect, responsibility and relationships will be incorporated into their work. LNIB expects that all archaeological projects will be conducted to the highest standards and with the prior informed consent of LNIB.

**D. Other Projects**

Any other proposed project in the asserted traditional territory of LNIB requires adherence to the LNIB Cultural Heritage Policy. LNIB must be informed, in writing, of any proposed project. The onus is on the party proposing the work to demonstrate how the project will show respect for LNIB and the LNIB cultural heritage policy. Prior informed consent is required for all projects. When the project is not physically undertaken within LNIB territory, but relies on LNIB traditional knowledge or intellectual property, whether belonging to an individual, or to the community, permission must be requested in writing.



## 12. DATE EFFECTIVE

*címet.* Beginning, at first.

This policy takes effect on July 17, 2017. It is a living document and is subject to updates and revisions from time to time as mandated by the LNIB.



### 13. LOWER NICOLA INDIAN BAND HERITAGE CORE PRINCIPLES

*skikEns. Being together.*

The LNIB Cultural Heritage Policy is based on the three core principles: Respect (“*yémes*”), Responsibility (“*s?émit*”) and Relationships (“*lúmu?stn*”). These principles informed the values, traditions and customs of our ancestors and their ties to our lands. It is our responsibility to ensure that they continue to be applied to all land, water and resource use projects that are planned, designed and implemented within our traditional territory. As Nl̓eʔkepmx we are obligated to páq, or assume this responsibility. Our traditional values and laws associated with these principles include:

#### A. **Respect**

*yémes*

Our traditional principle of respect included the following protocols:

- Before going out on the land, be it to hunt, fish, gather plants or medicines or for any other activity or purpose, we believe that it is important to prepare oneself. You must be clean in body, mind and spirit. You must act at all times with honesty and integrity. This preparation could take hours, days or months. You were not considered prepared until you were ready in your heart (“*sxʷákʷukʷ*”).
- Before going out, you must pray to the animals, plants or resources for success in your endeavors.
- You must listen to the messages of the Creator and spirit guides. Their messages will show you the right way.
- You must give thanks to the animals, fish, plants, land and water. In the past we gave thanks through water offerings, offering copper, sugar, food, tobacco or medicines. Doing so shows your respect for all living things.

Today, this notion of respect can be extended to include the following concepts:

- LNIB believes that we should have the right to have our unique heritage values recognized and respected.
- LNIB believes we have the right to determine what constitutes a heritage site.
- Any proposed project that could potentially impact LNIB asserted territory, including LNIB reserves, particularly the loss or alienation of any portion of said territory, requires adequate time for consultation. Just as we have always done, our people require time to be prepared.
- As a show of respect, actions should be taken to prevent the unauthorized or inappropriate use of our traditional knowledge and intellectual property. We give thanks by saying a prayer, leaving tobacco or medicines or speaking to the land, plants, animals and resources.
- LNIB heritage interests should be conflicted with as little as possible. Where unavoidable, potential impacts need to be identified, discussed and mitigation or compensation jointly agreed to.





## B. Responsibility

### sʔémit

Our traditional principle of responsibility included the following protocols:

- We are responsible for protecting the land and resources in our territory. This responsibility was entrusted to us by the Creator.
- We are responsible for managing, protecting, preserving and ensure the continuation of our cultural resources and the tmx<sup>w</sup>ulax<sup>w</sup> for those present and not present, in this realm and beyond.
- We must regularly visit the land so that we may monitor and watch out for it.
- We must listen to the land to learn.
- We must listen to our dreams and the messages from our spirit helpers. These messages show us the right way.
- We must use and benefit from the land and resources.
- We must take only what we need to ensure that we maintain the proper balance in all things. We must not waste what we harvest.
- We must educate our youth in our traditional laws and pass on the responsibility of stewardship. We do this by showing, doing and telling them our protocols while out on the land. This is the way our ancestors learned and this is the way we should pass on this knowledge.
- We must acknowledge the repercussions if we do not properly fulfill our responsibilities to the land.

Today, this notion of responsibility can be extended to include the following concepts:

- LNIB believes we should have proprietary rights and jurisdictional control over our heritage resources throughout our asserted traditional territory.
- LNIB believes that any development in in our territory should not pose a threat of irreparable harm to our cultural heritage, our environment or our resources.
- LNIB believes that we should educate and promote the understanding of LNIB heritage.
- Measures above and beyond the current provincial *Heritage Conservation Act* of the Province of British Columbia are required to fulfill our obligations to the land.
- LNIB believes that sites that post-date 1846 and are not protected by Heritage conservation legislation are still important to LNIB and should be protected. Our notions of time were traditionally very different and should be respected.<sup>8</sup>
- LNIB believes that cultural heritage projects should not have a negative social impact on our communities.

## C. Relationships

### lúmuʔstn

Our traditional principle of relationships included the following protocols:

- All living things were placed in the natural realm by the Creator. She created the world and placed us in it when the time was right.

<sup>8</sup> 1846 is the date that Canadian courts currently recognize as signifying the establishment of British sovereignty in British Columbia. The *Heritage Conservation Act* automatically protects heritage sites that pre-date 1846, but this protection does not automatically extend to more recent heritage sites.

- All things have a spirit.
- There is a relationship between all living things. We must ensure the balance between the air, water, land, animals, plants and spiritual beings for our land to be healthy.
- Our laws are tied to the land.
- Our land gives us life and is important to our identity.
- We must work together to take care of our land.
- We must not take what is not ours.
- If we go to the territory of others, we must seek their permission in the appropriate way.
- We must share the benefits of the land, particularly with those such as our elders, youth and single mothers who cannot get out onto the land to access the resources.
- We must acknowledge and respect that our land has taught us to live properly. From our territory, we have a distinct culture and laws. These derive from our relationship with our land.

Today, this notion of responsibility can be extended to include the following concepts:

- LNIB cultural heritage is important to our identity and relationship with our ancestors, lands, waters, fish, and birds.
- We must continue to maintain continuity between old and new LNIB cultural traditions.
- Cooperation with other organizations to manage, preserve and protect cultural heritage is important.
- Where cultural materials and resources have been removed from our traditional territory, without consent of LNIB, steps may be taken to repatriate these materials. LNIB may establish separate policies, guidelines, protocols and agreements for housing/holding and accessing LNIB intellectual property and material culture.
- Insofar as this policy may conflict with provincial and federal laws or policies, LNIB asserts the precedence of the LNIB Cultural Heritage Policy or any related LNIB Heritage Laws. Compliance with existing provincial and federal laws or policies does not remove the requirement of all parties wishing to carry out activities within our asserted traditional territory to have full and meaningful consultation with LNIB prior to undertaking such endeavours.
- The Lower Nicola Indian Band will take all necessary steps to work with the Province of British Columbia in order to enforce the LNIB Cultural Heritage Policy, in addition to the *BC Heritage Conservation Act* throughout our asserted traditional territory.



## 14. LOWER NICOLA INDIAN BAND HERITAGE RESOURCES

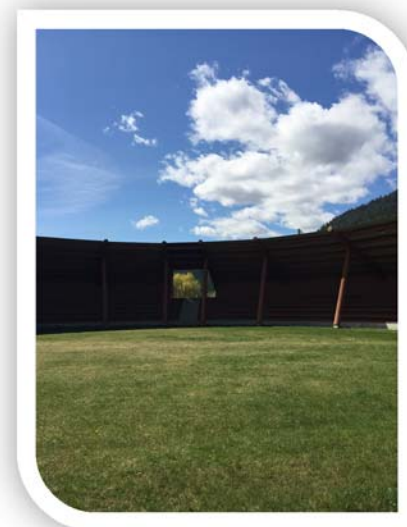
*Tékm he? tmíxʷ tn cítxʷ. All the land is my house.*

LNIB believes our cultural heritage sites and our use of our land and resources is connected. We believe that all sites of an archaeological nature within our asserted traditional territory, including those on private property, commercial property, Crown lands and Indian reserves are of interest to the LNIB. LNIB Heritage sites and objects consist of, but are not limited to:

### A. Archaeological Heritage Sites (Evidence of Past Human Activity)

These include any archaeological sites within the traditional territory of the LNIB that have been formally **recorded and registered** with the Archaeology Branch, Province of British Columbia. LNIB asserts an interest in the management of these sites regardless of whether or not the site is stated to be of Nl̓eʔkepmx origin or not. LNIB owes a responsibility to protect any archaeological site within our territory. Archaeological sites may include:

- Buried archaeological remains
- Cache pits or cultural depressions (“nyoʃʷmín”)
- Caves and rock shelters
- Fortifications (“kaláxen”) or log defences
- Fossils and paleontological finds
- Habitation sites (“nzáxkín”)
- Hearths and hearth features
- Land covered by water
- Lithics or lithic scatter
- Winter house sites (“sʔístkn”)
- Old trails (“xwéł”)
- Processing sites and features
- Roasting pits and features
- Rock art sites (“petroglyphs, pictographs, arbographs”)
- Spiritual sites
- Stone quarries or mineral procurement areas
- Any other type of site that has been provincially recorded



### B. Burial Sites and Graveyards

Our burial sites are sacred. They are the resting places of our ancestors. Traditionally we believed that the dead were asleep and that one day there would be a time of the coming back of souls. We have specific protocols for the care of these sites. Due to the nature of our traditional burials, and our extensive use of our territory, these sites are spread throughout the tmíxʷ and are often unrecorded. Our burial sites and graveyards often have familial and village connections and responsibilities. Traditionally, we had different protocols and practices for the burial of twins, for those who died in epidemics and for those who died away from home. The dead were returned to the land and

buried in a fetal position. Traditionally, we “ziʔxʷətes mukʷutés” (wrapped the dead in new blankets and ceremonially reburied them). Over time our methods of burial changed and today our dead are buried in graveyards or cemeteries. Our preference is that burials remain undisturbed, however, in cases where this is unavoidable, immediate notification and protection of the site is required until an agreed course of action is determined. LNIB asserts that burial sites and graveyards may include:

- Ancient slide burials/talus slope burials
- Bark or blanket coverings
- Burial platforms (“twekén’ins”)
- Cairns
- Commemoration sites
- Cremation sites
- Current graveyards
- Grave boxes (“lúkʷi”)
- Grave figures (“ncwéyeptn”)
- Grave goods
- Grave markers (“xkén’itn”)
- Historic graveyards or burials (“sneniʔétxʷ”)
- Mass burial sites
- Reburial sites
- Smallpox or epidemic burial sites
- Tree burials

### C. Intellectual Cultural Heritage Property

LNIB believes that our cultural heritage is both physical and spiritual; tangible and intangible. Our dances, designs, family and personal names, language, oral history, place names and songs form part of our cultural heritage and are the intellectual property of the people who created them or own the right to use them. In the past, we have worked with academic researchers, anthropologists, archaeologists, ethnobotanists, historians, linguists and others who have relied on our community to share information. Moving forward into the future anyone working on our territory; working with, or learning from, LNIB cultural heritage needs to respect our cultural heritage. LNIB individuals, families and communities hold ownership of our intellectual property. Prior informed consent is required for its use.<sup>9</sup> If used, quoted, referenced, mimicked or summarized our intellectual property must be properly credited and acknowledged. Our intellectual cultural heritage may be used for non-commercial educational or informational purposes, provided it is not deemed confidential or secret. LNIB encourages the use of our place names and language, provided such use is accurate and appropriate. Any potential use for tourism purposes requires LNIB permission and should include recognition of LNIB intellectual property and in partnership with LNIB.

<sup>9</sup> The United Nations’ principle of “Free, prior and informed consent” should be followed. All intellectual property must be properly credited when used, quoted or referenced. The onus is on the proponent to disclose any potential adverse impacts, including cumulative impacts, when undertaking development activities within the asserted territory of LNIB.

Such property includes:

- **Dances** (“sǎ́iq”, “wénx”): Our dances had cultural significance and should not be performed without the consent of LNIB and/or the family or community member who owns or carries the stewardship responsibility for that dance. Dances, like tlanéka (beggars) dances; sǎ́iq or spiritual dances and wénx or warriors dances served a cultural function.
- **Designs:** Designs derived from or depicted on LNIB objects, people or sites may not be copied or reproduced without the permission of LNIB. This extends to all crafts, images and symbols (e.g. tattoos). Traditionally, our designs came to us in dreams, or were given by our manitous or spirit guides. Designs were painted on horses for luck. Color and design had meaning and were selected with care. Our designs also told stories, and ancient designs were kept alive by our basket makers. Medicine men often had special designs on their pipes, staffs, mats, masks and other materials.
- **DNA (Deoxyribonucleic acid) or hereditary material:** LNIB believes that any proposed study of the genetic information of LNIB members, or any genetic research pertaining to the Nte?kepmx (including blood studies), requires the written permission of LNIB. Full, prior informed consent is required and all cultural and spiritual values must be respected. At a minimum, international human rights standards of protecting Indigenous genetic information should be followed, including but not limited to taking appropriate measures to protect all associated study materials and results. If LNIB permits the use of any DNA or genetic materials for research purposes, all samples, reports and associated materials should be returned to LNIB at the conclusion of the project.
- **Family or personal names:** We have protocols for the use of personal and family names. Families and individuals had the right to use or pass on names. Some names were very powerful and could only be held with those that had the rights to them. These protocols should be respected. We have protocols on how our names are given, used, shared and put away. Feasts were given when names were received.
- **Language:** Our language is nte?kepmxcin. It embodies our world view, our ties to the land and our identity as people. Our language is ancient and complex. The most ancient of our languages, the Coyote language, the Raven’s language and the language of our mythological beings, was used and known by our medicine men and story tellers.
- **Oral history and traditions:** Our stories and traditions were passed orally. These are living records of our past and should be given the same respect as any other record. This includes narratives, literary arts, poetry, transcripts, notes and related materials. LNIB should be consulted on the interpretation of any



oral history and traditions.

- **Place names:** LNIB and the Nt̓eʔkepmx people are the owners of our place names. Any public use of those names (signs, parks, roads, landmarks, commercial uses) requires LNIB approval. The record of place names throughout our territory will be managed and updated by LNIB. Some named places are sacred and protected. Appropriate protocols and respect must be adhered to for all named places.
- **Songs:** Recordings, transcripts, scores or other documentation of our songs is not permitted without the consent of LNIB and/or the community member who owns or carries the stewardship responsibility for that song. Our songs were lyrical, used for dance, for war, in the sweathouse, by mourners, as part of our prayers, at gaming events, and for our cultural dances. Some songs were given by protecting spirits and were used by our medicine men as part of their healing. Our songs were given as thanks and shared between our people. There were songs for training and songs for sweat bathing. All must be respected.
- **Traditional and Indigenous Knowledge:** Knowledge of lands, waters, air, resources, fish, animals, plants and ways of interacting, processing, harvesting, using and protecting these resources. This includes ethnobotanical knowledge and information. LNIB traditional knowledge (including ethnobotanical knowledge) is not to be used by others for profit, without permission from, and recognition of LNIB. Such knowledge will not be patented or misappropriated.
- **Other Ideas, Items or Concepts:** Any other idea, item or concept that incorporates or represents cultural heritage shall not be misappropriated, abused, sold for profit or misused. This includes LNIB digital intellectual property including, but not limited to, cultural databases, digital products, tools, files or data.

#### D. **Material Culture**

This includes all movable objects of Nt̓eʔkepmx manufacture, past, present and in the future. It includes unaltered natural rock formations found throughout LNIB asserted territory that hold significance to LNIB as part of our cultural and spiritual landscape (e.g. Transformer rocks or features linked to LNIB creation stories). This also includes historic artifacts found within the asserted traditional territory of the LNIB. Many of these objects were designed to tell stories, held power of their own, or were of significance to their creator and their families. Under permit, LNIB material culture sites should not be unnecessarily disturbed and our preference is to leave found artifacts in situ on the land. Disturbance of our archeological sites without a permit may result in punishment according to provincial laws. LNIB prohibits the theft of our artifacts from tékm Nt̓eʔkepmx he tm̓íxʷ (*"all of our asserted territory"*) Material Culture objects and artifacts may include, but are not limited to the following:



- Artwork or artistic expressions including pictographs and petroglyphs, painted drums and other items
- Baskets or tools for basket making
- Clothing including belts, boots, bonnets, capes, caps, dresses, gloves, headbands, headgear, pants, pouches, moccasins, socks, vests or any other item of clothing or used in the manufacture of clothing
- Games or recreational items
- Items of trade
- Masks
- Sacred Ceremonial objects including but not limited to clubs, drums, feathers, fetishes, ochre, pipes, sage, staffs, talking sticks, tobacco, whistles or any other object deemed ceremonial by Lower Nicola Indian Band members
- Subsistence tools including tools used for fishing, gathering, hunting and any associated materials used in the construction and maintenance of such tools
- LNIB produced audio and video recordings, or other reels, cassettes, disks, etc. produced relating to LNIB
- Other material culture items as identified by Lower Nicola Indian Band members.

#### E. **Petroglyphs and Pictographs**

Rock art has spiritual significance to LNIB. Petroglyphs (images carved or pecked into rocks, boulders or cliffs) and pictographs (paintings on rocks, boulders or cliffs) are frequently found at sites of spiritual significance, places of power, spirit quest sites or act as territorial markers or records on the land of our history. The LNIB policy is that these sites should not be disturbed for any purpose. References or interpretations of these sites in any written material is subject to LNIB review and approval. Our images should not be used for commercial or other benefit and petroglyphs and pictographs are considered the property of LNIB or the Nl̓eʔkepmx people as a whole.

- Petroglyphs
- Pictographs

#### F. **Sptékʷl̓ and Spíl̓əxm̓ (Stories and Legends)**

Nl̓eʔkepmx stories and legends form part of our culture and identity and remind us of our connections to the physical and spiritual world. Our stories have been passed down from our ancestors, and provide direction for the generations to come. Our stories contain lessons that traditionally were shared only when one was required or ready to receive the message. Our stories are not for everyone. We are the rightful owner of our stories, and permission must be granted for their use. Use for commercial purposes must receive LNIB approval. LNIB holds copyright to our stories and legends.

- Localities integral to creation stories (“sptékʷl̓”)
- Locations integral to mythological stories (“spíl̓əxm̓”)

#### G. **Ḳax̌aʔ Sites (Sacred and Spiritual Sites)**

Spiritual sites, places of mystery, or places with supernatural powers (“Ḳax̌aʔúymʻxʷ” or “Ḳax̌aʔ”) are highly sensitive and must be protected from disturbance. Use of such

sites was governed by traditions and rules. LNIB maintains that our spiritual sites are not to be disturbed or used for any purpose except those which the site was intended for, without the permission of LNIB. Xaxa? sites include:

- Battle area
- Bathing pools
- Burning sites
- Cedar spirit people
- Ceremonial regalia repository areas
- Cleansing sites
- Creation sites (E.g. Places tied to our origin stories or cosmology)
- Cultural landmarks (including coyote land markers)
- Dream (“ʔikʷlxʷ”) sites
- Fasting places
- First fish sites
- First food ceremonies
- First kill sites
- Guardian spirit sites
- Healing places
- Medicine sites
- Medicine Man sites (“səxʷnéʔm”, “kʷéym”, “syúwe” sites)
- Places inhabited by supernatural or spiritual beings (e.g. Little people or “spapéłta”, dwarfs or “tsamúlaux”, sasquatch or “scʼaʔmúleʔxʷ”, giants or “naxautko”, Medicine Men or “səxʷneʔm”, ghosts or “sneyiʔ”)
- Places of mystery (e.g. “nxaʔxʔétkʷu” or water mystery, “sqʷém” or mountain mysteries)
- Place name sites
- Prayer (“yémit”) sites
- Puberty/Rites of Passage sites
- Ritual sites
- Seclusion areas
- Sweathouses (“cəxʷléleʔme” or “nqálzeʔtn”)
- Transformer sites (“sxáyʷm”)
- Youth training areas (places on the land where youth were taught our traditional laws)
- Vision quest places

#### H. **Traditional Use Areas and Areas of Historical Significance**

Our Traditional Use Areas are places used throughout the LNIB traditional territory used for past or present resource use activities. It is important to acknowledge that current use of lands and resources for traditional purposes does not reflect the entirety of LNIB traditional use areas. These areas were traditionally maintained and enhanced year round. Access to these traditional use areas and to resources in our territory is essential to the continuation of our way of life. These sites should be maintained and, where



possible, enhanced in accordance with our traditional practices. Traditional use areas include:

- Battle sites
- Berry picking sites
- Boundary markers, posts or features
- Camp sites (“q’i?mín”)
- Caretaker areas
- Cedar harvesting sites (bark<sup>10</sup> and roots). Root harvesting places are called “sk’wáwetn”.
- Drying sites (berries, fish, other). Includes dry racks (“nk’axk’éxmn)
- Fishing sites (weirs and fish trap areas, set net localities, dip-net sites, beach net sites, spearing sites, drifting areas, pit-lamp areas, ice fishing areas, others)
- Food Preparation sites (pit ovens or “n?écq’wtn”)
- Grazing sites<sup>11</sup>
- Traditional Gaming sites (lehal, gambling, ball games, races)
- Hunting areas (including drives, fences, corridors, corrals, nets, deer licks – “c’altúym’x’w”, birthing grounds, trails and lookouts)
- Manufacture sites
- Medicinal gathering sites (Devil’s Club, ochre, etc.)
- Meeting sites
- Old homes or habitations
- Plant gathering areas
- Quarries
- Recreational sites (used for family, social and cultural gatherings)
- Sacred bundles
- Small-pox sites
- Trails and travel corridors (“xw’é’”)
- Trail markers
- Trap lines or trapping areas
- Villages (“?esce cítx’w”)
- Other sites<sup>12</sup>

## I. Culturally Modified Trees

Culturally modified trees (“CMTs”) are trees that were modified by aboriginal people as part of their traditional use activities. Evidence of this use includes scars, blazes, notches, cuts and other modifications to trees. Trees were, and continue to be, blazed to mark trails and places of significance. Tool marks on trees include marks made by steel axes, hatchets, knives, chisels and adzes (bone, antler and iron), peelers (bone, antler, other) and sap scrapers (bone, antler, other), fire assisted modifications, chainsaw marks and other tools. Young trees might be knotted near the top to show

<sup>10</sup> LNIB feels that all CMTs are important, not just those predating 1846, as recognized by Provincial legislation.

<sup>11</sup> LNIB does not limit the definition of TUS sites to ancient sites. Our TUS sites may have been used by our community for income or commercial purposes, such as grazing cattle for market or growing hay for sale.

<sup>12</sup> Intact and undisturbed landscapes are often intentionally left alone to allow for a balance between all things and to maintain the health of the tmx’ulax’w. LNIB maintains that such sites may form part of our traditional use.

direction. LNIB maintains that our CMTs are not to be taken, damaged, moved or in any other way impacted without consultation with LNIB. CMTs include:

- Bark stripped trees (tapered, rectangular, other)
- Girdled trees
- Notched trees
- Planked trees
- Sectioned trees
- Undercut trees
- Blazed trees (*"ckéq"es*)
- Bored trees
- Pitch collection trees
- Sap collection trees
- Kindling trees
- Knotted trees (directional markers)
- Tool marked trees (cuts, striations, groves, other)
- Other CMTs



## 15. APPLICATION OF LOWER NICOLA INDIAN BAND HERITAGE SITE MANAGEMENT POLICY

*Wektm páq tékm he tmíxʷ. We are going to show responsibility for our land.*

LNIB preferred management options, beyond provincial standards, are detailed below. This table is intended to be a preliminary guide to LNIB mitigation measures. LNIB maintains that proponents and researchers cannot designate a value of significance without the written consent of LNIB. In all cases, the overarching heritage principles (respect, responsibility and relationship) must be employed. LNIB expects that where possible the corresponding management measure be followed. In circumstances where this is not feasible, and in consultation with LNIB, secondary options may be implemented. LNIB maintains that in some cases, for some sites, development may result in a significant cultural loss and mitigation may not be an option. Such sites are to be avoided.

Site Type	Significance	Management Measure	Secondary Options	Comments
Archaeological heritage	Varies by site	Avoidance	Minimize impact and mitigate as required	If development will alter or destroy site, or is within 50 m of site, the site should be recorded, and steps taken to collect and preserve the heritage items. This should be done in consultation and with the informed consent of LNIB. <sup>13</sup>
Burial sites & graveyards	High	Avoidance	Protection	No development within an area of 10 square meters. If site has already been impacted or degraded, consult with LNIB for direction. Burials may be recovered under some circumstances.
Intellectual property	High	Enhancement	Protection	Recognize and respect LNIB intellectual property and strictly follow community protocols as defined by LNIB community elders (qíqímin) and knowledge holders. Our intellectual property and names are not to be used commercially without the consent of LNIB.

<sup>13</sup> In the case of potential disturbance of either previously recorded or unrecorded archaeological sites, LNIB must be notified.

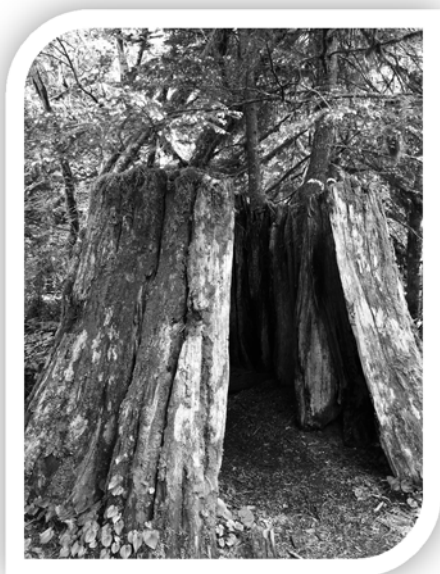
Material culture	Medium	Protection	Enhancement	LNIB believes that objects created and used by our ancestors are important. Recognize spiritual connection to material culture and follow LNIB community protocols.
Petroglyphs & pictographs	High	Avoidance	Protection	Consult with LNIB elders and knowledge holders. Efforts required to protect the privacy of this information and LNIB protocols should be followed.
Stories & legends	High	Avoidance	Protection	Consult with LNIB elders and knowledge holders. Efforts required to protect the privacy of this information and LNIB protocols should be followed.
Sacred & spiritual sites	High	Avoidance	Protection	Consult with LNIB elders and knowledge holders. Efforts required to protect the privacy of this information and LNIB protocols should be followed.
TUS sites	Low to High. Varies by site. Some sites, if altered or impacted, may adversely affect our cultural heritage. While each site should be considered on a case-by-case basis in consultation with LNIB, the following values can act as a guide to general importance of TUS sites:  Battle sites (High) Berry picking sites (Low/Medium) Camp sites (Medium) Cedar harvesting sites (High) Drying sites (Medium/High) Fishing sites (Medium/High) Food preparation sites (Low)	Minimize impact and mitigate as required	Enhancement	Enhance traditional use potential of the area in accordance to LNIB stewardship responsibilities.  For sites with low significance, minimal impact is permissible without notification or consultation with LNIB. Sites with medium value require input from the LNIB monitor or LNIB staff or members. High value sites should be avoided. When this is not possible, the proponent must consult with LNIB for direction.

	Gaming sites (Low) Manufacture sites (Medium) Medicinal Gathering sites (High) Plant gathering areas (Medium) Quarries (Medium) Small-pox sites (High) Trails and travel corridors (Low-High) Trap lines (Medium) Villages (High) Other TUS sites (Low-High)			
Culturally modified trees	Medium. Varies by site.	Avoidance	Minimize impact and mitigate as required	Consult with LNIB for clarification and identification. LNIB maintains that CMTs are physical evidence of our use of the land and that they should not be disturbed without discussing with LNIB.
Other sites	Varies by site	Minimize impact and mitigate as required	Protection	Consult with LNIB as required.



## 16. PROCESS FOR CONDUCTING CULTURAL HERITAGE WORK IN LNIB TRADITIONAL TERRITORY

*xʔenłtémx. Take responsibility for instructing people.*



Any and all plans for proposed development or disturbance within LNIB asserted traditional territory must consider the LNIB cultural heritage policy. Upon the discovery, or high potential of discovery of cultural heritage sites in our territory, the following steps should also be taken:

- 1) Prior to commencing any work within our territory it is advised that the proponent submit their proposal in writing to LNIB for review. As stewards of our land and resources, there may be information that LNIB can provide to avoid potential conflict with our cultural heritage resources. Early notification allows us to work together to avoid damage or destruction to our cultural heritage resources and promotes a healthy relationship.
- 2) It is recommended that the LNIB cultural heritage policy be reviewed prior to any work being conducted in our territory. Our cultural heritage is unique and we assert that it includes heritage not yet protected by provincial legislation. To be in compliance with the LNIB cultural heritage policy, all proponents should ensure that all contractors and sub-contractors are apprised of the terms of conducting cultural heritage work within the asserted traditional territory of the LNIB. A copy of this document will be provided upon request. LNIB is also willing to provide clarification when requested.
- 3) If the project requires any archaeological work, the proponent is responsible for the costs at all stages including project planning, logistics, field work, analysis, clean up and storage of material culture finds (if required). LNIB reserves the right to request a minimum of one, (but two if the situation requires) Nłeʔkepmx environmental monitors, approved in writing by LNIB, be present during all work or associated activities within LNIB territory. The proponent is expected to contribute to training costs if required. Any further support to LNIB cultural programs or to other methods of promoting community involvement are encouraged.

- 4) On a project-by-project basis, LNIB environmental monitors, or other LNIB staff may recommend a Traditional Use Study be conducted. The proponent must be willing to enter into discussions with LNIB should this be requested or required.
- 5) The archaeologist or consultant hired to conduct the proposed archaeological work must abide by existing federal and provincial legislation and permitting requirements. All other applicable permits, including those of other First Nations with shared interests, should be acquired prior to commencing any work in the LNIB traditional territory. While our cultural heritage policy identifies some relevant legislation, it is the responsibility of the proponent to ensure that they abide by, and are aware of, all relevant legislation.
- 6) Conducting archaeological work within the asserted traditional territory of LNIB without abiding by the terms of the LNIB cultural heritage policy, or any violations of this policy or of federal or provincial legislation, can result in the termination of any work in process and the exclusion of the proponent or consulting company from any further work in LNIB territory. Furthermore, LNIB reserves the right to pursue all legal courses of action against such violations. Archaeological work within the asserted traditional territory of LNIB is done so without prejudice to LNIB's asserted aboriginal title and rights and ability to pursue further action in court at their own discretion.
- 7) With respect to any LNIB heritage resources discovered within our territory, notice must promptly be given to LNIB of such discovery and the appropriate terms of our cultural heritage policy complied with.
- 8) The accidental discovery of human remains, or of artifacts indicative of burial, have special protocols as detailed in this policy. Familiarity with indicators of LNIB burials and grave sites will help ensure that unnecessary disturbance of our burial sites is avoided. For example, the presence of stratified soils, grave goods, bark or blankets in association with other indicators of the nature of the site are enough to require appropriate protocols be followed. Early identification of potential burial sites will result in less disturbance. In the event of the discovery of a possible burial or human remains, immediate consultation with LNIB if further clarification is required. Until LNIB has been notified for further direction, every effort should be taken to protect the discovery from disturbance should be taken. This includes covering the site and placing a barrier around it.
- 9) If compliance with the LNIB cultural heritage policy is not commercially reasonable, the proponent is to meet with LNIB in a timely manner, in good faith, to agree on alternative measures.<sup>14</sup>
- 10) In the event of an emergency, immediate steps should be taken to protect LNIB cultural heritage resources including timely notification to LNIB.

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<sup>14</sup> Alternative measures may include flexible and innovative arrangements determined in consultation with LNIB that incorporate LNIB cultural protocols and values. To the fullest extent possible, adversarial positions of engagement should be avoided and efforts made to jointly address the challenges and to achieve progress.

- 11) While working within our territory, every effort should be made to ensure that LNIB community members are given access to important areas for religious, cultural or other purposes.
- 12) While working within our territory, proponents should make every effort to protect the confidentiality of our culturally sensitive information. LNIB is willing to provide clarification if required.
- 13) A report of results of the archaeological work will be submitted to LNIB prior to its submission to the provincial Archaeological Branch. LNIB reserves the right to provide input or request clarification prior to submission of the final report to the Archaeology Branch. Proponents have no claim of ownership of property, or intellectual property, or any other rights to LNIB heritage resources. All LNIB intellectual property must be credited when used, quoted or referenced. LNIB reserves the right to identify information deemed confidential, secret, or private and should be consulted on protocols for such information.
- 14) When heritage information is shared by LNIB with the proponent, it is expected that efforts will be made to acknowledge and integrate that indigenous knowledge into the proposed project.
- 15) LNIB encourages the non-commercial use of LNIB place names, provided they are accurate and used appropriately. LNIB is in the process of mapping known places names and has internal records that can be consulted by LNIB staff. Contact LNIB for further information.
- 16) LNIB encourages the use of the Nt̓eʔkepmx language in reference to Nt̓eʔkepmx culture, provided such uses are accurate and used appropriately. Contact LNIB for further information.
- 17) Copies of all final reports and relevant research and documentation (including site forms, contact information, recommendations, research plans and methodology) to be submitted to LNIB including details on material culture finds and the plans for storage of such materials. LNIB prefers to have our cultural heritage material stored at the Royal British Columbia Museum, or the closest repository with the appropriate storage facilities. LNIB maintains the right to access the cultural heritage material, to visit and interact with it in culturally appropriate ways.
- 18) Surface finds are encouraged to be left in place, unless in threat of destruction or loss. Such finds should be reported to LNIB including details of the nature and location of the find.
- 19) At the conclusion of any work or project in the asserted territory of the Lower Nicola Indian Band, the proponent agrees to repair or restore the land, removing all unnecessary evidence of the project from the land including the removal of piles of dirt,





- debris or construction tools. Where project work has impacted the land or resources, the proponent agrees to work with LNIB to restore the land to a condition deemed satisfactory by LNIB.
- 20) Artifacts collected in any instance from LNIB territory must be housed in an appropriate curatorial facility. LNIB is to be notified and considers the artifacts stored on a 'in trust' basis until such time as LNIB has appropriate curatorial facilities. LNIB maintains right of possession over these artifacts, and must be notified of changes in storage location, use or exhibition. LNIB reserves the right to repatriate artifacts and any human remains, as well as to develop a complete collection of archival, ethnographic, archaeological, historic or other collections and materials to be stored within the LNIB community or at an alternate repository. Furthermore, LNIB does not condone the sale or theft of any artifact from LNIB territory.
- 21) Compliance with the LNIB cultural heritage policy neither contributes nor relieves the proponent's consultative duties with LNIB or other First Nations. The requirements of this cultural heritage policy need to be satisfied for any and all projects undertaken by a proponent within LNIB territory.
- 22) Compliance with LNIB cultural heritage policy does not justify any infringement of any LNIB aboriginal rights or title.
- 23) LNIB considers all proponents conducting work within our territory to do so with respect for our laws and in the spirit of an ongoing relationship. LNIB should be consulted for any further site monitoring activities beyond the scope of the initial project.



## 17. ACCIDENTAL DISCOVERY OF HUMAN REMAINS

*yémeschumx<sup>w</sup>. Respect me.*

LNIB burials, graveyards and cemeteries are sacred and our protocols must be respected, regardless of age or location of the site. We believe that our ancestors should be allowed to lie undisturbed, and unless permission granted by LNIB, human remains and artifacts that serve as indicators of burials (indicating a potential for human remains) should not be removed or disturbed. On a case-by-case basis, LNIB retains the option of deeming such sites confidential. All recommendations regarding the confidentiality of the burials, graveyards or cemeteries must be respected.

Ancestral remains occur throughout our territory. Our method of burial varied according to the location and circumstances.

If human remains, or potential human remains, are discovered, the proponent must immediately:

- Halt all activities. This includes shovel testing, probing, driving and excavating activities;
- Secure the area 10 x 10 m around the discovery;
- Leave material in situ;
- Leave the cloth or burial materials undisturbed or carefully placed back with the human remains until LNIB is informed. If the site is in immediate danger, a tarp or tent might be placed over the burial;
- Contact LNIB. In the event that the proponent is unable to contact LNIB, they are responsible for protecting the human remains, or potential human remains, until such time as LNIB is contacted; and,
- Await further instructions from LNIB. Unsuccessful attempts to contact LNIB are not deemed sufficient grounds to allow resumption of activities. Further instructions are required from LNIB before activities can resume. Failure to do so may result in LNIB halting any work in process and prohibiting any further work in our asserted traditional territory.
- Within 3 days of the discovery, a meeting or discussion with LNIB is required to have occurred. Subsequent discussions may be required to determine the appropriate course of action. This may include, avoiding the site or establishing protective measures such as reburial or stabilization of the site.
- If parties cannot reach an agreement on the appropriate course of action, attempts must be made to resolve the issue through alternate processes.

LNIB should be immediately notified of the identification and/or recovery of any human remains either known to be, or potentially of, Nl̓eʔkepmx ancestry. In the event of the discovery of artifacts indicative of burial or the accidental discovery of human remains, all work must cease around the site until such time as LNIB is notified and further direction provided. Disturbance of the human remains or artifacts indicative of burial shall be prevented by the installation of a buffer of 10 m around the site. The remains shall not be removed without the consent of LNIB. Failure to comply with this protocol will be considered a violation of the LNIB cultural heritage policy and could result in the exclusion from further work in LNIB traditional territory.

Should it be necessary, with the prior informed consent of LNIB, to exhume any human remains, all LNIB protocols should be adhered to, including allowing appropriate time to consult with LNIB elders and knowledge holders and to follow LNIB protocols. Time may also be required for appropriate ceremonies and consultation and communication with family members.

Should for any reason artifacts indicative of burial or human remains have to be removed from LNIB territory, LNIB should be consulted for appropriate cultural protocols for the temporary storage, analysis or reburial of the remains. Such proceedings will include appropriate LNIB ceremonies according to our traditions. Such traditions may include a feast, preparation of headstone or burial box and family assistance. Sufficient time is required to conduct the ceremony. When DNA analysis is requested, the Lower Nicola Indian Band will consult with the family, if known, to ensure that the proper protocol is followed and that the family wishes are respected.

In the event that the remains may be from a recent burial, the BC Coroners Service and RCMP or other government agency must also be notified. LNIB must still be notified.



## 18. AMENDMENTS 7 SPECIAL NOTATIONS

*xáy'm. Transform, change something.*

Our cultural heritage policy is subject to review and reconsideration from time to time. Any disputes between the proponent and LNIB must be resolved through good faith negotiations. All parties should make best efforts to reach a solution in a timely manner. Above all else, effort should be made to respect the spirit and intent of LNIB cultural heritage protocols.



## 19. GLOSSARY

The following definitions apply in this Cultural Heritage Policy:

**“activity”** means any amendment, approval, authorization, development, grant, legislation, license, operation, permit, plan, policy, procedure, regulation, restriction, tenure, transaction, transfer, or other activity, which may have an impact on Lower Nicola Indian Bands’ asserted aboriginal title and rights in Nłeʔkepmx Territory;

**“c’altúym’x”** means a deer lick, or naturally salty mineral place where deer frequent;

**“cəxʷléleʔme”** means sweathouse;

**“címeł”** means *beginning, at first*;

**“ckéqʷes”** means a blazed tree;

**“ʔíkʷlxʷ”** means a dream;

**“kaláxen”** means fortification or log defences;

**“kʷúpiʔ”** means Chief or Creator. The Creator is also referred to as the Old-One in mythological stories;

**“Land Code”** means the *Lower Nicola Indian Band Land Code*, enacted when LNIB took control of the management of reserve lands and resources under the *First Nations Land Management Act*;

**“LNIB”** means the Lower Nicola Indian Band;

**“lúkʷi”** means grave boxes;

**“lúmuʔstn”** means relationship/connection;

**“naxautko”** means giants;

**“ncwéyeptn”** means a grave figure or effigy sometimes placed at a gravesite;

**“nk’əxk’éxmn”** means a drying rack or place. Drying racks were used to dry fish, plants or meat for storage;

**“Nłeʔkepmx”** means Nlaka’pamux people;

**“nʔécqʷtn”** means baking pit, a pit dug in the ground for cooking. This was generally smaller than an earth oven;

**“nʔíyxʷtn”** means an earth oven;



“**ḡḡaʔxʔétkʷu**” means water mystery;

“**nyoʃʷmín**” means a cache or cache pit. This was a storage hole dug in the ground and is often evidence of hunting, fishing or gathering activities;

“**nzáxkín**” means habitation site;

“**páq**” means assume responsibility;

“**qʼiʔmín**” is a camping place;

“**qʼtqʼmín**” means Elder;

“**qʷílqʷʔqʷəʔt**” means the Transformers, spiritual beings that helped shape the Nteʔkepmx world;

“**sʔístkn**” means winter house or pit house;

“**scʼaʔmúleʔxʷ**” means Sasquatch;

“**scwʼexmx**” means the People of the Creek. This is a division of the Nteʔkepmx branch of the Interior Salish tribe;

“**séytknmx**” means Indian people;

“**səxʷneʔm**” means Medicine Man;

“**skʷáwetn**” is a cedar root digging place;

“**skikEns**” means being together;

“**skiʔkiye**” means ancestors;

“**slmécʼiʔ**” means share;

“**sneniʔétxʷ**” means graveyard or cemetery;

“**sneyíʔ**” means ghost;

“**Snkʷép**” means Coyote;

“**spapéʔta**” means Little People;

“**spíləxm**” means mythology;

“**sptékʷʼ**” means Creation story;

“**sqʷém**” means mountain;

“**sxáʔm**” means Transformer Sites;



**“sx<sup>w</sup>ák<sup>w</sup>uk<sup>w</sup>”** means heart;

**“széw”** means a dip-netting place or fishing place where a dip net was used;

**“s<sup>ǎ</sup>íq”** means Spirit Dance;

**“s<sup>ʔ</sup>émit”** means responsibility;

**“s<sup>ʔ</sup>ístkn”** means winter house or pithouse;

**“tékm”** means all. **“tékm Níe<sup>ʔ</sup>kepmx he tmíx<sup>w</sup>”**, means all our asserted Níe<sup>ʔ</sup>kepmx territory.

**“tekmúym’x<sup>w</sup>sc”** means every place.

**“tlanéka”** means Beggars dance;

**“tmíx<sup>w</sup>”** means earth, ground, and land. It applies to our country or world and embraces the connection to the earth, sky and waters;

**“tmx<sup>w</sup>ulax<sup>w</sup>”** means the territory of the Níe<sup>ʔ</sup>kepmx Nation;

**“tsamúlaux”** means dwarves;

**“twekén’ins”** means a burial platform;

**“wénx”** means Warriors Dance;

**“xáy’m”** means to transform or change something.

**“xa<sup>ʔ</sup>xa<sup>ʔ</sup>”** means spiritual, sacred or mysterious. It can be applied to sacred or taboo sites or to the mystery or spirit or mystery of a place;

**“xkén’itn”** means grave marker;

**“xwél”** means trails or travel corridors;

**“x<sup>ʔ</sup>enítémx”** to continue to be responsible for showing the way;

**“yémes”** means respect;

**“yémit”** means pray/prayer;

**“<sup>ʔ</sup>esce cítx<sup>w</sup>”** means a village.





APPENDIX A – MAP OF NŁEʔKEPMX/LNIB TRADITIONAL TERRITORY

