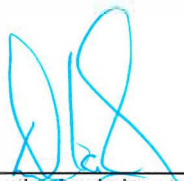


LOWER NICOLA INDIAN BAND

ALLOTMENT AND CUSTOM FAMILY LANDS LAW

Enacted on July 15, 2025



Authorized signatory for LNIB
Delta Long, Lands Manager

DEPOSITED IN THE REGISTER

ON 26/08/2025
(Day/Mo/Year)

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PREAMBLE

WHEREAS:

We the Śwexmx (People of the Creek), are part of the Nleʔkepmx Nation;

Our sptékʷł (our origin stories), tell us that xeʔłkʷúpiʔ (Old One) created the tmíxʷ (our world);

Messages from Old One were sent directly to the hearts of our ancestors, the first human dreamers who learned Nleʔkepmx xitl'ix (our laws);

xeʔłkʷúpiʔ Old One and the qʷílqʷłqʷəłt (the Transformers) created the world we know today and taught our families how to care for it so that it would continue to provide for all the generations still to come;

Our identity is tied to our tmíxʷ (our world), and the complex and enduring relationships we have with all human and nonhuman beings living in, on and above it;

We have, since time immemorial, held, and continue to hold, Aboriginal Title to the traditional lands of our Nation;

We are a sovereign Nation, with our own Indigenous laws, governance, culture, spirituality and vision;

We are a strong, vibrant and dynamic community and our unique history and worldview help shape our future;

We are guided by our Indigenous laws and protocols, and govern according to them. These foundational principles, written on our hearts since our world was created include the teachings of yémes (Respect), sʔémit (Responsibility), and łumuʔstn (Relationships);

We exercise sovereignty over the land, the waters, the salmon, the animals, the insects, the amphibians and all other beings and resources throughout nleʔkepmxúym'xʷ (our asserted territory);

Our laws and protocols reflect our right and responsibility to govern and steward, in our own way, as our ancestors were taught when our world was created;

Today, as in the past, our community believes that the future of our families is ours to determine. Respectful shared decision making requires free prior informed consent, meaningful engagement and consultation, recognition of the deep and important knowledge held by our community members and building and maintaining strong relationships;

We consider this our responsibility, shared by Old One to the first human dreamers. It is an obligation we have to our children, our grandchildren, our great-grandchildren, and all the generations still to come, a privilege and a duty which cannot be forgotten;

The rights and responsibilities we hold as the caretakers and stewards of our lands are reflected in the articles of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP.) We are committed to upholding principles of UNDRIP in all of our

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laws. Articles 4, 5, 18, 32 and 34, in particular, affirm the rights of Indigenous Peoples to self-government and decision-making according to their own legal institutions and internal procedures.

AND WHEREAS Lower Nicola Indian 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 *Framework Agreement on First Nation Land Management* 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 [*Council may make Laws*] and 6.2 [*Examples of Laws*] of the Land Code, Council is authorized to establish Laws relating to lands, including relating to the use, possession and occupation of LNIB Land and relating to Interests in LNIB Land;

AND WHEREAS section 12.3(i) [*Community Approval*] of the Land Code provides that Council may declare that a particular decision must be approved by Community Approval before a matter proceeds;

AND WHEREAS section 14.1 [*All dispositions in writing*] of the Land Code provides that an Interest in LNIB Land may only be created, granted, disposed of, assigned or transferred by a written instrument issued in accordance with the Land Code;

AND WHEREAS section 14.2 [*Standards*] 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 Interests, including Allotments, in LNIB Land;

AND WHEREAS section 14.7 [*Cancellation of Interests and Licences*] of the Land Code provides that Council may, subject to an applicable ruling under Part 8 [*DISPUTE RESOLUTION*] of the Land Code or by a court of competent jurisdiction, cancel or correct any Interest or Licence issued or allotted in error, by mistake or by fraud;

AND WHEREAS section 16.1 [*Authority to make dispositions*] of the Land Code provides that Council may by Resolution, upon a recommendation from the Lands Management Advisory Committee, grant Interests in LNIB Land;

AND WHEREAS section 18.1 of the Land Code provides that the Lands Management Advisory Committee may be authorized to act as a delegate of Council under Part 4 [*INTERESTS AND LICENCES IN LAND*] of the Land Code, which includes that authority to grant Allotments;

AND WHEREAS section 20.1 [*Nature of Member's Interest in an Allotment*] of the Land Code explains the nature of a Member's interest in an Allotment, including an entitlement to possession of the land; an entitlement to benefit from resources (except for sand and gravel, cutting and removing timber and subsurface mineral rights and claims); the ability to transfer subsidiary Interests and Licences in the land; and the ability to devise or dispose of his or her Interest to another Member;

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AND WHEREAS section 20.2 [*Council may grant Allotments*] of the Land Code provides that Council may grant Allotments to available LNIB Land to Members in accordance with procedures established by Council and any General Zoning Law and Land Use Plan;

AND WHEREAS section 20.5 [*Subsidiary Interests and Licences*] of the Land Code provides that a CP Holder may only grant a subsidiary Interest or Licence in his or her Allotment if the following conditions are met:

- (a) the purpose of the Interest or Licence is consistent with any General Zoning Law and Land Use Plan and all applicable LNIB policies and Laws,
- (b) the term of the Interest or Licences does not exceed 99 years, and
- (c) where the proposed grantee is a non-Member, Council consents to the granting of the Interest or Licence;

AND WHEREAS section 21.2 [*Allocation Laws*] of the Land Code provides that, upon the recommendation of the Land Management Committee, Council may enact Laws respecting allocations;

AND WHEREAS section 22.1 [*Transfer of Interests*] of the Land Code provides that a Member may transfer or assign an Interest, including an Allotment, or a Licence in LNIB Land to another Member without the need for Community Approval or the consent of Council;

AND WHEREAS section 31.2 [*Delegation*] 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 36.1 [*Enforcement of Interests*] of the Land Code provides that an Interest in LNIB Land created or granted after the Land Code comes into effect is not enforceable unless it is registered in the Register;

AND WHEREAS LNIB has undertaken consultation with Members to identify and delineate “custom family lands”, LNIB Land over which Members have interests based on long-term use or based on LNIB tradition;

AND WHEREAS LNIB is developing traditional laws and it is LNIB's intention that those laws will inform the interpretation of this Law.

NOW THEREFORE the Council enacts as follows:

PART 1 – CITATION, APPLICATION, DEFINITIONS AND INTERPRETATION

Citation

1. This Law may be cited as the *Allotment and Custom Family Lands Law*.

Purpose

2. The purpose of this Law is to provide a fair and transparent process for granting an Allotments in LNIB Land.

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:

“custom family Allotment” means an Allotment in LNIB Community Land that is granted to a Member based on the Member’s long-term use of the land or based on LNIB tradition;

“interim allotment” means an authorization made under section 13, which requires the holder to comply with certain conditions before Council finalizes the grant of an Allotment; for certainty, the definition of an “Allotment” in the Land Code does not apply to an interim allotment;

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

Interpretation

6. (1) A reference in this Law to an enactment or policy is to be construed as including a reference to that enactment or policy 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 with the exception of a schedule approved under section 11.
(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 with the exception of a schedule approved under section 11.
(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 provided, a reference to days means calendar days.
(6) 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 if any provision of this Law is for any reason held to be invalid by a decision of a court of competent jurisdiction, the invalid 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 will 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

Procedures for certain Allotments

9. Council may approve procedures and requirements applicable to specific types of Allotments as a schedule to this Law.

Custom family Allotments

10. (1) In a schedule to this Law, Council may:
- (a) establish a body:
 - (i) to investigate and assess a Member's application for a custom family Allotment, and
 - (ii) to make recommendations regarding custom family Allotments; and
 - (b) delegate to the Lands Management Advisory Committee Council's authority to grant a custom family Allotment to a Member.

Schedules

11. (1) Matters approved by Council under sections 9 and 10 and added as a schedule to this Law:
- (a) have the force of Law; and
 - (b) must be approved in accordance with section 7 *[Law-Making Procedure]* of the Land Code and, if the schedule relates to a matter listed in section 12.3 *[Community Approval]* of the Land Code, approved in accordance with section 12 *[Community Approval]* of the Land Code.

- (2) Subject to sections 6(2) and 6(3), a reference to “this Law” includes any matters approved as schedules to this Law.

PART 3 - ALLOTMENTS

Granted under this Law

- 12.** An Allotment may only be granted in accordance with this Law.

Interim allotment

- 13.** (1) Council may grant an interim allotment in LNIB Community Land on the basis that certain reasonable conditions be complied with before Council will finalize the grant of an Allotment.
- (2) Without restricting Council's ability to impose conditions under subsection (1), conditions may include a requirement to begin construction of a new home on the applicable land within one year.
- (3) An interim allotment must be in writing and must specify that the interim allotment will expire if any conditions are not met.
- (4) An interim allotment entitles its holder to:
- (a) possession of the land that is subject to the interim allotment for the period of time authorized in the Resolution;
 - (b) benefit from the resources arising from the land, with the exception of:
 - (i) the removal of sand and gravel,
 - (ii) the cutting and removal of timber, and
 - (iii) subsurface mineral rights and claims; and
 - (c) subject to subsection (5), carry out the necessary activities to comply with the conditions imposed in the Resolution granting the interim allotment.
- (5) An interim allotment-holder is responsible for the following:
- (a) ensuring all uses of their interim allotment comply with all Laws, policies and orders and all applicable federal or provincial laws and regulations;
 - (b) insuring and maintaining the land subject to the interim allotment;
 - (c) insuring, maintaining and repairing structures, including residential homes, on the land subject to the interim allotment; and
 - (d) otherwise complying with the terms of the Resolution granting the interim allotment.

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- (6) For certainty, an interim allotment-holder is not entitled to:
- (a) transfer, devise or otherwise dispose of their interim allotment; or
 - (b) grant an Interest or Licence in their interim allotment.
- (7) If a Member fails to comply with specific conditions before the interim allotment expires, the applicable lands will be eligible to be granted to another Member in accordance with this Law.

Responsibilities of Allotment-holder

14. In addition to any conditions set out in the Certificate of Possession, upon Council finalizing a grant of an Allotment, an Allotment-holder is responsible for the following:

- (a) ensuring all uses of their Allotment comply with all Laws, policies and orders and all applicable federal or provincial laws and regulations;
- (b) insuring and maintaining the land subject to the Allotment;
- (c) insuring, maintaining and repairing structures, including residential homes, on the Allotment;
- (d) managing and monitoring any Interests or Licences granted under the Allotment; and
- (e) complying with section 27(1)(b) regarding Allotment transfers.

PART 4 - ALLOTMENTS IN COMMUNITY LAND

Allotments in LNIB Community Land

- 15.** (1) With the exception of an Allotment described at subsections (2) and (3), a Member may apply for and Council may grant an Allotment in LNIB Community Land in accordance with the requirements at Schedule 1.
- (2) If Council has committed to grant an Allotment to a Member on the Member's satisfaction of the terms of an agreement, Council may grant an Allotment in LNIB Community Land to a Member in accordance with the requirements at section 16.
- (3) A Member may apply for and Council may grant a custom family Allotment in accordance with the requirements at Schedule 2.
- (4) Subject to subsection (5), every Allotment granted under this Law includes a hold-back of approximately 5% of the area of the applicable land in LNIB's name to install and maintain the following types of infrastructure for the primary purpose of providing a benefit for LNIB, Members or Persons who reside on or operate a business on LNIB Land:

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- (a) a utility corridor, including infrastructure for sewage, hydroelectric, gas and telecommunications;
 - (b) an irrigation ditch and related irrigation infrastructure; or
 - (c) an access corridor.
- (5) If LNIB seeks to holdback more than 5% of the area of the applicable land for the purposes described at subsection (4), LNIB must obtain an engineer's opinion that deems it necessary for the desired purpose, and the holdback may only be increased to 7.5% of the total area.

Allotments relating to loans and housing agreements

16. (1) For the purposes of this section, "housing agreement" means an agreement between Council and a Member providing that Council will grant the Member an Allotment if the Member satisfies conditions of the agreement, which may involve paying out a loan or building a home, and for certainty, includes a rent-to-own housing agreement.
- (2) If Council has entered into a housing agreement with a Member, Council will grant an Allotment to the Member by Resolution if the following conditions have been met:
- (a) the Member has provided documents to demonstrate that all relevant loans or other financial commitments have been paid out and otherwise satisfied;
 - (b) the Member has satisfied all the conditions of the housing agreement;
 - (c) the Member has complied with all applicable Laws and has paid any relevant servicing, administration or Allotment acquisition fees; and
 - (d) if requested by Council, the Member has signed an agreement that confirms the Member's acknowledgment of the applicable legal terms and the Member's agreement to release and indemnify LNIB from any liability or payments for any past loans or debts relating to the home, residential unit or the Allotment.

Exchange of LNIB Lands

17. (1) Council may, by Resolution, grant an Allotment in LNIB Community Land to a Member in exchange for one or more Allotments held by the Member if the following conditions are met:
- (a) the exchange of land is in the best interests of LNIB;
 - (b) the lands being exchanged are of approximately equal size or value, except if the Member agrees to accept an exchange for lands of a lesser size or value;
 - (c) Council has made full disclosure on the LNIB website or by other means to Members of the purpose and all the circumstances surrounding the proposed exchange; and
 - (d) Council has complied with applicable Laws and Land Use Plans.

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- (2) For greater certainty, an exchange of land under subsection (1) does not constitute an exchange of LNIB Land for land outside of LNIB Land under section 30.1 *[Conditions for land exchange]* of the Land Code and does not require Community Approval under section 30.2 *[No effect]* of the Land Code.

Limitations on size of Allotment

18. With the exception of a grant of a custom family Allotment, a new grant of an Allotment in Community Land must not exceed the size of one-half acre except if a Land Use Plan permits a larger lot size for a specific area within LNIB Land.

PART 5 - OTHER ALLOTMENTS

Cancelling Allotment to participate in housing program

19. (1) For the purposes of this section, “housing program” means a housing program authorized by LNIB that allows a Member to qualify for a loan in exchange for LNIB’s loan guarantee.
- (2) If, under a written agreement between LNIB and a Member, the Member’s Allotment is cancelled to allow the Member to participate in a housing program, Council will, by Resolution, grant a new Allotment for the same lands if the Member has complied with all terms of the agreement.

Allotment after a loan default

20. (1) If a Member’s Allotment reverts to LNIB due to the Member defaulting on a loan for which LNIB has provided a guarantee or has a right of first refusal:
- (a) Council will directly grant the Allotment to another Member from the same family as the defaulting Member if the other Member pays the amount that was owing under the loan in addition to any costs and expenses incurred in the default and sale proceedings, and any other reasonable costs or fees set by Council; or
 - (b) if there is not a qualifying Member from the defaulting Member’s family to receive the Allotment in accordance with paragraph (a), Council will sell the Allotment for fair market value in addition to any costs and expenses incurred in the default and sale proceedings, and any other reasonable costs or fees set by Council.
- (2) A direct grant under subsection (1)(a) will be offered in the following order:
- (a) to individuals from the defaulting Member’s Immediate Relative;
 - (b) to individuals from the defaulting Member’s extended family.

Allotment by operation of law

21. Council must grant or transfer an Allotment in accordance with an order of a court of competent jurisdiction or as is otherwise required by operation of law.

Other Allotments under regulation

22. Council may grant any other Allotments in accordance with the Land Code or a regulation passed by Council under this Law.

**PART 6 - CANCELLING, TRANSFERRING AND
GRANTING INTERESTS AND LICENCES IN ALLOTMENTS**

Power to cancel or correct an Allotment

23. (1) Council may correct or cancel an Allotment in the following situations:
- (a) the Allotment was issued or allotted in error, by mistake or by fraud; or
 - (b) by agreement with the Allotment-holder.
- (2) Council's authority to correct an Allotment includes correcting survey errors and reconfiguring boundaries.
- (3) Council's decision to correct or cancel an Allotment is subject to any procedures and requirements set out in a regulation or policy approved by Council regarding correcting and cancelling Interests.

When cancellation takes effect

24. An Allotment is deemed cancelled at the time the cancellation is registered in the Register.

Effect of cancellation

25. At the time of cancellation, the lawful possession of an Allotment reverts to LNIB and all the rights and obligations related to Interests and Licences in or to that Allotment are transferred to LNIB.

Transfer of Allotment on death

26. Without restricting the application of section 21, upon the death of an Allotment-holder, the Allotment:
- (a) may only be transferred in accordance with the estates provisions of the *Indian Act*; and
 - (b) must be registered in the Register.

Transfer of Allotments and granting of Interests in Allotments

27. (1) Every transfer of an Allotment and every grant of an Interest or Licence in or to an Allotment must:

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- (a) comply with applicable Laws and policies, including any zoning laws, Land Use Plan, environmental management plans and environmental assessment requirements; and
 - (b) be registered in the Register.
- (2) An Allotment-holder may only transfer their Allotment by:
- (a) submitting a transfer request to the Lands Department; and
 - (b) if the transfer request is eligible to be processed, paying the applicable fees to allow the transfer to be registered in the Register.
- (3) For certainty, an interim allotment-holder is not entitled to transfer or grant an Interest or Licence in their interim allotment.

No liability for transfers of, or grants of Interests in or to, an Allotment

28. LNIB is not responsible or liable for ensuring a land instrument that transfers an Allotment or grants an Interest or Licence in or to an Allotment:
- (a) is validly made;
 - (b) is enforceable; or
 - (c) will be accepted by the First Nations Land Registry.

PART 7 – REGISTRATION AND CERTIFICATES OF POSSESSION

Registration

29. If Council approves an Allotment, Council must register, or cause to be registered, the following in the Register:
- (a) the Resolution approving an Allotment; and
 - (b) the Certificate of Possession demonstrating evidence of the Allotment.

Filing procedure deemed followed

30. In all cases, when a Certificate of Possession is registered in the Register, it is deemed to have been registered under the authority of Council.

Authenticity of Certificate of Possession

31. (1) A Certificate of Possession is not valid unless it is signed by the Lands Manager and the chair of the Lands Management Advisory Committee.

- (2) Unless otherwise directed by a court, when a Certificate of Possession is allegedly signed by an authorized Council member in their role as chair of the Lands Management Advisory Committee, it must be presumed to have been signed by Council without further proof.

PART 8 - DISPUTE RESOLUTION

Dispute resolution

32. (1) A person may file a notice of dispute in relation to the following matters:

- (a) a dispute regarding the boundaries of an Allotment;
- (b) a dispute between two persons, or between a person and LNIB in relation to the possession, use or occupation of an Allotment, unless such dispute relates to the transfer of an Allotment following the death of an Allotment-holder; and
- (c) a dispute regarding the cancellation of an Allotment.

(2) A person is not eligible to dispute a decision by Council or Council's designate in relation to the granting of an Allotment.

(3) Subject to a Law that addresses dispute resolution, a notice of dispute must address the following details and be filed with the Lands Department:

- (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.

Time limit

33. (1) If a dispute relates to a decision made by LNIB or in response to an incident, the notice of dispute must be delivered within 30 days of the decision or incident to which the dispute applies.

(2) Delivery will be effected by:

- (a) hand delivery;
- (b) registered mail; or
- (c) email.

Council's decision

34. (1) Council will consider the notice of dispute within 30 days of delivery of the notice to the Lands Department and, acting reasonably, will make a decision on the dispute.
- (2) A decision of Council on a dispute under subsection (1) is final and binding.

PART 9 – MISCELLANEOUS

Conflict of interest

35. In the event of a real, perceived or potential conflict of interest arising in relation to the management and administration of this Law, the conflict of interest policies and procedures approved in accordance with the *Lower Nicola Indian Band Financial Administration Law* applies.

Forms and land instruments

36. (1) Council must approve the following forms and lands instruments:
- (a) application for Allotment form;
 - (b) Certificate of Possession;
 - (c) transfer of Allotment form; and
 - (d) exchange of Allotment form.
- (2) Council may revise a form or land instrument approved under subsection (1) by Resolution.
- (3) LNIB will not assume any liability for any claims, losses, or damages arising out of the use of forms prescribed under subsection (1).

Delivery

37. (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;

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- (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 10 – REGULATIONS

Regulations

38. (1) Council may make any regulations it considers necessary or advisable for purposes under this Law; Council is not required to undertake the procedural requirements under section 7 [*Law-Making Procedure*] of the Land Code to make a regulation.
- (2) For certainty, the powers of Council under subsection (1) include the power to make regulations:
- (a) prescribing requirements and other information for other types of Allotments not provided for in this Law;
 - (b) prescribing procedures that apply to the implementation of this Law;
 - (c) prescribing procedures that apply to cancelling an Allotment;
 - (d) prescribing fines for specific contraventions of this Law;
 - (e) subject to section 36, prescribing the form and content of applications, notices, other forms or documents that are required or permitted under this Law;
 - (f) defining words and expressions that are used but not defined in this Law; and
 - (g) generally to give effect to this Law.
- (3) Subsection (2) does not restrict Council from approving matters listed in that subsection by Resolution or addressing the matters in a policy.

PART 11 – AMENDMENT

Substantive amendments to this Law

39. With the exception of a minor amendment described at section 40, an amendment or repeal of this Law must only be made by Council as recommended by the Lands Management Advisory Committee in accordance with the Land Code.

Minor amendments

40. (1) Council may approve minor amendments 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, if there is no reasonable dispute about the intention underlying the original provision.

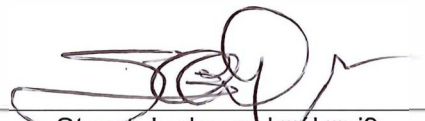
PART 12 – COMING INTO FORCE

Coming into force

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


THIS LAW IS HEREBY DULY ENACTED by Council on the 15th day of July, 2025, at Merritt, in the Province of British Columbia.

Quorum of Council: 5


Stuart Jackson, kwukwpi?


William Bose, Councilor


Arthur Dick, Councilor


Robin Humphrey, Councilor


Connie Joe, Councilor


William Sandy, Councilor


Lucinda Seward, Councilor


Lesley Manuel, Councilor

SCHEDULE 1 – RESIDENTIAL ALLOTMENTS OF LNIB COMMUNITY LAND

Definitions and interpretation

1. (1) In this Schedule

“applicant” means a Member who makes an application for an Allotment in accordance with this Schedule;

“application” means an application for an Allotment that complies with section 3;

“Law” means the *Allotment and Custom Family Lands Law*;

“official plan” means a graphical description of boundaries of land prepared from the field notes of a survey confirmed under section 29 of the *Canada Lands Surveys Act*; and

“survey” means an official survey, as defined by the *Canada Lands Surveys Act* (1985);

(2) In addition to the terms defined at subsection (1), capitalized terms used in this Schedule may be defined in the Land Code.

(3) Unless otherwise specified, a reference in this Schedule to a section is a reference to a section of this Schedule.

(4) Unless otherwise specified, a reference in this Schedule to a subsection or paragraph is a reference to a subsection or paragraph of the section or subsection in which the reference occurs.

Application of this Schedule

2. (1) Subject to subsection (2), this Schedule applies to Allotments of LNIB Community Land.

(2) This Schedule does not apply to:

- (a) an Allotment of LNIB Community Land that is subject to a housing agreement described at section 16 of the Law;
- (b) a Member’s interest in a custom family Allotment; or
- (c) an exchange of LNIB Community Land for a Member’s Allotment under section 17 of the Law.

Member’s application

3. (1) A Member may apply for an Allotment by submitting to the Lands Department the applicable fee and an application in a form approved by Council that contains the following information:

- (a) the Member’s full legal name, Member number and mailing address of the applicant;

- (b) a description and survey or sketch of the applicable land that complies with standards approved by Council;
- (c) information on any known Interests or rights held by third parties in or to the applicable land;
- (d) a description of all structures and residential homes the applicant proposes to construct on the applicable land and a cost estimate for such construction;
- (e) one of the following:
 - (i) evidence in a form approved by Council that shows the applicant has sufficient funds to construct the proposed structures and residential homes, or
 - (ii) evidence of a privately obtained construction mortgage pre-approval that:
 - A. covers the estimated costs of construction for the proposed structures and residential homes,
 - B. is in the applicant's name,
 - C. was obtained within the three (3) month period preceding the date of the application, and
 - D. is accompanied by a written authorization granting the entity that provided the applicant's mortgage pre-approval permission to confirm the authenticity of that mortgage pre-approval with LNIB; and
- (f) evidence in a form approved by the Lands Department that shows the applicant is aware of the applicable costs and has sufficient funds to:
 - (i) install servicing for the applicable land, including water, sewer, hydro and gas, if the land is not already serviced, and
 - (ii) provide Council with a legal description of the requested Allotment that:
 - A. refers to a registered plan or official plan, and
 - B. shows legal access over the applicable land, unless Council grants an exception to the requirement to obtain legal access under section 9(2)(b).

(2) Subject to section 4, a Member is not eligible to apply for an Allotment if the Member holds an existing Allotment that is used for residential purposes.

Exception to condition

4. (1) Council may approve an exception to the condition described at section 3(2) on the Lands Management Advisory Committee's recommendation if it would be unreasonable to enforce the condition.

- (2) Without limiting Council's discretion in finding that enforcing the condition would be unreasonable, Council may approve an exception under subsection (1):
 - (a) if a Member requires their parent to be a co-applicant for the Allotment despite the parent already holding an Allotment that is used for residential purposes;
 - (b) if a Member jointly holds an Allotment but there is not sufficient space for all the holders to live on the applicable land; or
 - (c) if a Member who is selling their Allotment applies for a new Allotment before their existing Allotment is sold.
- (3) A Member may request that Council approve an exception under subsection (1) by submitting a written request to the Lands Department that sets out the circumstances that supports an exception.
- (4) The Lands Department will provide the written request and any relevant information to the Lands Management Advisory Committee to allow its recommendation under subsection (1).
- (5) The Lands Management Advisory Committee may request additional information from the Member in support of their request.
- (6) A Member must reference Council's approval of an exception under subsection (1) in the Member's application.

Preliminary application review

- 5. (1) The Lands Department must carry out all of the duties provided in this section within thirty days of receiving an application.
- (2) The Lands Department must confirm that the application complies with the requirements set out at section 3(1) and meets the following conditions:
 - (a) the applicant is a Member who is at least 18 years old at the time the application is submitted;
 - (b) the applicant is in good financial standing with LNIB;
 - (c) the requested Allotment is located within LNIB Community Land;
 - (d) except if Council has approved an exception under section 4(1), the applicant does not hold an existing Allotment that is used for residential purposes;
 - (e) the requested Allotment and all proposed uses, construction and development on the Allotment complies with applicable LNIB laws, by-laws, Land Use Plans, any environmental management plan, development plan and policies; and
 - (f) the requested Allotment does not overlap or is not inconsistent with known encumbrances, including any encumbrances identified on the applicable parcel

abstract report, unless the Interest holder for the known encumbrance has provided a written letter setting out that they agree to the Allotment.

(3) If the applicant complies with subsection (2), the Lands Department must:

- (a) conduct an archaeological assessment for the applicable land;
- (b) determine whether the requested Allotment has within it a cultural heritage site or a culturally significant area identified by LNIB or as otherwise revealed in the archaeological assessment;
- (c) determine if the requested Allotment has legal access or if there are extraordinary circumstances that prevent it;
- (d) determine any known environmental concerns with regard to granting the requested Allotment; and
- (e) conduct a site visit to the requested Allotment to assess the status of those lands.

(4) If the applicant does not meet all conditions provided at subsection (2), the Lands Department must advise the applicant that they are not eligible for an Allotment with reasons and any steps that may be taken to qualify for an Allotment in a future application.

Referral to the Lands Management Advisory Committee

6. Within thirty days of the Lands Department's confirmation that an application meets all the conditions provided under section 5(2), the Lands Department must provide the Lands Management Advisory Committee with:

- (a) a copy of the application;
- (b) a report confirming the application complies with the requirements at section 5(2); and
- (c) the following information obtained under section 5(3):
 - (i) details of whether the requested Allotment has within it a cultural heritage site or a culturally significant area identified by LNIB or as otherwise revealed in the archaeological assessment,
 - (ii) details regarding legal access to the requested Allotment, including if there are extraordinary circumstances that prevent it, and
 - (iii) details of any known environmental concerns with regard to granting the requested Allotment,
 - (iv) the Lands Department's site visit observations.

Lands Management Advisory Committee review and recommendation

7. (1) Within a reasonable time of receiving a referral under section 6, the Lands Management Advisory Committee will review all materials provided and will make a recommendation on whether Council should grant an Allotment.
- (2) The Lands Management Advisory Committee's recommendation under subsection (1) must include its reasons.

Referral to Council

8. Upon receipt of the Lands Management Advisory Committee's recommendation under section 7(2), the Lands Department will refer the following to Council:
 - (a) a copy of the application;
 - (b) confirmation that the application complies with the requirements at section 5(2);
 - (c) the information listed at section 6(c); and
 - (d) the Lands Management Advisory Committee's recommendation on whether to grant the requested Allotment.

Council decision

9. (1) At the next duly convened Council meeting following its receipt of a referral from the Lands Department under section 8, in consideration of the Lands Management Advisory Committee's recommendation and all materials provided by the Lands Department, Council must approve or deny the application.
- (2) Council may only approve an application if:
 - (a) the requested Allotment is consistent with the best interests of LNIB; and
 - (b) the requested Allotment has legal access, or Council's approval is conditional on obtaining legal access, unless extraordinary circumstances exist, and Council grants an exception to this requirement.
- (3) If Council denies an application, it must provide, or cause to be provided, notice of its decision with written reasons to the applicant.
- (4) Council's decision under subsection (1) is final.

Interim allotment

10. (1) Council may only grant an Allotment under section 11 if Council first grants an interim allotment in accordance with this section.
- (2) If Council approves an application, it will grant the applicant an interim allotment by passing a Resolution that includes the following information:

- (a) the full legal name and Membership number of the applicant;
- (b) the section of the Law under which the Allotment will be made if the applicant meets the conditions set out in the Resolution;
- (c) a description and attached survey or sketch of the LNIB Community Land that Council will allot to the applicant if the applicant meets the conditions set out in the Resolution;
- (d) a statement setting out the following:
 - (i) the applicant has been granted an interim allotment for the lands described under paragraph (c) and as described in the Resolution,
 - (ii) Council will grant the applicant a final Allotment of the same lands if the applicant does the following within one year from the date of the Resolution, except if Council has granted an extension under subsection (3), at the applicant's own expense:
 - A. provides Council with a legal description of the requested Allotment that refers to a registered plan or official plan that shows legal access over the applicable land, unless Council grants an exception to this requirement under section 9(2)(b),
 - B. obtains Council's approval of construction plans of the residential home on the applicable land,
 - C. provides Council with the name and contact information of the person who will be responsible for constructing the residential home,
 - D. obtains all relevant building and other permits for the construction of the residential home on the applicable land,
 - E. complies with any LNIB environmental assessment policy or law,
 - F. constructs the residential home on the applicable land unless a longer timeframe for completing this condition has been approved by Council,
 - G. installs the necessary servicing, including water, sewer, hydro and gas, if the land is not already serviced, and
 - H. remains in good financial standing with LNIB; and
- (e) a statement that the interim allotment must be registered in the Register;
- (f) a statement setting out that over the term that the interim allotment is in force, LNIB will not grant any Interest or Licence in or to the applicable land to another person without the written consent of the applicant;
- (g) a statement setting out that if any one or more of the conditions set out in the Resolution are not met within the required timeframe:

- (i) the interim allotment will expire,
 - (ii) the applicant will be required to make a new application if the applicant wishes to obtain an Allotment,
 - (iii) LNIB will not be responsible to the applicant or any third party for losses, damages, liabilities or costs in relation to the applicant's failure to comply with the conditions in the Resolution, and
 - (iv) LNIB will be free to grant an Interest or Licence in or to the LNIB Community Land to which the application relates without the consent of, and without providing notice to, the applicant.
- (3) Council may extend the one year deadline under subsection (2)(d)(ii) to accommodate the Member's loan if the loan will not be disbursed with adequate time to comply with the applicable conditions.
- (4) As soon as practicable after Council issues a Resolution under subsection (2), it must provide, or cause to be provided, a copy of the Resolution to the applicant.

Final Allotment decision

11. (1) Council may grant an Allotment if Council is satisfied that the applicant has complied with all conditions imposed in Council's approval of an interim allotment under section 10.
- (2) Council's grant of an Allotment must be evidenced by a Resolution that includes the following information:
- (a) the full legal name and membership number of the new Allotment holder;
 - (b) a legal description of the Allotment that refers to a registered plan or official plan;
 - (c) any conditions imposed on the Allotment-holder;
 - (d) a list of all encumbrances on the Allotment;
 - (e) a statement confirming that the Allotment has been registered in the Register.
- (3) If Council grants an Allotment under this section, Council must prepare, or cause to be prepared, a Certificate of Possession to be issued to the applicant demonstrating the Allotment.
- (4) If Council is not satisfied that the applicant has complied with all conditions imposed in Council's interim allotment under section 10, Council must provide, or cause to be provided, notice to the applicant denying the Allotment and setting out reasons for Council's decision.
- (5) Council's decision under subsection (4) is final.

SCHEDULE 2 – CUSTOM FAMILY ALLOTMENTS

Definitions and interpretation

1. (1) In this Schedule:

"applicant" means one or more Members who have applied to the Lands Department for a custom family Allotment in accordance with section 8;

"application" means an application for a custom family Allotment that complies with section 8;

"community meeting" means a meeting open to Members described at section 12;

"compliant application" means an application for which the Lands Department has confirmed complies with section 10(2);

"Custom Family Lands Resolution Committee" means the body established under section 3;

"Law" means the *Allotment and Custom Family Lands Law*;

"official plan" means a graphical description of boundaries of land prepared from the field notes of a survey confirmed under section 29 of the *Canada Lands Surveys Act*; and

"survey" means an official survey, as defined by the *Canada Lands Surveys Act* (1985).

(2) In addition to the terms defined at subsection (1), capitalized terms used in this Schedule may be defined in the Land Code.

(3) For certainty, the lower case form of "interest" used in relation to land does not mean a legal interest in land recognized under the Land Code.

(4) Unless otherwise specified, a reference in this Schedule to a section is a reference to a section of this Schedule.

(5) Unless otherwise specified, a reference in this Schedule to a subsection or paragraph is a reference to a subsection or paragraph of the section or subsection in which the reference occurs.

Application of this Schedule

2. This Schedule only applies to regulate the granting of custom family Allotments.

Custom Family Lands Resolution Committee

3. (1) Council establishes the Custom Family Lands Resolution Committee to:

- (a) assess applications in accordance with section 14; and
- (b) make recommendations on custom family Allotments to the Lands Management Advisory Committee in accordance with section 15.

(2) The Council must, by Resolution:

- (a) approve terms of reference for the Custom Family Lands Resolution Committee including eligibility requirements for membership, terms of office for its members, and quorum; and
- (b) appoint individuals to serve on the Custom Family Lands Resolution Committee.

Delegation

4. (1) Council delegates:

- (a) its authority to grant custom family Allotments to the Lands Management Advisory Committee; and
- (b) its administrative authority to administer this Law to the Lands Manager and the Lands Management Advisory Committee as provided in this Law.

(2) The Lands Manager may delegate their duties under this Law to Lands Department staff.

Basis for a custom family Allotment

5. The Custom Family Lands Resolution Committee's recommendation regarding an application under section 15(2) and the Lands Management Advisory Committee's decision to approve an application under section 17 will be based on the following factors in addition to any factors and guidance set out in a policy:

- (a) the applicant's historic attachment to the land or the applicant's interest in the land based on LNIB tradition;
- (b) LNIB family ties to the land;
- (c) improvements to the land including a residence;
- (d) a will, witnessed letter or agreement that indicates the intention of a Member to transfer the land in question to another Member, despite the absence of the following:
 - (i) a registered Interest in the land at the time the will, witnessed letter or agreement was made, or
 - (ii) a determination made by Indigenous Services Canada regarding the validity of the will, witnessed letter or agreement;
- (e) oral testimony provided in accordance with this Schedule;
- (f) LNIB cultural perspectives and preferences regarding land holdings;
- (g) LNIB traditional protocols or family protocols regarding decision-making processes;
- (h) the amount of land or lot size requested and the amount or remaining LNIB Community Land;

- (i) whether the lands are or will be needed to meet the needs of LNIB such as community infrastructure or housing needs;
- (j) any order of a court having jurisdiction relevant to the land.

Call for applications

6. (1) Upon the Lands Management Advisory Committee's direction, the Lands Department will provide notice inviting Members to apply for a custom family Allotment within a specified portion of LNIB Community Land.
- (2) The notice under subsection (1) must be provided in accordance with section 7 and must include the following information:
 - (a) a description and map of the LNIB Community Land for which the Lands Management Advisory Committee will consider granting custom family Allotments, and, where LNIB has sufficient information, the approximate location of distinct interests asserted by Members within the lands depicted in the map (without identifying any personal information related to an interest);
 - (b) the manner in which a Member may submit an application and the applicable deadline, which must be no less than 60 days after the date the notice is provided;
 - (c) a statement advising that the determination of custom family Allotments in the applicable area will be finally decided and that all Members with an interest in a custom family Allotment are advised to submit an application in accordance with this Schedule and any notices provided by LNIB;
 - (d) the name and contact information for the LNIB staff who may answer any questions about the application form.
- (3) For certainty, applications will only be accepted from Members with interests related to the lands identified in the notice; once the Lands Management Advisory Committee has addressed all custom family Allotment applications submitted for a defined area in accordance with this Schedule, interests related to other areas of LNIB Community Land will be considered.

Providing notice

7. Notice to Members under this Schedule must be provided as follows:
 - (a) in the LNIB newsletter;
 - (b) on the bulletin board in each of LNIB's office buildings;
 - (c) on the LNIB website;
 - (d) in the Merritt newspaper with the largest circulation; and
 - (e) on all active social media accounts for which LNIB administers.

Member's application

8. (1) A Member in good financial standing with LNIB may apply for a custom family Allotment by submitting to the Lands Department the applicable fee and an application that complies with subsection (2) before the expiry of the deadline set out in a notice provided under section 6(2).
- (2) An application for a custom family Allotment must be in a form approved by Council, comply with requirements in an applicable policy and contain the following information:
- (a) the applicant's full legal name, Member number and mailing address;
 - (b) a description and survey or sketch of the applicable land that complies with standards approved by Council;
 - (c) a description of the applicant's connection to the applicable land that relates to any relevant factors listed at section 5 and any materials that support the connection, which may include the types of documents listed at section 9;
 - (d) whether the applicant wishes to incorporate LNIB traditional protocols or family protocols in the submission of evidence supporting their application;
 - (e) information on any known Interests or rights held by third parties in or to the applicable land;
 - (f) a description of all structures and residential homes that exist on the applicable land;
 - (g) if the applicant proposes to construct on the land, describe the construction plans for the construction;
 - (h) evidence in a form approved by the Lands Department that shows the applicant is aware of the applicable costs and has sufficient funds to provide Council with a legal description of the requested custom family Allotment that:
 - (i) refers to a registered plan or official plan, and
 - (ii) shows legal access over the applicable land, unless Council grants an exception to the requirement to obtain legal access under section 17(2); and
 - (i) an acknowledgment that an application for a custom family Allotment of more than ten acres of land must receive Community Approval in accordance with section 19 before the Lands Management Advisory Committee will consider the application.
- (3) If more than one Member seeks to hold the same custom family Allotment, the application must contain the information required at subsection (2)(a) for all applicable Members.

Supporting evidence for application

9. Without limiting the types of written or oral evidence that may be submitted or provided in support of an application, an applicant may rely on the following types of evidence to help demonstrate a connection to the applicable land:

- (a) a will;
- (b) a bill of sale;
- (c) a land transfer agreement;
- (d) other legal documents;
- (e) a Resolution;
- (f) minutes from a Council meeting;
- (g) survey maps and reports;
- (h) genealogical information connecting the applicant to the applicable land;
- (i) oral history from the applicant transcribed in an affidavit;
- (j) oral history from others with knowledge of the applicant's connection to the applicable land transcribed in an affidavit;
- (k) without limiting paragraphs (i) or (j), an affidavit establishing connections between the applicant and the applicable land;
- (l) evidence that the applicant (or their family) has lived on, worked, maintained or improved the land.

Preliminary Application Review

10. (1) Within a reasonable time following the expiry of the deadline set out in a notice under section 6(2), the Lands Department will review all applications received by the deadline in accordance with subsection (2).

(2) The Lands Department must confirm that an application complies with the following conditions:

- (a) the applicant is a Member who is at least 18 years old at the time the application is submitted;
- (b) the applicant is in good financial standing with LNIB;
- (c) the application includes the information and documentation required under section 8;
- (d) the requested custom family Allotment is located within LNIB Community Land;

- (e) the requested custom family Allotment and all proposed construction and development on the Allotment complies with applicable LNIB laws, by-laws, land use plans, environmental management plan, development plan and policies;
 - (f) the requested custom family Allotment and any proposed uses, construction or development does not overlap or is not inconsistent with known encumbrances, including any encumbrances identified on the applicable parcel abstract report, unless the holder for the known encumbrance has provided a written letter setting out that they agree to the Allotment; and
- (3) If an application complies with subsection (2), the Lands Department must:
- (a) conduct an archaeological assessment for the applicable land;
 - (b) determine if the requested custom family Allotment has within it a cultural heritage site or a culturally significant area identified by LNIB or as otherwise revealed in the archaeological assessment;
 - (c) determine if the requested custom family Allotment has legal access or if there are extraordinary circumstances that prevent it;
 - (d) determine any known environmental or heritage concerns with regard to granting the requested custom family Allotment; and
 - (e) conduct a site visit to the requested Custom family Allotment to assess the status of those lands.
- (4) Each Member identified in an application as an applicant must demonstrate individual compliance with subsections (2)(a) and (2)(b).
- (5) Subject to subsection (6), if an application for a custom family Allotment does not meet all conditions provided at subsection (2), the Lands Department must advise the applicant that they are not eligible for a custom family Allotment with reasons.
- (6) If the Lands Manager believes an applicant can resolve any non-compliance with subsections (2)(b), (2)(c), 2(e), or 2(f) within a reasonable amount of time, the Lands Manager may allow the applicant additional time to demonstrate compliance.
- (7) In exercising their discretion under subsection (6), the Lands Manager will account for the following:
- (a) the nature of the non-compliance with the applicable sections referenced under subsection (6);
 - (b) the importance of the Lands Management Advisory Committee having before them all applications for custom family Allotments for a given area;
 - (c) the need to administer an efficient and fair process to resolve applications for custom family Allotments;

- (d) the interests of other Members who have submitted compliant applications in a timely way; and
- (e) any other factors that the Lands Manager believes are relevant to their determination.

Member comments on applications

11. (1) Within 14 days from the Lands Department completing its review of applications under section 10(1), including an application that received additional time under section 10(6), the Lands Department must provide notice to Members advising of opportunities to submit comments on all compliant applications.

(2) Notice under subsection (1) must include the following information:

- (a) the date, time and location of a community meeting to be held at least twenty-one days from the date the notice is provided;
- (b) the manner in which a Member may provide written or in-person comments on an application to the Lands Department and the applicable deadline, which must be after a community meeting is held under section 12;
- (c) a map showing the boundaries of the land requested by each applicant;
- (d) the name of each applicant; and
- (e) any other information the Lands Department deems necessary.

Community meeting

12. (1) The Lands Department will hold a community meeting at which all compliant applications will be presented for review and discussion.

(2) Each applicant must attend the community meeting and, subject to subsection (3), be prepared to discuss their application and answer any questions from Members and Council.

(3) If an applicant is averse to public speaking, the applicant, who must be present at the community meeting, may designate a family member to discuss their application and answer questions on the applicant's behalf.

Referral to the Custom Family Lands Resolution Committee

13. (1) The Lands Department will refer all compliant applications to the Custom Family Lands Resolution Committee in accordance with subsection (2) within a reasonable time from the close of the comment period specified in a notice under section 11(2)(b).

(2) A referral to the Custom Family Lands Resolution Committee under section (1) must include the following for each compliant application:

- (a) a copy of the application including supporting materials submitted under section 8(2)(c);
- (b) a report confirming the application complies with the requirements at section 10(2);
- (c) the following information obtained under section 10(3):
 - (i) details of whether the requested custom family Allotment has within it a cultural heritage site or a culturally significant area identified by LNIB or as otherwise revealed in the archaeological assessment,
 - (i) details regarding legal access to the requested Allotment, including if there are extraordinary circumstances that prevent it,
 - (ii) details of any known environmental concerns with regard to granting the requested custom family Allotment, and
 - (iii) the Lands Department's site visit observations;
- (d) a report summarizing Members' oral feedback
 - (i) obtained at a community meeting held under section 12, and
 - (ii) obtained through in-person meetings with the Lands Department before the expiry of comment period specified in a notice under section 11(2)(b);
- (e) copies of all written comments provided by Members to the Lands Department before the expiry of comment period specified in a notice under section 11(2)(b); and
- (f) a report specifying whether the applicant wishes to present oral evidence, including evidence of any witnesses, to the Custom Family Lands Resolution Committee and the manner in which the applicant plans to incorporate LNIB traditional protocols and family protocols in any presentation.

Custom Family Lands Resolution Committee review

14. (1) Within a reasonable time of receiving a referral under section 13, the Custom Family Lands Resolution Committee will review all materials provided and, in accordance with their terms of reference and any applicable policy, will determine the process that will be followed in their assessment of each application for a custom family Allotment, which may include, but is not limited to the following:

- (a) invite an applicant and any witnesses identified by the applicant to a Custom Family Lands Resolution Committee meeting to present evidence, and answer questions posed by the Custom Family Lands Resolution Committee;
- (b) invite a Member to a Custom Family Lands Resolution Committee meeting to discuss the Member's comments responding to an application provided at a community meeting or provided to the Lands Department;

- (c) request a meeting with the Lands Manager to review any aspect of the referral;
 - (d) carry out a site visit to the applicable land.
- (2) If an application reveals overlapping land boundaries with one or more applications under review, without limiting the Custom Family Lands Resolution Committee's discretion:
- (a) the Custom Family Lands Resolution Committee may request multiple applicants and any relevant witnesses to:
 - (i) attend the same Custom Family Lands Resolution Committee meeting and participate in accordance with subsection (1)(a),
 - (ii) attend a site visit in accordance with subsection (1)(d); and
 - (b) subject to a dispute resolution law or policy approved by Council, the Custom Family Lands Resolution Committee may seek to mediate and resolve conflicts, including retaining an independent mediator to assist the Custom Family Lands Resolution Committee to meet this objective.

Custom Family Lands Resolution Committee recommendation

- 15.** (1) Within a reasonable time of the Custom Family Lands Resolution Committee completing its review under section 14, the Custom Family Lands Resolution Committee will do the following for each application:
- (a) consider the record provided under section 13(2) and all relevant evidence gathered under section 14;
 - (b) the factors provided at section 5; and
 - (c) make a recommendation on whether the Lands Management Advisory Committee should grant a custom family Allotment, and if so, the recommended boundaries for each custom family Allotment, which may deviate from the boundaries requested by the applicant.
- (2) The Custom Family Lands Resolution Committee's recommendation under subsection (1)(c) must include its reasons and be supported with the evidentiary record upon which its recommendation is based.
- (3) If the Custom Family Lands Resolution Committee is satisfied on a balance of probabilities that an applicant has knowingly or recklessly provided false information in support of their application, the Committee may recommend the applicant be subject to remedial measures such as barring the applicant from re-applying under this Schedule for a period of time.
- (4) If an applicant unreasonably refuses to participate in any aspect of the review conducted under section 14, including a dispute resolution process selected under section 14(2)(b), the Custom Family Lands Resolution Committee will recommend that the applicant's application be denied until the applicant is prepared to participate in the review.

Referral to Lands Management Advisory Committee

16. Upon receipt of the Custom Family Lands Resolution Committee's recommendation and evidentiary record under section 15(2), the Lands Department will refer the same to the Lands Management Advisory Committee in addition to the information and documents listed at section 13(2) to the extent they are not included as part of the Custom Family Lands Resolution Committee's evidentiary record.

Lands Management Advisory Committee decision

17. (1) At the next duly convened meeting of the Lands Management Advisory Committee following its receipt of a referral from the Lands Department under section 16, the Lands Management Advisory Committee must do the following for each application:
- (a) consider the Custom Family Lands Resolution Committee's recommendation, supporting documents and other information provided by the Lands Department;
 - (b) the factors provided at section 5; and
 - (c) approve or deny the application.
- (2) Nothing prevents the Lands Management Advisory Committee from making further enquiries into an application, including meeting with the Custom Family Lands Resolution Committee, the applicant and any witnesses.
- (3) The Lands Management Advisory Committee may only approve an application if the requested Allotment has legal access or if the Lands Management Advisory Committee's approval is conditional on the applicant obtaining legal access, unless extraordinary circumstances exist, and the Lands Management Advisory Committee grants an exception to this requirement.
- (4) The Lands Management Advisory Committee may impose remedial measures on an applicant whose application is denied based on the following:
- (a) the Lands Management Advisory Committee is satisfied on a balance of probabilities that the applicant knowingly or recklessly provided false information in support of their application; or
 - (b) the applicant refused to participate in an aspect of the review under section 14.
- (5) A remedial measure referenced at subsection (4) may include barring an applicant from re-applying under this Schedule for a set period of time and subject to the applicant committing to comply with the designated procedure.
- (6) If the Lands Management Advisory Committee denies an application, it must provide, or cause to be provided, notice of its decision with written reasons to the applicant.
- (7) Subject to sections 19(4) and 20(4), the Lands Management Advisory Committee's decision under subsection (1)(c) is final.

Interim custom family Allotment

18. (1) The Lands Management Advisory Committee may only grant a custom family Allotment under section 20 if it first grants an interim allotment in accordance with this section.

(2) Subject to section 19 [*proposed custom family Allotments that exceed ten acres*], if the Lands Management Advisory Committee approves an application, it will grant the applicant an interim allotment by passing a resolution that includes the following information:

- (a) the full legal name and Membership number of the applicant;
- (b) a description and attached survey or sketch of the LNIB Community Land that is the subject of the interim allotment, the boundaries of which may deviate from the boundaries claimed by the applicant;
- (c) a statement setting out the following:
 - (i) the applicant has been granted an interim allotment for the lands described under paragraph (b) and as described in the resolution, and
 - (ii) the Lands Management Advisory Committee will grant the applicant a custom family Allotment of the same lands if the applicant does the following within one year from the date of the resolution and at their own expense:
 - A. provides the Lands Management Advisory Committee with a legal description of the requested custom family Allotment that refers to a registered plan or official plan that shows legal access over the applicable land, unless the Lands Management Advisory Committee grants an exception to this requirement under section 17(2), and
 - B. completes any other conditions identified by the Lands Management Advisory Committee.
- (d) a statement setting out that over the term that the interim allotment is in force, LNIB will not grant any Interest or license in or to the applicable land to another person without the written consent of the applicant;
- (e) a statement setting out that if any one or more of the conditions set out in the resolution are not met within the one-year deadline:
 - (i) the interim allotment will expire, unless, where the Lands Management Advisory Committee believes there is a valid reason why the deadline should be extended,
 - (ii) LNIB will not be responsible to the applicant or any third party for losses, damages, liabilities or costs in relation to the applicant's failure to comply with the conditions in the resolution, and

- (iii) upon the expiry of the interim allotment, LNIB will be free to grant Interests or Licenses in or to the LNIB Community Land to which the application relates without the consent of, and without providing notice to, the applicant; and
 - (f) a statement setting out that the interim allotment must be registered in the Register.
- (3) As soon as practicable after the Lands Management Advisory Committee issues a resolution under subsection (2), the Lands Department must
 - (a) provide a copy of the resolution to the applicant; and
 - (b) provide notice of the resolution to Members.
- (4) The Lands Management Advisory Committee may extend the timeline to comply with a condition imposed under subsection (2)(c) if it is satisfied there are reasonable grounds for the extension.

Custom family Allotment over ten acres

- 19.** (1) If the Lands Management Advisory Committee approves an application under section 17(c) for a proposed custom family Allotment that exceeds ten acres, the Lands Management Advisory Committee must not grant an interim allotment under section 18(2) until Community Approval for the proposed Allotment is obtained.
- (2) The Lands Management Advisory Committee must direct the Lands Department to call a Meeting of Members to obtain Community Approval for an application referenced under subsection (1) within sixty days of the Lands Management Advisory Committee's approval of the application.
- (3) If Community Approval for an application referenced under subsection (1) is obtained, the Lands Management Advisory Committee must pass a resolution that complies with section 18(2), granting the applicant an interim allotment.
- (4) If Community Approval for an application referenced under subsection (1) is not obtained,
- (a) the Lands Management Advisory Committee's approval for the application expires on the date the Meeting of Members is held; and
 - (b) the application will be referred back to the Custom Family Lands Resolution Committee under section 15 to propose new boundaries for the proposed custom family Allocation that does not exceed ten acres and that accounts for any feedback obtained by Members at the meeting.

Custom family Allotment decision

20. (1) The Lands Management Advisory Committee may pass a resolution granting a custom family Allotment in accordance with subsection (2) if it is satisfied that the applicant has complied with all conditions imposed in its approval of an interim allotment under section 18(2).

(2) A resolution granting a custom family Allotment must include the following:

- (a) the full legal name and membership number of the applicant;
- (b) a legal description of the custom family Allotment that refers to a registered plan or official plan;
- (c) any conditions imposed on the holder of the custom family Allotment;
- (d) a list of all encumbrances on the custom family Allotment; and
- (e) a statement setting out that the custom family Allotment will be registered in the Register.

(3) If the Lands Management Advisory Committee grants a custom family Allotment under subsection (2), it must prepare, or cause to be prepared, a Certificate of Possession to be issued to the applicant specifying that it evidences a custom family Allotment that was granted in accordance with this Schedule.

(4) If the Lands Management Advisory Committee determines that the applicant has not complied with all conditions imposed in the interim allotment granted under section 18(2), it must provide, or cause to be provided, notice to the applicant advising the following:

- (a) the interim allotment has expired;
- (b) a custom family Allotment will not be granted; and
- (c) setting out reasons for the decision.

(5) The Lands Management Advisory Committee's decision under subsection (4) is final.

(6) As soon as practicable after the Lands Management Advisory Committee issues a resolution under subsection (2), the Lands Department must provide notice of the same to Members.