

LOWER NICOLA INDIAN BAND

BAND TRANSFER POLICY

September 17, 2013

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Lower Nicola Indian Band Transfer Policy (the “Policy”)

WHEREAS

- A. Membership of the Lower Nicola Indian Band (“LNIB”) is governed pursuant to Section 11 of the *Indian Act*, R.S.C. 1985, ch. I-5 (the “*Indian Act*”) and managed by Aboriginal Affairs and Northern Development Canada (“AANDC”);
- B. Section 12 of the *Indian Act* provides that a Member of a Band is entitled to be transferred to, and entered on, another Band’s membership list if the Band Council of the admitting Band consents;
- C. LNIB wishes to create a transparent and procedurally fair process within which LNIB will consider Transfer Applications and determine whether to consent to a Transfer Application pursuant to Section 12 of the *Indian Act*;
- D. LNIB recognizes that a Transfer Application received from a former LNIB Member may not be subject to the same process as a Transfer Application from another Band, because the former LNIB Member may have already proven his or her Nlekepmx Blood Link and Family Link.

NOW THEREFORE THE BAND COUNCIL OF THE LOWER NICOLA INDIAN BAND HEREBY ADOPTS THE FOLLOWING POLICY:

1.0 Purpose of Policy

All transfers require the consent of a majority of at least a quorum of Band Council. The consent of Band Council to approve a transfer is obtained by strict compliance with the following procedures that will be used to guide decisions on Transfer Applications.

2.0 Definitions

“**Appeals Committee**” means a committee comprised of the LNIB Executive Director, and an LNIB Elder and an LNIB Member, both of which are appointed by the Executive Director. The Appeals Committee is responsible for considering appeals of Band Council decisions made pursuant to Sections 5.5 and 9.3. The Appeals Committee may not include a member of Band Council.

“**Band**” means “band” as defined in the *Indian Act*;

“**Band Council**” means the duly elected council of the LNIB from time to time;

“**Band List**” means the members of LNIB maintained by AANDC and the Membership Clerk;

“Band Transfer Meeting” means a meeting of LNIB Electors held for the purpose of voting on Transfer Applications as required. Band Transfer Meetings will be held on LNIB lands and held semi-annually every May and November, with the exact date to be determined by the Band Council upon request by the Membership Clerk;

“Criminal Offense” means a record of conviction for an indictable offence under the Criminal Code of Canada, or equivalent legislation in any other jurisdiction, except for the following:

1. A conviction for an offense where the person was involved in the support or defense of an Aboriginal right or title; and
2. A non-indictable offence which occurred while the Transfer Applicant was under 25 years of age, or for which the Transfer Applicant was convicted more than 5 years prior to the date of the Transfer Application, and in all such cases, the Transfer Applicant having served his or her sentence or probationary period, paid all applicable fines or penalties, and successfully completed all required community service or treatment programs, ordered by a court of competent jurisdiction;

“Elector” means, for the purpose of voting in respect of matters under this Policy, a LNIB Member who has attained eighteen (18) years of age, or older, on or before the day of the vote and who is not disqualified from voting;

“Family Link” means a biological connection to an LNIB Member (or person entitled to be an LNIB Member) who can demonstrate an Nlekepmx Blood Link.

“Form Amendments” means amendments to this Policy directed solely at correcting typographical, grammatical and formatting errors.

“General Band Meeting” means a meeting called by the Band Council that is open to LNIB Members, typically held to discuss matters affecting LNIB Members;

“LNIB Member” means a person whose name appears on the Band List or who is entitled to have his/her name appear on the Band List;

“Member of a Band” means “member of a band” as defined in the *Indian Act*;

“Membership Clerk” means the person who is employed by the LNIB to maintain the Band List and carry out certain duties under this Policy related to Transfer Applications, and includes delegates of the Membership Clerk within the LNIB membership department;

“Minister” means the Minister of AANDC;

“Minor Amendments” means amendments to this Policy that will not affect the rights or interests of any person, and are not Form Amendments;

“Minor Child” means a person under the age of 19 years; or a person of, or over, the age of 19 but who by reason of disability, illness or other cause, lacks the mental capacity to make his or her own decisions, and is the biological child of an LNIB Member;

“Nlekepmx Blood Link” means a biological connection to a person who:

1. Was, is, or is entitled to be, a Registered Indian;
2. Was, is, or is entitled to be, a band member of one of the Nlekepmx Nation Bands;
3. Did not acquire her right to be a Registered Indian solely as a result of marrying a Registered Indian prior to April 17, 1985; and
4. Did not acquire his or her right to be a band member of one of the Nlekepmx Nation Bands solely as a result of transferring into one of the Nlekepmx Nation Bands; or by being adopted by a band member of one of the Nlekepmx Nation Bands.

“Nlekepmx Nation” consists of the following fifteen bands:

- Boothroyd Indian Band,
- Boston Bar First Nation,
- Skuppah First Nation,
- Siska Indian Band,
- Lytton First Nation,
- Oregon Jack Creek Band,
- Spuzzum First Nation,
- Kanaka Bar Indian Band,
- Nicomen Indian Band,
- Nooaitch Indian Band,
- Shacken Indian Band,
- Lower Nicola Indian Band,
- Ashcroft Indian Band,
- Coldwater Indian Band, and
- Cook’s Ferry Indian Band;

“Public Notice” means notice that is required to be posted publicly for any decision or meeting that is related to transfer of membership, and will be posted at the Band Administration Office and in the LNIB newsletter for a period of time prescribed in this Policy;

“Registered Indian” means a person who is registered as an Indian under the *Indian Act*, as amended from time to time;

“Substantial Amendments” means amendments to this Policy that has the potential to affect the rights or interests of a person.

“Transfer Applicant” means a person who is a Member of a Band other than LNIB who applies to become an LNIB Member;

“Transfer Application” means an application from a Transfer Applicant to become an LNIB Member.

3.0 Application

3.1 This Policy applies to all Transfer Applications.

4.0 Adult Eligibility

4.1 Prior to the Membership Clerk considering a Transfer Application, a Transfer Applicant must meet the following requirements:

- a) be a Registered Indian;
- b) demonstrate a Nlekepmx Blood Link;
- c) demonstrate a Family Link;
- d) undergo a criminal record check at the Transfer Applicant’s expense and provide written proof from the RCMP thereof to the Membership Clerk at the time of the Transfer Application that demonstrates the Transfer Applicant has not been convicted of a Criminal Offense;
- e) where possible, to demonstrate a history of financial responsibility (See Appendix A);
- f) complete the LNIB Questionnaire (See Appendix B);
- g) attend at least three (3) General Band Meetings; and
- h) participate and volunteer in at least two LNIB community events.

5.0 Minor Child Eligibility and Application Approval Process

5.1 Subject to Sections 4.1(a), (b) and (c), and Sections 5.2, 5.3, and 5.4, upon a Minor Child’s biological parent submitting a Transfer Application on the Minor Child’s behalf in the prescribed form (Appendix C), and payment of a non-refundable \$100 fee, a Minor Child will automatically be accepted as an LNIB Member.

- 5.2 The parents of the Minor Child must provide the following to the Membership Clerk :
- a) a completed Transfer Application for the Minor Child, signed by both parents (Appendix C);
 - b) consent in writing confirming both of their intentions to transfer membership of the Minor Child to the LNIB; and
 - c) a long-form birth certificate for the Minor Child.
- 5.3 Where one parent or a legal guardian has legal custody of the Minor Child, that parent or legal guardian must provide the following to the Membership Clerk:
- a) a completed Transfer Application for the Minor Child, signed by the parent or legal guardian with legal custody (Appendix C);
 - b) consent in writing confirming an intention to transfer membership of the Minor Child to the LNIB (Appendix C);
 - c) a long-form birth certificate for the Minor Child;
 - d) written evidence of legal custody of the Minor Child;
 - e) written evidence that the non-custodial parent(s) was/were contacted, or a reasonable attempt was made to contact the non-custodial parent(s), for the purpose of obtaining their consent (Appendix E); and
 - f) written evidence that three (3) calendar months has passed since the contact, or attempted contact, with the non-custodial parent(s) has taken place (Appendix E).
- 5.4 The non-custodial parent(s) may dispute the Transfer Application but must provide the Membership Clerk written details for their disagreement within three (3) calendar months from the date written notice was sent pursuant to Section 5.3. In the event that the requirements of Section 5.3 are met and the non-custodial parent(s) is/are unattainable then only the one parent or legal guardian's consent is required.
- 5.5 Within 30 days of receiving all required documentation, including the Minor Child Transfer Application and all of the supporting documentation required in Sections 5.1, 5.2, 5.3 and 5.4, the Membership Clerk will provide Band Council

with sufficient information to make a determination concerning the eligibility of the Minor Child.

5.6 If the Minor Child Transfer Applicant has failed to meet the eligibility requirements set out in Sections 5.1, 5.2, and 5.3, or failed to adequately address the submissions by the non-custodial parent pursuant to Section 5.4, then upon receiving the information pursuant to Section 5.5, the Band Council:

- a) will execute a BCR citing Band Council's determination;
- b) will provide the Minor Child Transfer Applicant, care of his or her biological parent(s) or legal guardian, with written reasons why the Minor Child Transfer Applicant failed to meet the eligibility requirements set out in Sections 5.1, 5.2 and 5.3, or failed to adequately address the submissions by the non-custodial parent;
- c) will provide notice that the biological parent(s) or legal guardian, on behalf of the Minor Child Transfer Applicant, may respond to the Band Council within 90 days, and provide Band Council with additional supporting documentation that may impact the Band Council's determination; and
- d) if, upon receipt of a Minor Child Transfer Applicant's further documentation, the Band Council maintains its determination that the Minor Child Transfer Applicant has failed to meet the eligibility requirements set out in Sections 5.1, 5.2 and 5.3, or failed to adequately address the submissions by the non-custodial parent, then:
 - i) within 15 days the Band Council will notify the Minor Child Transfer Applicant, care of its biological parent(s) or legal guardian, of its final decision, and;
 - ii) provide written reasons why the Minor Child Transfer Applicant failed to meet the eligibility requirements set out in Sections 5.1, 5.2 and 5.3, or failed to adequately address the submissions by the non-custodial parent.

5.7 If the Minor Child Transfer Applicant has met the eligibility requirements set out in Sections 5.1, 5.2 and 5.3, and adequately addressed any submissions by the non-custodial parent, then the Band Council will execute a BCR citing Band

Council's determination, and request the Membership Clerk to direct AANDC to add the Minor Child Transfer Applicant to the Band List.

- a) If the Minor Child Transfer Applicant originates from a Band which manages its own band list under Section 10 of the *Indian Act*, and which has established by-laws for the administration of its band list, then Band Council's BCR will provide that the Minor Child Transfer Applicant has been accepted as an LNIB Member, on condition that the originating Band releases the individual within four (4) months from the date of the LNIB BCR and will execute a Band Council Resolution citing the Band Council's determination, and request the parent or legal guardian to complete a statement of consent form. The Membership Clerk will then send both documents to the AANDC office to complete the membership transfer of the Minor Child.

6.0 Proof of Nlekepmx Blood Link and Family Link

- 6.1 Proof of an Nlekepmx Blood Link and a Family Link may be demonstrated by long-form birth certificates, marriage certificates, legal custody documents, affidavits, statutory declarations, or other documentary evidence.

7.0 Adult Application and Approval Process

- 7.1 If a Transfer Applicant meets the eligibility requirements set out in Section 4.1, a Transfer Applicant must submit the following to the Membership Clerk:
 - a) a written Transfer Application in the prescribed form (Appendix D);
 - b) all supporting documentation to meet the requirements set out in Section 4.1; and
 - c) a non-refundable fee of \$250 per adult application, of which fee is separate from the criminal record check fee.
- 7.2 The Membership Clerk will, upon 15 days of receiving a Transfer Application and all required documentation, issue a notice to the Transfer Applicant confirming receipt of the Transfer Application.
- 7.3 If the Membership Clerk determines the Transfer Applicant has not met the eligibility requirements set out in Section 4.1, or has not provided the necessary

documentation in support of the Transfer Application, then the Membership Clerk will notify the Transfer Applicant, and

- a) provide reasons why the Transfer Applicant failed to meet the eligibility requirements set out in Section 4.1, including whether the Transfer Applicant failed to provide the necessary supporting documentation;
- b) provide notice that the Transfer Applicant may respond to the Membership Clerk within 90 days with additional supporting documentation that may impact the Membership Clerk's determination; and
- c) if, upon receipt of a Transfer Applicant's further documentation, the Membership Clerk maintains its determination that the Transfer Applicant has failed to meet the eligibility requirements set out in Section 4.1, then:
 - (i) the Membership Clerk will notify the Transfer Applicant of its final decision; and
 - (ii) provide written reasons why the Transfer Applicant failed to meet the eligibility requirements set out in Section 4.1.

7.4 If the Transfer Applicant has met the eligibility requirements set out in Section 4.1, then the Membership Clerk will issue a request to the Transfer Applicant to complete and submit to the Membership Clerk the following forms:

- a) An RCMP Consent for Disclosure of Criminal Record Information Form;
- b) "Consent to Release Credit/Debt Information" Form (Appendix A) authorizing the affiliated Band and/or LNIB, as the case may be, to disclose information pertaining to band funds received by the Transfer Applicant from their affiliated Band or LNIB, as the case may be; and
- c) the "Lower Nicola Indian Band Questionnaire" Form (Appendix B).

7.5 If the Transfer Applicant has met the eligibility requirements set out in Section 4.1 and provided all necessary documents, including those pursuant to Sections

4.1, 7.1 and 7.4, then the Membership Clerk will present such Transfer Application and supporting documents (with all other eligible Transfer Applications) at a Band Council Meeting. At that Band Council meeting the Membership Clerk will request the Band Council to set a date and time for the Band Transfer Meeting to consider all eligible Transfer Applications, and that the Band Council allow at least 60 days between the setting of the date and the date of the Band Transfer Meeting.

- 7.6 Once a date and time for a Band Transfer Meeting has been scheduled, the Membership Clerk will:
- a) post a Public Notice enclosing the date, time and location of the Band Transfer Meeting 45 calendar days prior to the scheduled Band Transfer Meeting; and
 - b) notify the Transfer Applicant that a second criminal record check that is dated no earlier than three (3) weeks before the scheduled Band Transfer Meeting must be provided to supplement the Transfer Application.
- 7.7 If a Transfer Applicant is unable to attend the scheduled Band Transfer Meeting, then the Transfer Applicant must table their presentation by giving the Membership Clerk one (1) month prior written notice of their intent to reschedule. Failing to do so will result in the Transfer Applicant forfeiting their application fee and will require the Transfer Applicant to re-apply.
- 7.8 A Band Transfer Meeting will be considered duly convened if the following requirements are met:
- a) a quorum of Band Council is maintained; and
 - b) 10% of the total Electors are present,
- throughout the duration of the Band Transfer Meeting, including voting.
- 7.9 If there are fewer than 10% of the Electors present after thirty (30) minutes from the commencement of the Band Transfer Meeting, then the meeting will be postponed to another date to be set by Band Council.
- 7.10 Only those Transfer Applications that were presented to Band Council pursuant to Section 7.5 will be considered at a duly convened Band Transfer Meeting.

- 7.11 A Transfer Applicant will make an oral presentation at the Band Transfer Meeting, that will include the following:
- a) the Transfer Applicant's goals, objectives and reasons for the Transfer Application;
 - b) a detailed description of the Transfer Applicant's Nlekepmx Blood Link and Family Link; and
 - c) the Transfer Applicant's responses to the LNIB Questionnaire.
- 7.12 Following the Transfer Applicant's oral presentation, the Band Council and the Electors may ask the Transfer Applicant questions related to his/her Transfer Application and supporting documentation, including the documentation required in Sections 7.1 and 7.4.
- 7.13 If the Transfer Applicant is unable to travel to LNIB lands for the Band Transfer Meeting, then with the prior consent of Band Council, audio and visual resources may be used to allow a live electronic presentation. In order to utilize this option, the Transfer Applicant must submit a written request to the Membership Clerk at least 30 days prior to the Band Transfer Meeting and the written request must fully describe what proposed means and equipment that the Transfer Applicant proposes to use for such a live electronic presentation. If the means and equipment can reasonably be accommodated by LNIB, the Membership Clerk will coordinate the process with the Transfer Applicant.
- 7.14 If the Transfer Applicant is adverse to public speaking, as required in Section 7.11, then the Transfer Applicant, who must be present at the Band Transfer Meeting, can designate a family member to conduct the oral presentation and answer questions posed by the Band Council and the Electors on the Transfer Applicant's behalf.
- 7.15 Electors, including Band Council, may consider the following factors when contemplating a Transfer Application:
- a) the eligibility criteria set out in Section 4.1;
 - b) limitations on housing and land capacity;
 - c) whether the Transfer Applicant can make a valuable contribution to LNIB; and
 - d) whether the Transfer Applicant has a criminal record.

- 7.16 Following the question and answer period provided at Section 7.12, the Electors may make statements regarding the candidacy of the Transfer Applicant.
- 7.17 Once the floor is closed, each Elector, including members of the Band Council, present at the Band Transfer Meeting, upon confirming their identity with LNIB voter staff, will be provided with an approved ballot on which each Elector will indicate whether they support or oppose the Transfer Applicant's Transfer Application and deposit the completed ballot in the approved and secure ballot box.
- 7.18 After all Electors present have cast their ballots the voting will close, the secured ballot boxes will be gathered by the assigned voting staff and the counting of ballots will proceed by the assigned voting staff.
- 7.19 The Transfer Applicant requires a total vote of more than 50% of the Electors, including members of the Band Council, who attend the Band Transfer Meeting to vote "Yes" for acceptance as an LNIB Member.
- 7.20 On the first business day following the Band Transfer Meeting, the Membership Clerk will:
- a) Post a Public Notice of the results of the vote; and
 - b) Prepare a BCR for the Band Council's signature confirming and formalizing the vote to approve or reject the Transfer Application(s).
- 7.21 Within 15 days of receiving the draft BCR, the Band Council will execute the BCR and, if directed by the Electors to approve the Transfer Application, will request the Membership Clerk to advise AANDC to add the successful Transfer Applicant(s) to the Band List.
- a) If the Transfer Applicant originates from a Band which manages its own band list under Section 10 of the *Indian Act*, and which has established by-laws for the administration of its band list, then the BCR will provide that the successful Transfer Applicant(s) has/have been accepted as an LNIB Member(s), on condition that the originating Band releases the individual(s) within four (4) months from the date of the LNIB BCR; and

- b) The Membership Clerk will provide a copy of the BCR to AANDC for registration immediately, or upon receipt of the originating Band's consent.

8.0 Re-application

- 8.1 If the Transfer Applicant's Transfer Application is denied following the voting process outlined at Section 7.0, then the Transfer Applicant may re-apply to become an LNIB Member and pay a non-refundable application fee as set out in Section 7.1c), but not before two (2) years following the Transfer Applicant's first Band Transfer Meeting.
- 8.2 A Transfer Applicant can only re-apply once following their original Transfer Application.

9.0 Former LNIB Member

- 9.1 If the Transfer Applicant is a former LNIB Member, then the Transfer Application is not subject to the entire process set out in Section 7.0.
- 9.2 A former LNIB Member Transfer Applicant must submit the following to the Membership Clerk:
 - a) a completed page one (1) of the Transfer Application form (Appendix D);
 - b) a non-refundable fee of \$250 per adult application, of which fee is separate from the criminal record check fee;
 - c) a completed "Consent to Release Credit/Debt Information" form (Appendix A);
 - d) a criminal record check, which proves that the former LNIB Member Transfer Applicant is in compliance with 4.1(d).
- 9.3 Upon receipt of all requirements set out in Section 9.2, the Membership Clerk will present such Transfer Application and supporting documentation to the Band Council at the next available Band Council Meeting, and Band Council will:
 - a) make a determination whether to approve or reject the former LNIB Member Transfer Application;

- b) execute a BCR confirming its decision to approve or reject the former LNIB Member Transfer Application and if the Transfer Application has been approved, advise the Membership Clerk to direct AANDC to add the successful Transfer Applicant to the Band List.
- c) at the earliest convenient time, provide the former LNIB Member Transfer Applicant with its written decision and reasons; and
- d) at the earliest convenient time, post Public Notice of the Band Council's decision and reasons for 60 days.

9.4 If the former LNIB Member Transfer Applicant is currently from a Band which manages its own band list under Section 10 of the *Indian Act*, and which has established by-laws for the administration of its band list, then the BCR will provide that the former LNIB Member Transfer Applicant has been accepted as an LNIB Member, on condition that the originating Band releases the individual within four (4) months from the date of the LNIB BCR and the Membership Clerk will provide a copy of the BCR to AANDC for registration immediately, or upon receipt of the originating Band's consent.

10.0 Amendments to this Policy

- 10.1 Form Amendments to this Policy may be initiated by a BCR, or a letter from the Membership Clerk to Band Council, requesting Form Amendments, along with a list of the proposed amendment(s) and the relevant Section(s).
- 10.2 Band Council will hold a Band Council Meeting within 60 days of receiving the proposal for the Form Amendments and resolve by BCR to accept or deny the proposed Form Amendments.
- 10.3 Once Band Council has rendered a decision on the proposed Form Amendments, the Membership Clerk will implement any changes to this Policy as directed by Band Council and:
 - a) provide copies of the revised version of this Policy to the Executive Director and any department or committee as directed by the Band Council; and
 - b) post the final, revised version of this Policy as Public Notice for 60 days.

- 10.4 Minor Amendments to this Policy may be initiated by a BCR, or a letter from the Membership Clerk to the Band Council, requesting a Minor Amendment, along with a list of the proposed amendment(s) and the relevant Section(s).
- 10.5 Once the Minor Amendment process has been initiated the Membership Clerk will:
- a) provide proposed changes to the Policy in a Public Notice for 60 days; and
 - b) provide an opportunity for LNIB Members to review and provide comments on the Minor Amendments for the same 60 days.
- 10.6 Within 15 days following the completion of the 60 day review and comment period set out in Section 10.5(b), the Band Council will consider comments received from LNIB Members pursuant to Section 10.5(b) and render a written decision on the proposed Minor Amendments.
- 10.7 Once the Band Council has rendered a decision on the proposed Minor Amendments, the Membership Clerk will implement any changes to this Policy as directed by the Band Council and:
- a) provide copies of the revised version of this Policy to the Executive Director and any department or committee as directed by the Band Council, and
 - b) post the final, revised version of this Policy as Public Notice for 60 days.
- 10.8 Substantial Amendments may be initiated by:
- a) a letter from the Membership Clerk to the Band Council;
 - b) a BCR; or
 - c) a petition signed by at least 10% of the Electors,
- along with a list of the proposed Substantial Amendment(s) and the relevant Section(s).

- 10.9 With respect to Substantial Amendments to this Policy, Band Council will:
- a) present the proposed Substantial Amendments at the next scheduled General Band Meeting;
 - b) post a Public Notice enclosing the proposed Substantial Amendments for 60 days following the General Band Meeting; and
 - c) set a date within the 60 day notice period for at least one LNIB community meeting at which LNIB Members may provide their comments regarding the proposed Substantial Amendments.
- 10.10 Following the 60 day notice period, the Band Council will review the proposed Substantial Amendments to this Policy along with any comments made by LNIB Members, and may request further information from the Membership Clerk and any relevant LNIB committee, and will render a decision.
- 10.11 Once the Band Council has rendered a decision, the Membership Clerk will implement any changes to this Policy as directed by the Band Council; and
- a) provide copies of the revised version of this Policy to the Executive Director and any department or committee as directed by the Band Council; and
 - b) post a Public Notice enclosing the final, revised version of this Policy for 60 days.

11.0 Appeal Process

- 11.1 All decisions made by the Membership Clerk pursuant to Section 7.3, the Band Council pursuant to Sections 5.5, 5.6, 5.7 and 9.3, or with respect to voting procedures provided at Section 7.0 may be appealed.
- 11.2 An appeal may be made by a Transfer Applicant, the Transfer Applicant's representative, or an LNIB Member and the onus of establishing the grounds of the appeal lies with the person making the appeal.
- 11.3 An appeal pursuant to Sections 11.5 or 11.8 will be made in writing on the prescribed form (See Appendix F) stating the basis for the appeal, together with any supporting documentation, hand delivered, faxed or mailed to the

Membership Clerk within 30 days from the date the decision was provided to the appellant.

- 11.4 The notice of appeal will include a deposit of \$250.00 as security for costs and deposited with the Membership Clerk.
 - a) All funds received as deposits for an appeal will be placed in the general account of the LNIB and will be used to offset expenses related to an appeal; and
 - b) If the appeal is successful, the deposit will be returned to the person who made the appeal.
- 11.5 All appeals from decisions made by the Membership Clerk pursuant to Section 7.3 will be heard by the Band Council.
- 11.6 Within 30 days of Band Council receiving the notice of appeal from a Membership Clerk decision, and the appellant's package provided pursuant to Section 11.3, the Band Council will convene a meeting at which time the Band Council will make a decision on the Transfer Applicant's eligibility for LNIB Membership.
- 11.7 On the following business day after the Band Council meeting held pursuant to Section 11.6, Band Council will provide the appellant Transfer Applicant its decision in writing and with reasons, and post Public Notice of its decision that either:
 - a) the Membership Clerk's decision remains, or
 - b) the Membership Clerk's decision has been overturned and the appellant Transfer Applicant may continue with the application and approval process outlined at sections 7.4 – 7.21b).
- 11.8 All appeals of decisions made by Band Council pursuant to Sections 5.5, 5.6, 5.7 and 9.3 or with respect to voting procedures that allegedly impacted the outcome of the Electoral vote held pursuant to Section 7.0, will be heard by the Appeals Committee.

- 11.9 Upon receipt of the notice of appeal and supporting documentation, the Appeals Committee will hold a hearing within 60 days.
- 11.10 At least 14 days prior to the appeal hearing, a copy of the notice of appeal and any documents relied upon will be delivered to all parties affected by the notice of appeal, including the Band Council.
- 11.11 Any parties affected by the notice of the appeal may file a reply with the Appeals Committee at least four (4) days prior to the hearing.
- 11.12 A copy of any reply filed pursuant to Section 11.11 will be provided to the other parties at least two (2) days prior to the hearing.
- 11.13 The Appeals Committee may in its discretion, give directions for:
- a) fixing the date, time and place for the hearing of the appeal;
 - b) designating the method of taking evidence, either by sworn declaration or written testimony or both;
 - c) designating what persons are to be notified and how they are to be served; and
 - d) dealing with any matter or anything else not otherwise provided for in this part of the Policy.
- 11.14 The Appeals Committee will issue a written decision with reasons:
- a) Confirming
 - (i) the decision of the Band Council, or
 - (ii) the outcome of the Elector Vote; or
 - b) reversing the decision of the Band Council and making any order necessary to implement the decision of the Appeal Committee, including the requirement that the Membership Clerk advise AANDC that LNIB consents to the Transfer Applicant being added to the Band List; or

c) nullifying the Elector vote and ordering a new Elector vote subject to any necessary directions.

11.15 The Appeals Committee may, in its discretion, order costs for, or against, any party of the appeal, and will make a disposition of the security for costs in accordance with its order.

11.16 The Appeals Committee will provide a copy of the decision to the Membership Clerk who will notify the appellant, and the Transfer Applicant, if it is not the same person, of the Appeals Committee's decision, in writing and with reasons, and will post Public Notice of this decision.

11.17 The determination of the Appeals Committee under this Section is final and not subject to appeal.

Appendix A
Lower Nicola Indian Band
Consent to Release Credit/Debt Information

I _____ hereby authorize the _____ Indian Band
(Applicant)

to release credit and/or personal reports to the Membership Clerk of the Lower Nicola Indian Band for the purpose of my application to transfer membership to the Lower Nicola Indian Band.

To be completed by the originating Band:

I _____ give Lower Nicola Indian Band permission to access the
(Applicant)

Following:

1. Does the Transfer Applicant have any outstanding debts owing to the _____ Indian Band?
 - a) If yes, what is the amount? _____

2. Has the Transfer Applicant participated in any program funding? If yes, what program(s) and what amount(s) has the Transfer Applicant received?

Dated this _____ day of _____, 20____.

Band Transfer Applicant Print Full Name

Band Transfer Applicant Signature

Witness Print Full Name

Witness Signature

Indian Registry Administrator Print Full Name

Indian Registry Administrator Signature

Appendix B
LOWER NICOLA INDIAN BAND
BAND QUESTIONNAIRE

Purpose:

As part of the Application for Membership to the Lower Nicola Indian Band (“LNIB”), Band Council and LNIB Members will want to know more about you and your plans for the future and determine what you will need to be part of this Community.

In addition, at the Band Transfer Meeting, LNIB Members will also ask questions about you and your family. This questionnaire will help you prepare for the meeting:

1. What is your reason for transferring into LNIB? (e.g.: family link, land, Education funding or personal reasons).
2. Do you have any outstanding debts with your current or any other First Nation band? (e.g. rental arrears, housing arrears, personal loans from the First Nation).
3. Do you have any outstanding debts with LNIB? (e.g. rental arrears, account payables.)
4. In previous years have you applied for and received any education funding from your current band? If so how much funding did you personally receive and how many years of education funding did you receive in total? Did you complete your education program, and if not, why?
5. What other type of funding allocation or loans have you received from your current First Nation if any? (e.g. business loans, housing loans, agricultural loans)
6. Are you wishing to apply for any Education funding from LNIB if you are accepted as an LNIB Member.
7. What is your current level of completed education? (e.g. elementary school, high school, post-secondary, university)
8. Have you been a registered member of any other First Nation bands prior to the one that you are currently registered with? If so why did you transfer out for the previous First Nation band?
9. Do you have any future plans on building your own home on the LNIB reserve or applying for housing loan allocation on your own, or with family who owns LNIB land by traditional ownership or certificate of possession?
10. Where will you live when you become a member with LNIB?

11. What type of accommodation will you need?
12. Will you have family members joining you to live on reserve at LNIB?
13. Do you have family who are already members of LNIB? Please provide names of those people.
14. Do you have full-time, part-time employment or are you unemployed and currently searching for work?
15. What type of work are you presently employed in?
16. Who is your current employer?
17. Do you have a job to go to when you transfer to LNIB?

Appendix C
Lower Nicola Indian Band
Minor Child Transfer Application Form

We/I have reviewed Section 5.0 of the Lower Nicola Indian Band Transfer Policy and believe that our/my biological child is eligible for membership with the Lower Nicola Indian Band. We/I make this application as biological parent(s) on behalf of the Transfer Applicant who is under the age of 19 years or is mentally incompetent within the meaning of a Minor Child, as defined in the Lower Nicola Indian Band Transfer Policy. We/I request that the Transfer Applicant be registered in the Lower Nicola Indian Band, and if our/my Minor Child meets the eligibility requirements, we/I provide our consent to our Minor Child being so registered.

We/I have appended to this application all of the documentation required under Section 5.0 of the Lower Nicola Indian Band Transfer Policy.

Signature of parents (at least one must sign)

- | | | |
|----|--|------|
| 1. | | Date |
| 2. | | Date |

If more space is required, enter additional information on a separate sheet of paper and attach it to this form.

INFORMATION ABOUT THE CHILD		
Family name of child	Given name(s) of child	Child's date of birth <small>YYYY/MM/DD</small>
<p>If the Band the Minor Child is currently registered with governs their membership under s. 10 of the Indian Act, you will need to get a BCR from your band confirming that they have removed you from their membership list.</p>	<p>Is the Band the Minor Child is transferring out of governed by s. 10 of the Indian Act?</p> <p>Yes ____</p> <p>No ____</p> <p>Do not know ____</p>	

FATHER OF THE CHILD'S INFORMATION		
Family Name of father		Given name(s) of father
Father's date of birth YYYY/MM/DD	Father's band name (if applicable)	Father's Status no. (if applicable)
Family name of father's father		Given name(s) of father's father
Family name of father's mother		Given name(s) of father's mother

MOTHER OF THE CHILD'S INFORMATION		
Maiden name of mother		Given name(s) of mother
Mother's date of birth YYYY/MM/DD	Mother's bands name (if applicable)	Mother's Status no. (if applicable)
Family name of mother's father		Given name(s) of mother's father
Family name of mother's mother		Given name(s) of mother's father

Appendix D
Lower Nicola Indian Band
Adult Transfer Application Form

I have reviewed Section 7, and if applicable, Section 9 of the Lower Nicola Indian Band Transfer Policy and believe I am eligible for membership with the Lower Nicola Indian Band.

I request that if I, _____, am eligible, that I be transferred into the Lower Nicola Indian Band
(full name)

and be registered on the Lower Nicola Indian Band Membership List.

_____ / ____ / ____

Signature Date

If more space is required, enter additional information on a separate sheet of paper and attach it to this form.

APPLICANT INFORMATION			
Family name of applicant		Given name(s)	
Mailing address		Postal code	Telephone no.
Date of birth YYYY/MM/DD	Name of band currently registered in	Status no. (if applicable)	
If the band the Adult Applicant is currently registered with governs their membership under s. 10 of the Indian Act, you will need to get a BCR from your band confirming that they have removed you from their membership list.		Is the band you are transferring out of governed by s. 10 of the Indian Act? Yes ____ No ____ Do not know ____	
Have you attached a completed current criminal record check to this application? <i>Note that applications will not be processed until all required documentation is received</i> : Yes ____ No ____			

APPLICANT'S "FAMILY LINK" TO AN LNIB MEMBER

List the required information for one or more LNIB Members (or person entitled to be an LNIB Member) that you are biologically connected to who can demonstrate a Nlekepmx Blood Link. This section is not required to be filled out by a former LNIB Member that is applying to transfer back as a LNIB Member.

Family name of LNIB Member		Given name(s) of LNIB Member	
LNIB Member's date of birth YYYY/MM/DD	LNIB Member's Status no. (if applicable)		
Family name of LNIB Member		Given name(s) of LNIB Member	
LNIB Member's date of birth YYYY/MM/DD	LNIB Member's Status no. (if applicable)		
Family name of LNIB Member		Given name(s) of LNIB Member	
LNIB Member's date of birth YYYY/MM/DD	LNIB Member's Status no. (if applicable)		

Use additional paper as needed to further outline your Family Link to a LNIB Member

APPLICANT'S "NLEKEPMX BLOOD LINK"

List the required information for those people you are biologically connected to who are entitled to be a Registered Indian, and entitled to be a Member of a Band of one of the Nlekepmx Nations, but does not include a biological connection to a person who gained Indian Status and membership prior to April 17, 1985 solely through marriage. This section is not required to be filled out by a former LNIB Member that is applying to transfer back as a LNIB Member.

Family Name		Given name(s)	
Date of Birth YYYY/MM/DD	Band name (if applicable)		Status no. (if applicable)
Family Name		Given name(s)	
Date of Birth YYYY/MM/DD	Band name (if applicable)		Status no. (if applicable)
Family Name		Given name(s)	
Date of Birth YYYY/MM/DD	Band name (if applicable)		Status no. (if applicable)

Use additional paper as needed to further outline your Nlekepmx Blood Link to a LNIB Member

MINOR CHILDREN

Name of any Minor Children (biological children) that you wish to also have registered with the Lower Nicola Indian Band (use additional paper if required). Please note that pursuant to Section 5.0 of the Lower Nicola Indian Band Transfer Policy, the Adult Transfer Applicant must first be approved as an LNIB Member before a Minor Child Transfer Application (Appendix A) can be submitted for consideration.

Names	Status no.	Age
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		

Appendix E
Lower Nicola Indian Band (LNIB)
Declaration of Search for Non-Custodial Parent

I, _____, of _____, in the Province of British Columbia HEREBY DECLARE AS FOLLOWS:

1. I am the parent and guardian of the Child, _____ whose date of birth is _____ (the "Child").

2. That I have applied for membership of the Child into the Lower Nicola Indian Band.

3. That I have conducted a search for the Non-Custodial Parent of the Child by the following means:

4. That I have provided, or attempted to provide, the Non-Custodial Parent with written notice that I am applying for LNIB Membership for our Child, and that he/she has three (3) calendar months to provide the LNIB Membership Clerk with written submissions disputing the Transfer Application.

5. That I have attempted to obtain consent from the Non-Custodial Parent of the Child, and it has been three (3) calendar months since my attempts.

5. That I make this Declaration in support of my application for membership of the Child into the LNIB pursuant to Section 5.0 of the LNIB Band Transfer Policy.

This Declaration is made this, this _____ day of _____, 20__ at _____ in the Province of British Columbia)
 _____)
 Lower Nicola Indian Band Membership Clerk, or a)
 Commissioner for Taking Affidavits for the Province of)
 British Columbia) _____

**Appendix F
Lower Nicola Indian Band
Appeal Form**

APPLICANT INFORMATION (person making the appeal/protest)		
Family name of applicant	Given name(s)	
Mailing address	Postal code	Telephone no.
Date of birth YYYY/MM/DD	Status no. (if applicable)	
MINOR CHILD'S INFORMATION (if appeal or protest is being made on behalf of a child or dependent)		
Child's full name		
Relationship of Applicant(s) to Child Parent _____ Guardian _____ Other _____	Child's date of birth YYYY/MM/DD	Child's Indian Status number (if applicable)
PART II – APPEAL OR PROTEST		
Please explain the decision that you are appealing or protesting and why you are appealing or protesting the decision, you may attach additional pages if required:		

I, _____ [**applicant** (name of person making the appeal)] hereby consent to the release of my personal information relating to this appeal, including, but not limited to:

- my original application,
- any documents relating to my application, including my criminal record check (if applicable)

to the Membership Clerk, Band Council, the Appeals Committee, or LNIB’s legal counsel.

No other person(s) will be given this information without my further written consent and this information will only be used for the purposes of assessing my membership eligibility.

This authorization shall remain valid until a final decision on this appeal by the Band Council or the Appeals Committee, as applicable, has been rendered.

Applicant’s Signature

Date

I furthermore release all parties stated here within from any legal liability resulting from the release of this information, with the understanding that all parties involved will exercise appropriate safeguards while using this information

Applicant’s Signature

Date

LOWER NICOLA INDIAN BAND COUNCIL RESOLUTION

181 Nawaishaskin Lane, Merritt, British Columbia, V1K 0A7
Tel: 250-378-5157 Fax: 250-378-6188

Approval of Band Transfer Policy

WHEREAS:

- A. Membership of the Lower Nicola Indian Band (“LNIB”) is governed pursuant to Section 11 of the *Indian Act*, R.S.C. 1985, ch. I-5 (the “*Indian Act*”) and managed by Aboriginal Affairs and Northern Development Canada (“AANDC”);
- B. Section 12 of the *Indian Act*, R.S.C. 1985, ch. I-5 (the “*Indian Act*”) provides that a Member of a Band is entitled to be transferred to, and entered on, another Band’s membership list if the Band Council of the admitting Band consents; and
- C. LNIB wishes to create a transparent and procedurally fair process within which LNIB will consider Transfer Applications and determine whether to consent to a Transfer Application pursuant to Section 12 of the *Indian Act*.

THEREFORE, Lower Nicola Indian Band, by consent of a majority of the Council at a duly convened meeting on this ___ day of September, 2013, RESOLVES THAT:

- 1. The LNIB Band Transfer Policy attached is hereby adopted to govern Band Council’s consent pursuant to Section 12 of the *Indian Act*; and
- 2. The LNIB Transfer Policy may be amended from time to time pursuant to the amendment provisions found therein.

Quorum of the Council is 5

Victor York, Chief

Mary June Coutlee, Councilor

Stuart Jackson, Councilor

Joanne Lafferty, Councilor

Lucinda Seward, Councilor

Robert Sterling, Councilor

Molly Toodlican, Councilor

Harold Joe, Councilor