

**Lower Nicola Indian Band
Lands Management Advisory Committee
Meeting Agenda**

May 11, 2020, 4:00pm
Virtual Skype Meeting

TIME	ITEM	PRESENTER
4:00	1. MEETING OPENING 1.1. Opening Prayer	
4:15	2. ADMINISTRATION 2.1. Adoption of Agenda 2.2. Adoption of Minutes <i>Reference Materials: 2020-04-22 LMAC Meeting Minutes draft</i>	
4:30	3. PROJECT UPDATES 3.1. Traditional Holdings Project: Phase 1 Report <i>Reference Materials: THP Phase 1 PowerPoint; Executive Summary Phase 1 Report</i>	Angie Bain & Gretchen Fox
5:30	4. FOR INFORMATION AND DISCUSSION 4.1. LMAC Quarterly Report <i>Reference Materials: 2019-2020 LMAC Quarterly Report Q4</i> 4.2. Enforcement Law Review (continued) <i>Reference Materials: Indian Act By-Laws – Police Enforcement COVID-19 and Pandemic Concerns; LNIB Enforcement Law draft</i>	Brandi O’Flynn Stephen Jimmie
6:50	5. MEETING CONCLUSION 5.1. Next LMAC Meeting	

**Lower Nicola Indian Band
Lands Management Advisory Committee
Meeting Minutes**

**April 22, 2020, 4:00 pm
Lands and Economic Development Boardroom**

Present:	Bill Bose (Chair)	Gene Moses	Louise Moses	Madeline Lanaro
	Hrolfe Joe (Co-Chair)	Robert Sterling	Sondra Tom	
Members:	Heather Shuter-Trosky			
Guests:	Shawn Speirs, LABRC			
Staff:	Stephen Jimmie	Brandi O’Flynn	Jerrica Joe	

1. MEETING OPENING

The meeting was called to order at 4:08 pm.

1.1. OPENING PRAYER

An opening prayer was offered by Bill Bose.

1.2. ADOPTION OF AGENDA

Motion (01): That the LMAC Meeting Agenda dated April 22, 2020 be adopted as circulated.
Moved: Madeline Lanaro Seconded: Louise Moses
Motion Carried

Action (01): Gene Moses would like an Agenda item regarding the Mamit Lake Road Fence added to the next meeting and will discuss this with Brandi to prepare an information package.

2. ADMINISTRATION

2.1. ADOPTION OF MINUTES

Reference Materials: 2020-04-15 LMAC Meeting Minutes draft

Motion (02): That the April 15, 2020 LMAC Minutes be adopted with the following amendments:

- Change description of Shawn Speirs from “lawyer” to “legal background”.

Moved: Sondra Tom Seconded: Madeline Lanaro
Motion Carried

2.2. DIGITAL SIGNATURES

Reference Materials: 2020-04 LMAC Digital Signature Sample

Jerrica presented the reference materials to LMAC Members for discussion to revisit the option of using digital signatures for passed resolutions and timesheets during the COVID-19 pandemic. Discussion ensued on the use of these signatures and limiting their use to the duration of the COVID-19 pandemic. Sondra noted that she would prefer to have documents emailed to her for digital signature.

Motion (03): That the LMAC supports the use of their digital signatures for passed resolutions and timesheets for the duration of the COVID-19 pandemic.

Moved: Sondra Tom

Seconded: Gene Moses

Motion Carried

3. FOR INFORMATION AND DISCUSSION ONLY

3.1. ENFORCEMENT LAW REVIEW

Reference Materials: LNIB Enforcement Law Summary; LNIB Enforcement Law draft

Stephen provided an overview of the LNIB Enforcement Law summary and draft. Attendees reviewed the Law together by reading sections aloud.

Discussion ensued on LNIB's authority regarding enforcement activities and the option to add LNIB culture and language to the Preamble. Shawn Speirs shared examples of clauses that other communities have added to their Preambles for the addition of culture which included references to cultural teachings, community values, and language (such as article 21) from the United Nations Declaration of the Rights of Indigenous People (UNDRIP).

Questions arose regarding whether prosecution under LNIB Law enforcement would be carried out on reserve or would need to go to an outside court; Shawn shared that it would depend on the design of the enforcement and prosecution provisions and different cases. Discussion ensued on the desire to draw from historical cultural practices and other considerations for enforcement and prosecution activities. Stephen clarified that LNIB Laws will largely deal with land and environmental offences.

During review of the draft Enforcement Law, discussion ensued on topics including:

- Severability: provisions in the case that a clause within the Law is deemed invalid by a court; so that such a section can be taken out or 'severed' for that case, rather than having the Law as a whole deemed invalid
- Selection for Law development: Law development is driven by the need to address issues raised by Members; there are currently 8 Laws planned for development to address various issues
- Justices of the Peace: LNIB may consider alternative persons or bodies for inclusion within the adjudication process – people who are culturally knowledgeable, respected in the community, etc. – as well as alternative justice and adjudication methods
 - It was mentioned that some Members may oppose the statement of RCMP officers being enforcement offices under this Law, though there is uncertainty whether this reasonably can and should be omitted
- Enforcement Officers: There are concerns regarding enforcement outside of office hours; Shawn commented that some communities choose to appoint selected Band Members as enforcement officers, who can be contacted by community members about Law offences and ticketing
- Harassment of livestock: Comments were made regarding trespassing and people on recreational vehicles harassing livestock on reserve – this may be addressed under another Law

- Entering and searching places: There were questions regarding why an enforcement officer might enter and search a place – an example was provided: the investigation of fill materials being delivered and used on reserve to ensure they are not contaminated
- Prosecution of offences: LNIB may appoint a lawyer to prosecute offences under LNIB Laws
- Completing an information (under Oath): May want to consider provisions in case of providing false information under Oath – this can already be prosecuted under the Criminal Code of Canada, but could be added as an offence under the Enforcement Law
- Application to non-Members: The Enforcement Law will apply to Members and non-Members alike on reserve

Due to time limitations, this item will be continued at the next meeting, having reviewed up to Part 8 – *Offences and Penalties*.

4. MEETING CONCLUSION

4.1. LMAC MEETINGS MOVING FORWARD

A. TWO MONTHLY MEETINGS AS NEEDED

No discussion on this topic.

B. VIRTUAL MEETING TIMES

Discussion ensued on meeting times during the COVID-19 pandemic and virtual meetings, as well as scheduling for the next meeting.

Decision (01): Next Meeting: Monday, May 11, 2020 at 4:00pm

Motion (04): That the Lands Management Advisory Committee meeting be concluded at 6:54 pm.

Moved: Sondra Tom

Seconded: Gene Moses

Motion Carried

SUMMARY OF ACTION ITEMS:

01. Gene Moses would like an Agenda item regarding the Mamit Lake Road Fence added to the next meeting and will discuss this with Brandi to prepare an information package.

Traditional Holdings Project

Phase 1 Report: Research and Community Engagement

Presented by: Angie Bain and Gretchen Fox
May 2020

INTRODUCTION

PHASE

1

- ✓ March 2019 - March 2020
- ✓ Historical Research & Document Review
 - LNIB Lands & Past Decision-Making
 - Nle?kpmx/LNIB Principles and Protocols
- ✓ Community Engagement: Meetings, Surveys, Interviews
 - Family connections to LNIB land
 - Changes over time
 - Challenges RE: land ownership and access
 - Recommendations for moving forward



Land Code

- Entered into in December 2016
- Gives the community control of reserve lands
- Framework for moving forward together
- Can address lands challenges in culturally relevant ways
→ Initiatives include Traditional Holdings Project



Contemporary Era Policies & Approaches to Land Management



First LNIB reserve was allotted in 1868

- Population in 1868: 100
- Population in 2020: ~1300
- Land base additions in 1878 & 1916
- Large portions of some reserves unsuitable for habitation or development



Heart of the Issue: The importance of land to LNIB members & the lack of adequate land and resources



Contemporary Era Policies & Approaches to Land Management



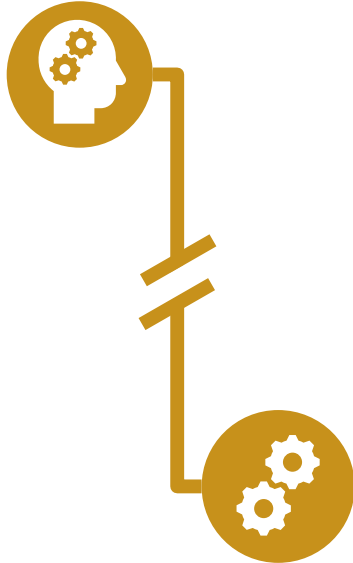
LNIB's major efforts to address traditional holdings include:

- 1992 John Warren Policy
- 2000 John Rich Policy
- 2007 John Warren Policy
- * Draft LNIB Land Code of 2007
 - * Not fully explored
 - * Key documents not yet located



Moving Forward: Propose a process that considers the needs of individuals, families, and the whole LNIB community

PRINCIPLES & PROTOCOLS



- Before reserves & the Indian Act, LNIB had traditional ways of managing land, making decisions, and resolving disputes
- Under the Indian Act, decisions about LNIB lands did not reflect traditional protocols & practices
- LNIB culture & communities changed over time, but traditions and protocols are alive & still valued



Moving Forward: Opportunity to incorporate traditional protocols and principles into processes

FINDINGS & THEMES

Report findings & themes central to understanding members' connections to the land include:



- Land Ownership
- Role Of Family Decision Processes
- Evidence Of Traditional Holdings
- Sustainability
- Balancing Individual & Community Benefits
- Appropriate Decision-making Body



Moving Forward: These findings & themes inform further work around traditional land holdings & Allotment Law criteria

CONTEMPORARY CHALLENGES

Challenges identified in past processes and described by community members as central to efforts to resolve traditional holdings include:



- Fatigue & frustration with lands issues
- Trust issues
- Sorting out transfers and sales
- Updating surveys
- Resolving estate issues
- Expediting uncontested traditional holding resolution
- Disagreements between and/or within families
- Sustainable development

CRITERIA FOR GUIDING DECISION-MAKING

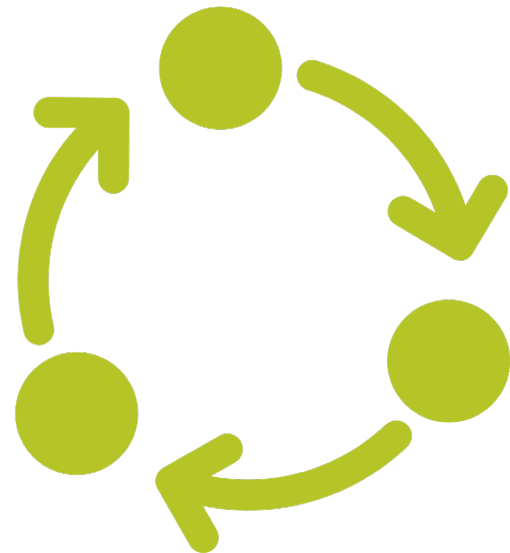
Developed from project input, these criteria can act as guiding values for decision-making or policy development from this project:

- LNIB principles & protocols
- LNIB concepts of Land Ownership in criteria
- Families & family decision processes
- Evidence of land holdings & other connections to lands
- Trust & transparency
- Dispute resolution
- Sustainability & community benefits
- Recognize & build on past work

RECOMMENDATIONS & NEXT STEPS

Overarching Recommendation

- Develop an approach aligned with LNIB principles & protocols
- Review processes regularly to ensure community support and avoid undermining other goals & priorities
- Ensure cohesion between reserves, families, and individuals
 - Avoid separate processes for separate reserves
- Return to principles & protocols to address concerns with community-supported plans



RECOMMENDATIONS & NEXT STEPS

Big Picture Recommendations:

1. Plan for updating **surveys**
2. Long-term approach for **document management**
3. Investigate **Lightship** for supporting decision processes
4. Plan for selecting **decision-making body & process** for application review
5. Allow time to develop **policies & procedures** to ensure **transparency**
6. **Protocols & principles** project: how to practice these in decision-making
7. Further **research**: history of parcel-specific issues
8. **Bring the community together** to recognize project milestones & achievements

RECOMMENDATIONS & NEXT STEPS

Moving Forward with Allotment Law Development:

1. Incorporate **families'** decision processes
2. Draft application for **community input**
3. List possible **evidence** for applications
4. Ensure **transparency** in the application process
5. **Community engagement** to determine decision-making body
6. **Support** members in making applications
7. Consider **compensation** for involuntary land loss
8. Further **research**: parcel-specific issues
9. **Support** preparation of applications
10. Build in a **review process** or **benchmarks**

Questions/Discussion

Executive Summary

Lower Nicola Indian Band

Traditional Holdings Project

Phase 1 Report:

Research and Community Engagement

**Prepared for the LNIB Lands Department by
Angie Bain and Gretchen Fox**

April 2020

INTRODUCTION

This Executive Summary of the *LNIB Traditional Holdings Project, Phase 1 Report* presents an overview of information and findings contained in the report. It is meant to provide a brief summary of the report to LNIB Chief and Council, and the Lands Management Advisory Committee, and to encourage ongoing engagement as the project proceeds. Each section of this summary includes references to page numbers of the report where more detailed information can be found.

On December 1, 2016, the LNIB Land Code came into effect, placing control of reserve lands back in the hands of the community and marking an end to 130 years of restrictions and barriers to land management under the Indian Act. The LNIB Land Code enables the Band to pass laws and make decisions about reserve lands that reflect the cultural, economic and social values, protocols and circumstances of our community. Land Code presents unique opportunities for the community to build on past efforts to reconcile the past, the present and the future and find a way forward for the benefit of all LNIB members.

The LNIB Lands Department has long been challenged to manage reserve lands in ways that balance the needs of all community members with the cultural principles and protocols of landownership and family-based decision-making. Many of these challenges have become increasingly complicated over generations as families grow and their connections to the land base change over time. These challenges are compounded by a reserve land base that is inadequate for the needs and visions of the growing community.

Recognizing the potential of Land Code to address and reframe these challenges in new, culturally relevant ways, LNIB is undertaking a number of initiatives under the Land Code, including this Traditional Holdings Project. Traditional holdings are sections of LNIB reserve land occupied by members, and to which those members have asserted an interest or right but are not formally recognized as allotments by LNIB.

This report presents information gathered during Phase 1 of the Traditional Holdings Project, which ran from March 2019 to March 2020. During this phase, the Project Team carried out historical research and reviewed documents related to LNIB lands and decision-making in the past, and about Nie?kepmx/LNIB principles and protocols guiding decision-making in the community. The Project Team also engaged with the community at meetings and interviews, and through surveys, to learn about families' connections to land on LNIB reserves, the ways that these connections have changed over time, the challenges community members face regarding ownership and access to land, and their recommendations for how the Band should move forward with laws and policies under the Land Code. The Project Team hopes that this report can serve as a reference and a roadmap, going forward.

BACKGROUND AND CONTEXT

Land Code

When LNIB entered into Land Code in 2016, the community decided to manage its reserve lands and resources under the *First Nations Land Management Act* rather than under the *Indian Act*. The LNIB Land Code gives the community the opportunity to exercise LNIB's own powers, rights and privileges as owners over LNIB reserves. Community engagement was central to the drafting of the LNIB Land Code, and traditional customs, laws, traditions and teachings are guiding principles of the Land Code. In order to fully implement the Land Code recognizing these principles, exercise jurisdiction over Band lands and have more certainty for community members and the community as a whole moving into the future, it is desirable to address and settle unregistered holdings on Band lands, including traditional holdings.

The Lands Department recognizes that in the past, there was little space for LNIB to bring forward Nle?kepmx /LNIB traditional decision making and dispute resolution processes. Land Code provides a framework for moving forward together. Land Code gives LNIB an opportunity to resolve unregistered holdings in ways that reflect community protocols and principles, and that align with long-term planning and sustainability goals.

Contemporary Era Policies and Approaches to Land Management

Since the allotment of the first LNIB reserve in 1868 the population of LNIB has increased from 100 members to approximately 1,300 members today. While the land base increased in 1878 and again in 1916, large portions of some LNIB reserves are unsuitable for habitation or development. Land is a valuable resource and moving forward LNIB must find ways to reflect community protocols and principles in resolving outstanding traditional holdings.

Much work has been done on this issue in the past, but many traditional land issues remain unresolved. LNIB has engaged in three significant efforts to define a policy to address traditional holdings and prolonged efforts to implement those policies. They include:

- The 1992 John Warren Policy (1991-1999)
- The 2000 John Rich Policy (2000-2005)
- The 2007 John Warren Policy (2007)
- A fourth policy is also discussed but not fully explored as we have yet to locate key documents. This fourth policy was the Draft LNIB Land Code of 2007.¹

¹ This is not to be confused with the 2016 LNIB Land Code. The 2007 Code may have been LNIB's first attempt at designing a system to opt-out of sections of the Indian Act. The *First Nations Land Management Act* came into effect in 1999. If the 2007 draft Land Code was intended

Much good work was done in the past, and the community can still benefit from that work moving forward. The challenges faced in the past, and many of the challenges LNIB is still facing today are formidable. **At the heart of the issue is the importance of land to LNIB members and the community and the lack of adequate land and resources.** Moving forward, a fundamental challenge will be to propose a process that considers individual needs, family needs and the needs of the LNIB community as a whole. *A more detailed background and context of this project can be found on pg. 15-54 of the Phase 1 Report.*

PRINCIPLES AND PROTOCOLS

Prior to the establishment of LNIB reserves and the Indian Act, LNIB had traditional ways of managing and using land, making decisions and resolving internal disputes. After the Indian Act came into force LNIB faced challenges that arose as western world views and LNIB culture collided, and decisions were increasingly made about LNIB reserve lands that did not reflect traditional Nlë?kepmx/LNIB protocols, laws, traditions and practices.

Community interviews and research has helped identify Nlë?kepmx/LNIB traditional principles and protocols. This report details the findings of some of this important work (pg. 55-66), including principles and protocols highlighted in:

- The Report of the Royal Commission on Aboriginal Peoples (1996)
- Nlë?kepmx Dispute Resolution Process (2009)²
- Nicola Tribal Associated Tribal Leadership Concept Model (2016)³
- Lower Nicola Indian Band Dispute Resolution Process (2017)
- The Grandmother Teachings, developed by Beatrice Marie Anderson (2011)⁴
- Wrapping our Ways Around them, developed by Ardith Walkem (2015)⁵
- The response of the Nicola Valley Bands in calling for a Moratorium on Biosolids (2015)
- The LNIB Cultural Heritage Policy and Other LNIB Projects⁶

Traditions and protocols are alive in LNIB members. It is clear that LNIB culture and communities have changed over time, but the fundamental protocols and principles still exist and are still valued. Past policies and procedures such as those described in this report have incorporated some aspects of LNIB

to be LNIB's system under the FNLMA, considerably more research is required to understand this process. Unlike the 2016 process, the 2007 Code appears to have been drafted by an existing Committee rather than through extensive community engagement and consultation. LNIB Lands staff and community members may have a better understanding of the context of this document.

² NNTC 2009 (2009-10-16).

³ This document is in the personal files of Angie Bain and cannot be shared due to confidential and conditions of access.

⁴ Anderson 2011 (2011-12-00).

⁵ Walkem 2015. Copy reviewed only at <https://lss.bc.ca/publications/pub/wrapping-our-ways-around-them>.

⁶ Bain 2018

traditional protocols, but had to reconcile those with Indian Act requirements. Moving forward, a process for addressing traditional land holdings under LNIB Land Code presents a unique opportunity to incorporate these important teachings and to design a Nle?kepmx/LNIB way of moving forward together as a community.

FINDINGS AND THEMES

This report discusses a number of important themes that emerged during historical research (pg. 67-85), document review and community engagement, and are central to understanding the connections between LNIB community members and the land. Each theme is discussed as it relates to Nle?kepmx/LNIB values, principles and protocols in the past, and today. These findings and themes were used to develop criteria for moving forward with an LNIB Allotment Law, and to make recommendations for further work around formalizing traditional land holdings. Findings and themes discussed in the Phase 1 Report include:

- Land ownership
- The Role of Family Decision Processes
- Evidence of Traditional Holdings
- Transparency in Decision-Making
- Sustainability
- Finding A Balance Between Individual and Community Benefits
- Identifying an Appropriate Allotment Law Decision-Making Body

CONTEMPORARY CHALLENGES

Many of the challenges identified in past processes were echoed by community members who participated in this project. They also described some of the challenges they saw as central to efforts to resolve traditional holdings today. More detailed descriptions of these contemporary challenges can be found on pg. 86-91 of the Phase 1 report. Contemporary challenges identified include:

- Fatigue and frustration around the resolution of lands issues
- Trust issues
- Sorting out land transfers and sales
- Updating surveys of research lands
- Resolving outstanding estate issues
- Expediting resolution of uncontested traditional holdings

- Addressing disagreements between families
- Addressing disagreements within families
- Sustainable development

CRITERIA FOR GUIDING DECISION-MAKING

The Project Team developed a number of criteria to guide decision-making as LNIB proceeds with the development of an Allotment Law and the resolution of outstanding lands issues. Criteria listed below are distilled from past processes undertaken by LNIB, from principles and protocols described above, and from information shared by community members who participated in meetings and interviews for this project. They are described in greater detail in the full report (pg. 92-95.) These criteria should be understood as a set of guiding values for any decision-making processes, laws and policies that arise from the Traditional Holdings Project.

- Ensuring decision-making reflects LNIB principles and protocols
- Criteria that reflect LNIB concepts of Land Ownership
- Criteria related to families and family decision processes
- Criteria related to evidence of land holdings and other connections to lands
- Criteria related to trust and transparency
- Criteria related to dispute resolution
- Criteria related to sustainability and community benefits
- Criteria that recognize and build on past work

RECOMMENDATIONS AND NEXT STEPS

Overarching Recommendation

Develop an approach to land allotments that aligns with LNIB protocols and principles. Conduct regular reviews of allotment processes to make sure that allotment processes are being carried out in ways that the community supports, and that do not undermine other goals and priorities. Work to ensure cohesion between reserves, families and individuals in the process and try to avoid separate processes for separate reserves. Discuss what is working well, identify concerns and return to protocols and principles to make a plan for community-supported steps that can be taken to address concerns.

Big Picture Recommendations

1. Develop a plan for updating surveys on reserve lands. Think of ways to involve community in this plan.
2. Develop a long-term approach to document management for LNIB Lands documents and consider cross-department records that have relevance.
3. Learn more about Lightship’s capacity to support allotment decision processes.
4. Develop a plan for selecting a decision-making body and process for reviewing allotment applications.
5. Allow adequate time for the development of appropriate policies and procedures for the decision-making body to ensure transparency.
6. Carry out further work on protocols and principles to determine how the community wants to put these into practice in decision-making about lands – including land use planning.
7. Further research to understand the history of parcel-specific issues (building on Miller Thompson research and historical research for this project.)
8. Consider ways to bring the community together to recognize significant project milestones and achievements.

Recommendations for Moving Forward with Allotment Law Development⁷

1. Work with LNIB families to include their decision processes in Allotment Law processes.
2. Draft allotment application and elicit community input.
3. Compile a list of possible evidence to support allotment applications.
4. Institute measures to ensure transparency in the allotment application process.
5. Facilitate community engagement process to determine decision-making body.
6. Support community members in making their applications.
7. Consider compensation for members who have involuntarily lost land.
8. Further research to understand parcel-specific issues.
9. Supporting preparation of allotment applications.
10. Build in a review process or benchmarks.

⁷ More detailed action steps related to each recommendation can be found on pg. 96-100 of the Phase 1 report.



**Lower Nicola Indian Band
Lands Management Advisory Committee**

2019-2020 Fourth Quarter Report Ending March 31, 2020

Prepared by:

Stephen Jimmie, Brandi O'Flynn, Monica Charters, and Jerrica Joe

FIRST QUARTER MEETINGS

APRIL 08, MAY 06, AND JUNE 03

AGENDA ITEMS:

Updates:

- No updates were provided during this quarter.

Information Only:

- 2019-04-08 Traditional Holdings Project
- 2019-04-08 LMAC 4th Quarter Report
- 2019-05-06 Land Use Planning
- 2019-05-06 Traditional Holdings Project
- 2019-05-06 LMAC Quarterly Report and Annual Report
- 2019-05-06 2019-2020 Annual Workplan
- 2019-06-03 LMAC Annual Report
- 2019-06-03 Confidentiality and Conflict of Interest
- 2019-06-03 Cannabis Information
- 2019-06-03 Business Licence Law
- 2019-06-03 2019-2020 Annual Workplan and 5-Year Plan

New Business:

- 2019-04-08 Zoning Lot 145
 - By Motion #6 in the April 08, 2019 minutes the LMAC moved to recommend the Council prohibit the proposed land use due to its inconsistency with the Land Use Plan.
- 2019-04-08 Zoht IR No.4 Waterline Easement Agreement
 - Resolution No. 2019-04 LMAC supports the Waterline Easement Agreement and recommends Council:
 1. Enter into the Waterline Easement between LNIB and LNIB; and
 2. Enter into individual Waterline Easement agreements with the above listed Members.
- 2019-04-08 Nicola Mameet IR No.1 Industrial Park Waterline Easement Agreement
 - Resolution No. 2019-05 LMAC supports the Waterline Easement Agreement and recommends Council:
 1. Enter into the Waterline Easement between LNIB and LNIB; and
 2. Enter into individual Waterline Easement agreements with the above listed Members.
- 2019-04-08 Zoht IR No.4 Clapperton Creek ROW and Letter Agreement
 - Resolution No. 2019-07 LMAC supports the Waterline Easement agreement and recommends the Council to enter into the Licence and Right of Way Agreement between LNIB and the Coquihalla Developments Corporation
- 2019-04-08 Nicola Mameet IR No.1 Eastloop Waterline Easement Agreement
 - Resolution No. 2019-06 LMAC supports the Waterline Easement Agreement and recommends Council:
 1. Enter into the Waterline Easement between LNIB and LNIB; and
 2. Enter into individual Waterline Easement agreements with the above listed Members.
- 2019-05-06 Trans Mountain – Test Cap Lead Survey Request
 - Resolution No. 2019-08 LMAC:
 1. Supports TMP’s request to inspect the cathodic protection system and conduct the annual test cap lead survey; and
 2. Recommends the Chief and Council grant TMP and PureHM access to Joeyaska IR No.2 and Zoht IR No.4 to inspect the cathodic system and conduct the annual test cap lead survey.

SECOND QUARTER MEETINGS

JULY 08, AND SEPTEMBER 09

AGENDA ITEMS:

Updates:

- 2019-07-08 Traditional Holding Project
- 2019-07-08 Lands 2019-2020 Annual Work Plan
- 2019-07-08 Jimmy Peters Estate
- 2019-09-09 New Lands Manager
- 2019-09-09 New Lands Admin Assistant
- 2019-09-09 Zoning Law Proposal
- 2019-09-09 Cannabis Survey
- 2019-09-09 Subdivision, Development and Servicing Law

Information Only:

- 2019-07-08 LMAC Quarterly Report
- 2019-07-08 Cannabis/Marijuana Survey
- 2019-07-08 Subdivision, Development and Servicing Law

New Business:

- 2019-07-08 SFE Timber Permit Application
 - By Motion #6 in the July 08, 2019 minutes the LMAC moved to recommend the Lands Manager approve the Timber Permit Application.
- 2019-07-08 Traditional Land Holdings and Membership Disputes
- 2019-07-08 Lands File Research Process
- 2019-09-09 TMP Reserve Access Request
 - Resolution No. 2019-10 LMAC:
 1. Recommends Chief and Council grant TMP and its contractors' access Joeyaska IR No.2 and Zoht IR No.4 to conduct Natural Hazard Ground Inspection's; and
 2. Recommends Chief and Council grant TMP and its contractors' access Joeyaska IR No.2 to change the branding on the pipeline markers from Kinder Morgan to Trans Mountain.
- 2019-09-09 Revised Timber Permit Policy
 - Resolution No. 2019-11 LMAC supports the adoption of the Policy and recommends the LNIB Council ratify the Policy.
 1. Recommends Chief and Council grant TMP and its contractors' access Joeyaska IR No.2 and Zoht IR No.4 to conduct Natural Hazard Ground Inspection's; and
 2. Recommends Chief and Council grant TMP and its contractors' access Joeyaska IR No.2 to change the branding on the pipeline markers from Kinder Morgan to Trans Mountain.
- 2019-09-09 SFE Timber Permit Application – Fuel Management
 - Resolution No. 2019-12 LMAC:
 1. Recommends Chief and Council grant TMP and its contractors' access Joeyaska IR No.2 and Zoht IR No.4 to conduct Natural Hazard Ground Inspection's; and
 2. Recommends Chief and Council grant TMP and its contractors' access Joeyaska IR No.2 to change the branding on the pipeline markers from Kinder Morgan to Trans Mountain.

THIRD QUARTER MEETING

DECEMBER 09

AGENDA ITEMS:

Administration:

- 2019-12-09 Acceptance Letters
- 2019-12-09 Oath of Office
- 2019-12-09 Adoption of LMAC September 09, 2019 Meeting Minutes

Updates:

- 2019-12-09 Land Use Planning and Economic Development Strategy

Information Only:

- 2019-12-09 Framework Agreement Summary
- 2019-12-09 FNLM Act Summary
- 2019-12-09 LNIB Land Code Summary
- 2019-12-09 Lands Sector 5-Year Plan
- 2019-12-09 2018/19 Lands and LMAC Annual Report
- 2019-12-09 2019/20 Quarterly Reports

New Business:

- 2019-12-09 CMHC Allotment to the Mackenzie Estate
 - Resolution No. 2019-13 LMAC supports the allotment of 2724 Cougar Crescent Merritt, BC on Nicola Mameet IR No.1 Lot 269 Plan No.2713 RSBC to the estate of Hugh Dale Mackenzie.
- 2019-12-09 Cannabis
 - Resolution No. 2019-14 the LMAC:
 1. Supports indoor and outdoor commercial growing on LNIB Lands; and
 2. Supports medical and recreational dispensaries/retail stores on LNIB Lands.

FOURTH QUARTER MEETINGS

JANUARY 20, FEBRUARY 10, MARCH 02, AND MARCH 09

AGENDA ITEMS:

Administration:

- 2020-01-20 Conflict of Interest Declaration Forms

Updates:

- 2020-01-20 Cannabis
- 2020-01-20 CMHC Allotment to the Hugh Mackenzie Estate
- 2020-02-10 Lands Advisory Board (LAB): Replacement of the First Nations Lands Management Act (FNLMA)
- 2020-03-09 Peter Bros. Construction Ltd. (PBCL) Material Extraction Permit
- 2020-03-09 Clapperton Creek Diversion Update

Information Only:

- 2020-01-20 2019/20 Quarterly Report

- 2020-01-20 Lands Advisory Board (LAB) Letter and Email Attachments: Benefit Highlights of the FA on FNLMA; Replacement of the FNLMA; 2019-11-21 Letter to Minister Miller; 2019-12-13 Letter to Operational Chiefs
- 2020-01-20 LMAC Terms of Reference & Update
- 2020-02-10 Traditional Holdings Project Presentation
- 2020-02-10 Draft LNIB Laws – Subdivision, Development and Servicing Law; Land Use and Zoning Law; Enforcement Law; and Expropriation Law
- 2020-02-10 LMAC Terms of Reference
- 2020-03-02 Lands Department Annual Work Plan and Budget
- 2020-03-09 Lands Advisory Board (LAB) Presentation
- 2020-03-09 Law Ratification Schedule

New Business:

- 2020-01-20 Appointment of LMAC Co-Chair
- 2020-02-10 Shulus Forest Enterprises (SFE) Timber Permit
 - Resolution No. 2020-01 the LMAC supports and recommends that the Lands Manager approve the Timber Permit Application made by Shulus Forest Enterprises LP.
- 2020-03-02 Peters Bros. Construction (PBCL) Material Extraction Permit
 - Resolution No. 2020-02 the LMAC supports and recommends that Chief and Council authorize the Director of Lands to grant the Material Extraction Permit to Peters Bros. Construction Ltd.

INDIAN ACT BY-LAWS – POLICE ENFORCEMENT COVID-19 and PANDEMIC CONCERNS

First Nations in British Columbia have asked the Royal Canadian Mounted Police and the municipal police agencies for assistance in protecting their Indigenous communities from the threat of COVID-19. This document provides guidance to First Nations and the police for a mutual understanding of what the police can do, may do and are unable to do in relation to enforcement of *Indian Act* by-laws and Band Council Resolutions (BCR's) that establish blockades, information checkpoints and curfews. It also discusses the federal *Quarantine Act* and the provincial *Public Health Act*.

Laws on Indian reserves

Federal laws apply on Indian reserves. This means that the *Criminal Code*, the *Controlled Drugs and Substances Act* (CDSA), the *Indian Act* (including Band by-laws), and the *Quarantine Act* are legal authorities for police enforcement action. BCR's are not a legal authority by themselves for police enforcement action.

Provincial "laws of general application" apply on reserves, where they do not conflict with *Indian Act* by-laws. The provincial laws include the *Motor Vehicle Act* (on public highways through reserve lands, but not private roads), the *Liquor Control and Licensing Act*, the *Mental Health Act*, and the *Public Health Act*.

Public health orders: federal and provincial

Orders under the *Quarantine Act* (Canada) apply on Indian reserves and to Band members returning to Canada after international travel. Orders under the *Public Health Act* (BC) by the Provincial Health Officer of British Columbia (PHO) apply throughout British Columbia, including Indian reserves.

Indian Act by-laws

The *Indian Act*, section 81, provides First Nation Band Councils with the authority to pass by-laws. Paragraphs (a) to (d) of section 81(1) are relevant here:

- "81(1) The council of a band may make by-laws not inconsistent with this Act or with any regulation made by the Governor in Council or the Minister, for any or all of the following purposes, namely,**
- (a) to provide for the health of residents on the reserve and to prevent the spreading of contagious and infectious diseases;**
 - (b) the regulation of traffic;**
 - (c) the observance of law and order;**
 - (d) the prevention of disorderly conduct and nuisances;...."**

In 2020, several Band Councils in British Columbia have passed by-laws and BCR's in relation to COVID-19 and health security on Indian reserves. These by-laws and BCR's have established road closures, information checkpoints, entry and exit restrictions, curfews, and social distancing. Some Bands have requested police enforcement of these restrictions.

Band Councils (including self-governing treaty nations), should take first responsibility for the enforcement and administration of their by-laws including those related to COVID-19. Police may be requested to assist, including standing-by to keep the peace, while Band by-law enforcement officials perform their required duties. Police may assist on a discretionary basis and determine if any other federal or provincial statute applies. Police cannot enforce restrictive measures that violate the *Canadian Charter of Rights and Freedoms*, unless those violations can be justified under the *Charter*. These rights and freedoms include:

- the fundamental freedoms of peaceful assembly, association, "thought, belief, opinion and expression" (section 2);
- mobility rights (section 6);
- life, liberty and security of the person (section 7);
- no unreasonable search or seizure (section 8); and,
- no arbitrary detention or imprisonment (section 9)

The RCMP and other police agencies are governed by the *Canadian Charter of Rights and Freedoms* in everything they do. Police cannot enforce by-laws that could reasonably be expected to violate these essential rights and freedoms. This also applies to laws passed by First Nations that have self-government agreements.

Examples of what police can do, may do, and are unable to do:

- **blockades:** police cannot maintain or assist an illegal blockade of a public highway. Blockades and information checkpoints established under a valid *Indian Act* by-law or provincial order will allow police to stand-by to keep the peace and take enforcement action where required, in the discretion of police.
- **curfews and social distancing:** as a general principle, police can enforce an *Indian Act* by-law related to the protection of the community from COVID-19 (*Indian Act*, section 81(1)(a)) on an Indian reserve. This police enforcement must be consistent with the *Canadian Charter of Rights and Freedoms*. Police will not enforce curfews and social distancing rules, as those are the primary responsibility of First Nations. However, police will work cooperatively with First Nations on health security and community safety matters.
- **health orders:** police can assist the PHO, Environmental Health Officers (EHO) and Quarantine Officers on an Indian reserve, if those officials request police assistance in relation to federal and provincial health orders.
- **evictions:** police can stand-by during evictions from residences, where the Band Council owns the house and the occupants have no legal right to be in the house in an occupancy agreement. On reserves, the *Residential Tenancy Act* (BC) does not apply.

Prosecution of *Indian Act* by-laws

Where a Band Council wishes to prosecute a violation of an *Indian Act* by-law, police may investigate the incident and report to the Band Council, using a document like a Report to Crown Counsel (RTCC) or a Prosecutor's Information Sheet (PIS). Prosecution is an option for Bands with their own lawyers, at those Bands' expense. This matter is under review in some Canadian jurisdictions, and so Bands may wish to consult their local federal and provincial Crown Counsels for the latest information. Bands may consult the local Provincial Court Registry to discuss the processes for these summary conviction proceedings.

Most enforcement of *Indian Act* by-laws involves an educational conversation between the Band's enforcement officers or other Band members, the suspected violator and sometimes the police. The number of by-law violations that proceed to a prosecution in Provincial Courts across Canada is very low.

Police and the measured approach: discretionary enforcement

Police officers have considerable discretion in how they enforce the law, for laws at the First Nations, federal, provincial, and municipal levels. Police will follow the measured approach in their application and enforcement of laws relating to COVID-19 and quarantines:

Education: police may speak with First Nations members and visitors to explain the importance of voluntary compliance and the potential health and legal consequences of non-compliance. Police may remind these members and visitors of their civic duty to protect family, friends and their community from a potentially deadly virus. The initial focus of law enforcement is on education, persuasion and cooperation from a health perspective.

Encouragement: police may speak with First Nations members and visitors to give an official warning to ensure compliance with federal and provincial orders.

Isolation: where a *Quarantine Act* (Canada) order (section 58) or a *Public Health Act* (provincial) order requires isolation, police may work with the Canada Border Services Agency (CBSA), the Public Health Agency of Canada (PHAC) and provincial Public Health officials to isolate persons.

Enforcement: police may issue an Appearance Notice with a Court date for a breach of the *Quarantine Act* or issue a summons to Court. For orders under the *Public Health Act* (provincial), the PHO and EHO may request police assistance in their enforcement duties. Police in British Columbia currently do not have legal authority to issue \$245.00 violation tickets under the *Public Health Act*.

Arrest: where necessary, police may arrest persons who refuse to comply with orders under the *Quarantine Act*. Police will release those persons if possible by the least intrusive means or by way of undertaking with restrictive release conditions. Police may arrest persons if necessary to assist the PHO and EHO, if the PHO and/or EHO require police assistance in their enforcement of the *Public Health Act*. Police do not arrest persons under *Indian Act* by-laws, except for the purpose of determining the identity of a suspected violator.

Exceptional circumstances: where a person shows willful and continued non-compliance with an order under the *Quarantine Act* or an order under the *Public Health Act* where police assistance has been requested by the Quarantine Officer, the PHO or the EHO, police may arrest and hold the person for a bail hearing.

LNIB ENFORCEMENT LAW

LNIB ENFORCEMENT LAW

TABLE OF CONTENTS

PREAMBLE	3
PART 1– CITATION, APPLICATION, DEFINITIONS AND INTERPRETATION	3
Paramourncy	4
Definitions.....	4
Interpretation	5
Severability.....	5
Validity.....	5
PART 2 - SCHEDULES	5
PART 3- OFFENCES	6
Offences generally.....	6
PART 4 - JUSTICES OF THE PEACE	6
Justices of the peace.....	6
PART 5 - ENFORCEMENT OFFICERS	7
Appointing enforcement officers	7
Authority of enforcement officers	7
Warrants.....	9
Copying and removal of documents and objects	9
PART 6 - PROSECUTION OF OFFENCES	10
Completing an information.....	10
Prosecution of offences	10
Limitation period for laying an information.....	11
Application of the Criminal Code.....	11
PART 7 - COMPLIANCE NOTICES AND TICKETS	11
Issuing a compliance notice or ticket	11
Contents of a compliance notice and a ticket.....	11
Serving a compliance notice or a ticket.....	12
Form of compliance notice or ticket	13
Complying with or disputing a compliance notice.....	13
Paying or disputing a ticket.....	13
Effect of paying fine	14
Hearing of dispute	14
Failure to appear at hearing.....	15
Time extensions	15
Collections.....	16
PART 8 – OFFENCES AND PENALTIES	16
Offences.....	16
Penalty	17
PART 9 - GENERAL PROVISIONS	17
Limitation of liability	17
Regulations	18

LNIB ENFORCEMENT LAW

PART 9- AMENDMENTS18
 Substantive amendments to this Law18
 Minor amendments.....18
PART 10 - COMING INTO FORCE.....18
 Coming into force18
SCHEDULE A.....21

DRAFT

LNIB ENFORCEMENT LAW

PREAMBLE

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

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

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

AND WHEREAS under sections 6.1 and 6.2 of the Land Code, Council is authorized to establish laws relating to the enforcement of Laws including with respect to the appointment of justices of the peace for the enforcement of Laws;

AND WHEREAS section 22(3) of the *First Nations Land Management Act (Canada)* authorizes LNIB, in relation to prosecutions of contraventions of Laws,

- (a) to retain its own prosecutors,
- (b) to enter into an agreement with British Columbia for the use of provincial prosecutors, or
- (c) to enter into an agreement with Her Majesty for the use of agents engaged by Her Majesty;

AND WHEREAS section 24 of the *First Nations Land Management Act (Canada)* provides that

- (a) a justice of the peace shall have tenure and remuneration, and be subject to conditions of removal, that reflect the independence of office of justice of the peace in British Columbia, and
- (b) justices of the peace have all the powers necessary for the performance of their duties and functions.

AND WHEREAS Council wishes to implement a consolidated enforcement law to enable fair, effective and efficient enforcement of Laws,

NOW THEREFORE BE IT RESOLVED THAT the Council enacts as follows:

PART 1– CITATION, APPLICATION, DEFINITIONS AND INTERPRETATION

Citation

1. The Law may be cited as the Enforcement Law.

LNIB ENFORCEMENT LAW

Purpose

2. The purpose of this Law is to enable fair, effective and efficient enforcement of Laws.

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:

“an information” means mean the instrument that sets out the information that confirms a peace officer’s reasonable and probable grounds to believe someone has committed an offence;

“compliance notice” means a notice issued in accordance with section 20;

“court” means a court of competent jurisdiction in British Columbia;

“Criminal Code” means the *Criminal Code of Canada*, RSC 1985, c C-46;

“discounted fine” means the amount of the fine set out in Schedule A that is payable if payment is received on or before the 14th day after the date a ticket was served;

“enforcement officer” means a Person designated under section 12;

“judge” means a judge presiding over a court;

“justice of the peace” means a justice of the peace appointed under section 11(1) to ensure the enforcement of Laws including the adjudication of offences of Laws;

“named person” means a Person to whom a compliance notice or ticket is issued;

“place” means

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

“peace officer” has the same meaning as provided in the Criminal Code;

“prosecutor” means

- (d) a lawyer retained by Council to prosecute offences of a Law; or

LNIB ENFORCEMENT LAW

- (e) subject to an agreement with British Columbia or Canada regarding the prosecution of contraventions of a Law,
 - (i) a provincial prosecutor, or
 - (ii) a federal agent;

“Schedule A” means the Schedule to this Law that sets out the fine, discounted fine and surcharge associated with offences under applicable Laws.

“surcharge” means the amount set out in Schedule A that is payable if payment for a fine is received on the 30th day after the date a ticket was served;

“ticket” means a ticket issued in accordance with section 20.

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

Interpretation

- 6. (1) A reference in this Law to an enactment is to be construed as including a reference to that enactment as it may be amended from time to time.
- (2) 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.
- (3) Unless otherwise expressly provided, the structures, organizations, bodies, principles and procedures established or used in this Law will be guided and interpreted in accordance with the culture, traditions and customs of LNIB.

Severability

- 7. The provisions of this Law are severable, and where any provision of this Law is for any reason held to be invalid by a decision of a court of competent jurisdiction, the invalid portion must be severed from the remainder of this Law and the decision that it is invalid must not affect the validity of the remaining portions of this Law.

Validity

- 8. Nothing under this Law must be rendered void or invalid by
 - (a) an error or omission in a compliance notice, ticket, order, form 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 - SCHEDULES

Schedule

LNIB ENFORCEMENT LAW

9. (1) Schedule A forms part of this Law and has the force of law.
- (2) A reference to “this Law” includes Schedule A.
- (3) Despite section 36, Council may amend Schedule A by Resolution.

PART 3- OFFENCES

Offences generally

10. (1) A Person commits an offence against a Law by:
 - (a) doing anything prohibited under a Law; or
 - (b) omitting to do anything required under a Law.
- (2) An enforcement officer may commence a proceeding for an offence against a Law by
 - (a) issuing a ticket in accordance with section 20;
 - (b) issuing a compliance notice in accordance with section 20; or
 - (c) laying an information for a prosecution before a justice of the peace or a Court in accordance with section 17.
- (3) Where a Person commits an offence for more than one day, it constitutes a separate offence for each day on which the Person commits or continues the offence.

PART 4 - JUSTICES OF THE PEACE

Justices of the peace

11. (1) Council may appoint by resolution, with the advice of the Lands Manager and the Lands Management Advisory Committee and in a manner consistent with this Law and the Land Code, any justices of the peace that Council determines
 - (a) are necessary to enforce Laws; and
 - (b) qualified to serve in the position of justice of the peace.
- (2) Before carrying out any authorities granted to it under this Law, any justice of the peace appointed by Council must swear or affirm an oath of office prior to commencing their duties.
- (3) Unless otherwise instructed by Council, a justice of the peace is empowered and authorized to make decisions regarding the application and enforcement of this Law including as follows:
 - (a) whether an offence has been committed;
 - (b) whether a compliance notice or ticket was validly issued;

LNIB ENFORCEMENT LAW

- (c) whether a fine or surcharge is due; and
 - (d) any other related decisions.
- (4) If, in the course of a hearing before a justice of the peace, a matter arises that is within the exclusive jurisdiction of a court, the justice of the peace must terminate the hearing and refer the matter to be heard as a new matter by a judge.
- (5) Before the commencement of any hearing by a justice of the peace, a party to the matter may apply to court for an order that the matter be heard by a judge instead of by the justice of the peace.
- (6) In making an order pursuant to subsection (5), the judge must consider relevant factors, including, without limitation, the following factors:
- (a) the objectives of respecting Laws and LNIB's self-government, and of encouraging timely, effective and efficient enforcement of Laws;
 - (b) the complexity of the factual and legal issues involved in the matter;
 - (c) the proposed length of the trial of the matter;
 - (d) the severity of the potential outcomes or consequences of the matter; and
 - (e) the public interest in the outcome of the matter.

PART 5 - ENFORCEMENT OFFICERS

Appointing enforcement officers

12. In addition to an enforcement officer appointed or designated under another Law, LNIB appoints the following as enforcement officers:
- (a) any RCMP officer or peace officer; and
 - (b) any individual or company designated by Council by resolution.

Authority of enforcement officers

13. (1) Without limiting an enforcement officer's powers at law, including in another Law, an enforcement officer is authorized to do the following for the purpose of performing his or her duties or exercising his or her powers in relation to this Law:
- (a) issue compliance notices;
 - (b) issue tickets;
 - (c) at any reasonable time, enter
 - (i) land or unoccupied premises, or

LNIB ENFORCEMENT LAW

- (ii) a dwelling with the consent of the occupier or if authorized by another Law or, subject to section 14, a warrant issued by a court;
- (d) in a manner that is consistent with enforcement measures under federal legislation and subject to sections 14 and 15, make any reasonable inspection, investigation or inquiry necessary to determine if this Law, or a compliance notice, order or other instrument issued under this Law, has been complied with or contravened, or an offence is being committed or has been committed;
- (e) without limiting the interpretation of paragraph (d) and subject to section 15, an enforcement officer may:
 - (i) inspect, analyze, measure, sample or test land, and any article or substance located on or in the land,
 - (ii) take away samples of land, articles or substances,
 - (iii) examine and take away copies of records relating to any matter governed by a Law,
 - (iv) take photographs or make audio records,
 - (v) with the consent of the occupier or if authorized by another Law or a warrant,
 1. inspect, analyze, measure, sample or test any article or substance located in a dwelling or other place,
 2. seize and remove anything that the enforcement officer has reasonable grounds for believing is evidence of an offence, and
 3. take other actions as consented to by the occupier, or authorized in another Law or a warrant;
- (f) direct or require that a Person take certain measures or meet certain conditions to ensure compliance with a Law or an authorization issued under a Law, including, without limiting the generality of the Lands Manager's or an enforcement officer's authority, terms and conditions for traffic control, and to prevent injury, harm, nuisance, or damage to the public, property, or the environment, including terms and conditions dictating the remediation or restoration of the land;
- (g) issue a stop work order to order any Person who has not received full and proper authorization to cease carrying out any activities prohibited under a Law;
- (h) provide to a prosecutor with information sufficient to initiate the prosecution of an offence;
- (i) perform any other duties and exercise any other powers assigned or delegated to the enforcement officer

LNIB ENFORCEMENT LAW

- (i) under this or any other Law, or
- (ii) by Council.

- (2) A stop work order imposed under subsection (1)(g) may be registered in court and enforced as a court order and continues in force until the condition that led to it is remedied or until the activity that is the subject of the stop work order receives proper authorization.
- (3) For certainty, an enforcement officer, acting in the performance of a duty or in the exercise of a power under this and any other Law, may enter and pass over any LNIB Land without being liable for trespass but is liable for damages to the land resulting from his or her activities.
- (4) Subsection (3) applies to any person who is assisting an enforcement officer.
- (5) On request and in the course of performing their duties, an enforcement officer must show their identification as an enforcement officer.
- (6) The authority of an enforcement officer:
 - (a) may be limited by the terms or conditions of their appointment as an enforcement officer; and
 - (b) may be increased if the enforcement officer is, under another Law appointed or designated to enforce the provisions of another Law.

Warrants

- 14. (1) On an enforcement officer's application made without notice, a justice of the peace may issue a warrant authorizing an enforcement officer to enter and search a place and examine anything that is relevant to determining compliance with a Law if the justice of the peace is satisfied that the enforcement officer has been properly appointed and that there are reasonable and probable grounds for believing that something relevant to the investigation is at the place.
- (2) A warrant issued under subsection (1) does not authorize an entry or search after sunset or before sunrise unless it is expressly stated in the warrant.
- (3) An enforcement officer entering and searching a place under the authority of a warrant issued under subsection (1) may be assisted by a peace officer and may enter a place by force.

Copying and removal of documents and objects

- 15. (1) An enforcement officer may copy or, subject to subsection (2), remove a document, record or thing examined under section 13(1) or under the authority of a warrant under section 14 at LNIB's expense.
- (2) An enforcement officer may only remove a document, record or thing under subsection (1) if
 - (a) it is not practicable to copy it in the place where it is examined; or

LNIB ENFORCEMENT LAW

- (b) a copy of it is not sufficient for the purposes of the investigation.
- (3) In order to examine or produce a document or record in readable form, an enforcement officer may use data storage, information processing or retrieval devices or systems that are normally used in carrying on business in the place in which he or she is conducting the investigation.
- (4) If it is practicable to copy a document, record or thing removed under subsection (1), the enforcement officer must,
 - (a) if it was removed under subsection (2)(a), return the document, record or thing within a reasonable time; or
 - (b) if it was removed under subsection (2)(b), provide the person who was in possession of the document, record or thing with a copy of it within a reasonable time.
- (5) A copy of a document, record or thing certified by an enforcement officer to be a true copy must be received in evidence in any proceeding to the same extent and will have the same evidentiary value as the document, record or thing itself.

PART 6 - PROSECUTION OF OFFENCES

Completing an information

- 16. (1) An enforcement officer or other Person who believes on reasonable grounds that a Person has committed an offence may complete an information regarding the alleged offence.
- (2) An information must be in the form approved by Council and made under oath.

Prosecution of offences

- 17. (1) The Lands Manager or an enforcement officer may, on reasonable and probable grounds, lay an information on behalf of LNIB that a Person has committed or is suspected of having committed an offence, provided that the information has been approved by a prosecutor.
- (2) In the prosecutor's review of an information and the prosecution of an offence, they must consider:
 - (a) all relevant information and documents relating to the prosecution;
 - (b) whether there is a substantial likelihood of conviction of the offence;
 - (c) the seriousness of the offence;
 - (d) the values of LNIB;
 - (e) the integrity and independence of the LNIB enforcement system; and

LNIB ENFORCEMENT LAW

- (f) the public interest.
- (3) The prosecutor must perform their duties and exercise their powers in a manner consistent with the overall authority and role of a prosecutor in the administration of justice in British Columbia.

Limitation period for laying an information

- 18. If a Law does not specify the limitation period for laying an information, the Lands Manager or an enforcement officer may not lay an information more than six months after a LNIB official discovers the commission of the alleged offence.

Application of the Criminal Code

- 19. The summary conviction proceedings of Part XXVII of the Criminal Code apply to the prosecution of offences.

PART 7 - COMPLIANCE NOTICES AND TICKETS

Issuing a compliance notice or ticket

- 20. (1) If an enforcement officer has reasonable grounds to believe a Person is committing an offence or has committed an offence, the enforcement officer may issue to the Person a compliance notice or a ticket in the form approved by Council.
- (2) A compliance notice or a ticket must be issued to a named person unless it is issued for an offence involving a vehicle, in which case it must also be issued to:
 - (a) the vehicle's licence plate; or
 - (b) the vehicle's identification number, temporary operation permit or interim permit under the *Motor Vehicle Act* (British Columbia) or other applicable law.
- (3) If a compliance notice or a ticket is issued under subsection (2), the compliance notice or the ticket is deemed to have been issued to each registered owner of the vehicle as contained in the provincial records.
- (4) Each registered owner of a vehicle referred to in subsection (3) is deemed to be a named person.

Contents of a compliance notice and a ticket

- 21. (1) A compliance notice and a ticket must be in the form approved by Council, and must contain the following information:
 - (a) the particulars of the alleged offence in sufficient detail to permit the named person to identify it;
 - (b) the date the compliance notice or ticket is issued;
 - (c) the name and signature of the enforcement officer who issued the compliance notice or ticket;

LNIB ENFORCEMENT LAW

- (d) how to dispute the alleged offence.
- (2) In addition to the information required under subsection (1), a compliance notice must contain the following information:
- (a) sufficient information to notify the named person to do whatever is necessary to stop or rectify the offence,
 - (b) the date or time period within which the named person must comply with the requirements provided under paragraph (a),
 - (c) a provision that if the compliance notice is not disputed within the time provided,
 - (i) the compliance notice will be treated as undisputed, and
 - (ii) the named person will be deemed to have pleaded guilty to the alleged offence; and
 - (d) any other information prescribed by regulation.
- (3) In addition to the information required under subsection (1), a ticket must contain the following information:
- (a) the fine, discounted fine and surcharge in accordance with Schedule A,
 - (b) a provision that if the ticket is not disputed within the time provided,
 - (i) the ticket will be treated as undisputed,
 - (ii) the named person will be deemed to have pleaded guilty to the alleged offence,
 - (iii) the fine will be immediately payable to LNIB, and
 - (iv) the methods of paying the fine; and
 - (c) any other information prescribed by regulation.
- (4) A compliance notice may state that if the named person does not comply with the requirements set out in the compliance notice and rectify the offence, LNIB or a person authorized by Council may take action to rectify the offence at the expense of the named person.

Serving a compliance notice or a ticket

22. Unless otherwise provided in a Law, a compliance notice or ticket may be served by:

- (a) personally giving the compliance notice or ticket to the named person;
- (b) verbally delivering the compliance notice or ticket to the named person if the offence is, or may be, a nuisance, trespass, danger to public health or threat to public order, peace or safety that requires immediate compliance;

LNIB ENFORCEMENT LAW

- (c) mailing the compliance notice or ticket by registered mail to the named person at the last known address for that person; or
- (d) if the named person is unknown, affixing the compliance notice or ticket in a conspicuous location where the undertaking or activity of concern is occurring.

When failure to serve a document does not invalidate proceeding

23. (1) If a compliance notice or ticket is not served in accordance with section 22, a proceeding or an action in relation to the compliance notice or ticket is not invalidated if:

- (e) the content of the compliance notice or ticket was known by the named person within the time allowed for service;
- (f) the named person consents; or
- (g) the failure to serve in accordance with section 22 does not result in any substantial injustice.

(2) If a compliance notice or ticket relates to an offence involving a vehicle, that compliance notice or ticket must be delivered to the address of each registered owner of the vehicle as shown in the provincial records.

Form of compliance notice or ticket

24. A compliance notice or ticket may be completed, recorded, issued and stored:

- (a) in electronic format by electronic means; or
- (b) by another means that allows the compliance notice or ticket to be reproduced in an understandable form.

Complying with or disputing a compliance notice

25. Subject to section 30 [extension of time limits] and the period of time specified in the compliance notice under section 21(2)(b), a named person must, within 14 days of service of a compliance notice:

- (a) comply with the requirements in the compliance notice in the manner stated in the compliance notice; or
- (b) dispute the allegation contained in the compliance notice in accordance with section 28.

Paying or disputing a ticket

26. (1) Subject to section 30 [extension of time limits], a named person must, within 14 days after service of a ticket,

- (a) pay the fine stated in the ticket to LNIB in the manner stated in the ticket; or
- (a) dispute the allegation contained in the ticket in accordance with section 28.

LNIB ENFORCEMENT LAW

- (2) If a named person fails to comply with subsection (1), the fine set out in the ticket is immediately payable to LNIB in the manner indicated in the ticket, and the surcharge is also payable if the fine is not paid within the time period set out in the ticket.

Effect of paying fine

27. A Person who pays a fine in compliance with this Law and the ticket is deemed to have:

- (a) pleaded guilty to the offence to which the Person was charged; and
- (b) have paid the fine imposed,

and no conviction need be drawn up or entered unless it is required under the Law contravened or by the Person convicted or by a prosecutor.

Hearing of dispute

28. (1) A named person may dispute the allegation contained in a compliance notice or ticket by:

- (a) mailing to the address set out in the compliance notice or ticket a written notice of dispute, which notice must include an address for the Person disputing the allegation and sufficient information to identify the compliance notice or ticket and the alleged contravention being disputed, and which notice will be deemed to have been delivered on the date that it was mailed; or
- (b) appearing in person at the location set out in the compliance notice or ticket to give notice of dispute.

(2) If notice of dispute is given in accordance with subsection (1), the Lands Manager or Council must

- (a) within seven days after receiving the notice of dispute, deliver a copy of the notice to any other named person; and
- (b) refer the compliance notice or ticket to a justice of the peace or court for a hearing.

(3) If a compliance notice or ticket is referred pursuant to subsection (2), LNIB must confirm that the Person who was served with the compliance notice or ticket receives a notice of the hearing specifying a time and place for the appearance of the Person before the justice of the peace or judge.

(4) If a Person appears at the time and place specified in the notice under subsection (3), despite any rule of procedure, the applicable justice of the peace or judge has jurisdiction to hear the dispute without examining the notice of dispute or the notice of the hearing or inquiring into the service of the ticket on the Person.

(5) A justice of the peace or judge hearing a dispute on a compliance notice or ticket may:

LNIB ENFORCEMENT LAW

- (a) admit as evidence, whether or not it would be admissible under the laws of evidence, any oral or written testimony or any record or thing that the justice considers is relevant to an issue in the trial and is credible and trustworthy, but may not admit anything that is privileged under the laws of evidence; and
 - (b) adopt procedures that are conducive to justly and expeditiously determining the matter.
- (6) The justice of the peace or judge must expeditiously review the compliance notice or ticket and may, by order:
- (a) reverse or modify the compliance notice or ticket with or without conditions; or
 - (b) confirm the compliance notice or ticket.
- (7) If a Person who is served with a compliance notice or ticket:
- (a) has appeared before a justice of the peace or judge at the time and place specified in the notice under subsection (3) and pleaded guilty to or been found guilty of the offence with which the Person was charged; or
 - (b) is deemed to have pleaded guilty to the offence with which the Person was charged in accordance with section 29(1) or section 29(2),

then no conviction need be drawn up or entered unless it is required under the law contravened or by the Person convicted or a prosecutor.

Failure to appear at hearing

29. (1) A Person is deemed to have not disputed a compliance notice or ticket if the Person fails to appear before a justice of the peace or judge to dispute the applicable offence at the time and place specified in the notice under section 28(3), or at a new time and place set under section 30(4)(c).
- (2) If a Person is deemed under subsection (1) to have not disputed the compliance notice or ticket, the Person is deemed to have pleaded guilty to the offence with which the Person was charged, and any fine amount indicated on the ticket is immediately payable by the Person to LNIB.

Time extensions

30. (1) A Person who is served with a compliance notice or ticket but does not dispute the charge, or fails to appear before a justice of the peace or judge at the time and place specified in the notice under section 28(3), may apply to a justice of the peace or court for a time extension in the circumstances established by this section.
- (2) In the case of a Person who did not dispute the charge, the Person may only apply for a time extension under this section if:
- (a) the Person has, through no fault of that Person, not had an opportunity to dispute the charge; and

LNIB ENFORCEMENT LAW

- (b) not more than thirty (30) days have passed since the end of the period referred to in section 25 or 26.
- (3) In the case of a Person who failed to appear before a justice of the peace or judge to dispute the charge, the Person may only apply for a time extension under this section if:
 - (a) the failure was through no fault of the Person; and
 - (b) not more than thirty (30) days have passed since the date specified in the notice under section 28(3).
- (4) The justice of the peace or judge to whom an application is made pursuant to this section, on being satisfied by affidavit in the form approved by Council, with or without hearing from the applicant, that the applicable conditions set out in section 30(2) or section 30(3) have been met may:
 - (a) strike out the conviction, if any;
 - (b) in the case of a Person who did not dispute the charge, allow the Person fourteen (14) days after the date the conviction is struck to dispute the charge in accordance with section (#); or
 - (c) in the case of a Person who failed to appear to dispute the charge, set a new time and place for the appearance of the Person before a justice of the peace or judge.
- (5) If a conviction is struck out under subsection (4)(a), the justice of the peace or judge must give the Person a certificate of the fact in a form approved by Council.

Collections

- 31. If a person fails to pay a fine under this Law, the Lands Manager is authorized to following thirty (30) days after having sent a warning letter to the person send any unpaid fine to a collection agency.

PART 8 – OFFENCES AND PENALTIES

Offences

- 32. A Person who does any of the following commits an offence:
 - (a) obstructs, interferes with or hinders Council, an enforcement officer, or any authorized employee, officer or agent in the carrying out of their duties and responsibilities under this Law;
 - (b) fails to comply with a compliance notice or ticket or an order under section 28(6); or
 - (c) otherwise contravenes this Law.

LNIB ENFORCEMENT LAW

Penalty

33. A Person who commits an offence under section 32 is liable, on summary conviction, to a fine not exceeding \$2,000 or imprisonment for a term not exceeding six months.

PART 9 - GENERAL PROVISIONS

Limitation of liability

34. (1) No enforcement officer or any other person assisting an enforcement officer is liable for anything done or omitted in good faith execution of any duty or power under this Law.
- (2) No action for damages lies or may be instituted against LNIB, or a manager, employees, servant, official or agent of LNIB,
- (a) for anything said or done or omitted to be said or done by that person in the performance or intended performance of the person's duty, or the exercise of the person's authority under a Law, or any regulation enacted pursuant to a Law; or
 - (b) for any alleged neglect or default in the performance or intended performance of the person's duty or the exercise of the person's authority under a Law, or any regulation enacted pursuant to a Law.
- (3) Subsection (2) does not provide a defence if:
- (a) LNIB, or a manager, employee, servant, official or agent of LNIB, has, in relation to the conduct that is the subject matter of the action, been guilty of dishonesty, gross negligence or malicious or wilful misconduct; or
 - (b) the cause of action is libel or slander.
- (4) LNIB, or a manager, employee, servant, official or agent of LNIB, is not liable for any damages or other loss, including economic loss, sustained by any person, or to the property of any person, as a result of their neglect or failure, for any reason, to discover or detect any contraventions under a Law, or any regulation enacted pursuant to a Law.
- (5) All actions against LNIB for the unlawful doing of anything that:
- (a) is purported to have been done by LNIB under the powers conferred by a Law or any regulation enacted pursuant to a Law; and
 - (b) might have been lawfully done by LNIB if acting in the manner established by law,
- must be commenced within six (6) months after the cause of action first arose.

LNIB ENFORCEMENT LAW

Regulations

35. (1) Council may make regulations it considers necessary or advisable for purpose under this Law.
- (2) For certainty, the powers of Council under subsection (1) include the power to make regulations:
- (a) prescribing the form of a compliance notice and ticket and any other forms or documents necessary or advisable for the purposes of this Law;
 - (b) prescribing fees to cover costs of adjudicating disputes, including additional administrative fees if a person unsuccessfully disputes a compliance notice or ticket.
- (3) Subsection (2) does not restrict Council from approving matters listed in that subsection by Resolution.

PART 9- AMENDMENTS

Substantive amendments to this Law

36. With the exception of a minor amendment described at section 37, an amendment or repeal of this Law must only be made by Council as recommended by the Lands Advisory Committee in accordance with the Land Code.

Minor amendments

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

PART 10 - COMING INTO FORCE

Coming into force

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

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

LNIB ENFORCEMENT LAW

Quorum consists of X Council members.

DRAFT

DRAFT

LNIB ENFORCEMENT LAW

SCHEDULE A

SCHEDULES OF OFFENCES AND PENALTIES

DRAFT

LNIB ENFORCEMENT LAW

LNIB Subdivision, Development and Servicing Law – Fines for Tickets			
Prohibited Conduct	Discounted Fine <i>(if paid within 14 days)</i>	Fine	Surcharge <i>(if not paid within 30 days)</i>
<p>12(1) Subject to the exemptions at section 13, a Person must not undertake any of the following activities on LNIB Land except in strict compliance with an authorization, an applicable land use plan and environmental management plan, the Cultural Heritage Policy, the B.C. Building Code and any applicable policies and enactments:</p> <ul style="list-style-type: none"> (a) the subdivision of LNIB Land; (b) the construction, alteration, enlargement, addition, demolition, or removal of a building, including for certainty, signs, swimming pools and decks; (c) the installation of a street, intersection, sewer system, water system or other infrastructure of any kind; (d) the clearing, grading, blasting, excavating or other alteration of LNIB Land; (e) the deposit or removal or more than 10 m³ of soil; (f) the removal of trees; and (g) other activities designated by Council in a regulation. 	\$450	\$500	\$550
24(1)(c) failing to comply with a stop work order.	\$450	\$500	\$550
24(1)(d) failing to comply with an enforcement officer's direction or requirement to take certain measures or meet certain conditions to ensure compliance with the law or an authorization.	\$450	\$500	\$550
25(a) providing false or misleading information in order to obtain an authorization under the Law.	\$300	\$350	\$400
25(e) contravening an order made by a court in relation to the Law.	\$500	\$550	\$600

LNIB ENFORCEMENT LAW

25(f) obstructing, interfering with or denying access onto any land or into any building to an enforcement officer whose entry is authorized under the Law.	\$450	\$500	\$550
25(g) contravening the Law in any manner that is not listed under section 25 of the Law.	\$300	\$350	\$400
LNIB Enforcement Law – Fines for Tickets			
Prohibited Conduct	Discounted Fine <i>(if paid within 14 days)</i>	Fine	Surcharge <i>(if not paid within 30 days)</i>
13(1)(f) failing to comply with a direction or requirement to take certain measures or meet certain conditions to ensure compliance with the law or an Authorization.	\$450	\$500	\$550
13(1)(g) failing to comply with a stop work order.	\$450	\$500	\$550
13(3) obstructing, interfering with or denying access onto any land or into any building to an enforcement officer whose entry is authorized under the Law.	\$450	\$500	\$550
32(a) A Person must not obstruct, interfere with or hinder Council, an enforcement officer, or any authorized employee, officer or agent in the carrying out of their duties and responsibilities under this Law.	\$500	\$550	\$600
32(b) failing to comply with a compliance notice or ticket or an order under section 28(6).	\$500	\$550	\$600
32(c) contravening the Law in any manner that is not listed in section 32.	\$300	\$350	\$400