

Executive Summary

Lower Nicola Indian Band Traditional Holdings Project Phase 1 Report: Research and Community Engagement

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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 Nle?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 Nle?kepmx/LNIB protocols, laws, traditions and practices.

Community interviews and research has helped identify Nle?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)
- Nle?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 Nle?kepmx/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.