

## **SCHEDULE 1 – RESIDENTIAL ALLOTMENTS OF LNIB COMMUNITY LAND**

### **Definitions and interpretation**

**1. (1)** In this Schedule

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

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

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

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

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

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

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

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

### **Application of this Schedule**

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

(2) This Schedule does not apply to:

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

### **Member’s application**

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

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

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

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

#### **Exception to condition**

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

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

#### **Preliminary application review**

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

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

- (3) If the applicant complies with subsection (2), the Lands Department must:
- (a) conduct an archaeological assessment for the applicable land;
  - (b) determine whether the requested Allotment has within it a cultural heritage site or a culturally significant area identified by LNIB or as otherwise revealed in the archaeological assessment;
  - (c) determine if the requested Allotment has legal access or if there are extraordinary circumstances that prevent it;
  - (d) determine any known environmental concerns with regard to granting the requested Allotment; and
  - (e) conduct a site visit to the requested Allotment to assess the status of those lands.
- (4) If the applicant does not meet all conditions provided at subsection (2), the Lands Department must advise the applicant that they are not eligible for an Allotment with reasons and any steps that may be taken to qualify for an Allotment in a future application.

### **Referral to the Lands Management Advisory Committee**

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

### **Lands Management Advisory Committee review and recommendation**

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

### **Referral to Council**

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

### **Council decision**

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

### **Interim allotment**

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

- (a) the full legal name and Membership number of the applicant;
- (b) the section of the Law under which the Allotment will be made if the applicant meets the conditions set out in the Resolution;
- (c) a description and attached survey or sketch of the LNIB Community Land that Council will allot to the applicant if the applicant meets the conditions set out in the Resolution;
- (d) a statement setting out the following:
  - (i) the applicant has been granted an interim allotment for the lands described under paragraph (c) and as described in the Resolution,
  - (ii) Council will grant the applicant a final Allotment of the same lands if the applicant does the following within one year from the date of the Resolution, except if Council has granted an extension under subsection (3), at their own expense:
    - A. provides Council with a legal description of the requested Allotment that refers to a registered plan or official plan that shows legal access over the applicable land, unless Council grants an exception to this requirement under section 9(2)(b),
    - B. obtains Council's approval of construction plans of the residential home on the applicable land,
    - C. provides Council with the name and contact information of the person who will be responsible for constructing the residential home,
    - D. obtains all relevant building and other permits for the construction of the residential home on the applicable land,
    - E. complies with any LNIB environmental assessment policy or law,
    - F. constructs the residential home on the applicable land unless a longer timeframe for completing this condition has been approved by Council, and
    - G. installs the necessary servicing, including water, sewer, hydro and gas, if the land is not already serviced.
    - H. remains in good standing with LNIB;
- (e) a statement that the interim allotment must be registered in the Register;
- (f) a statement setting out that if LNIB has provided a guarantee for a mortgage relating to a residential home on the requested Allotment, the final approval under section 11 is conditional on that mortgage being discharged;

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

### **Final Allotment decision**

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

(5) Council's decision under subsection (4) is final.