

Developing a Regime for Cultural Heritage Resource

Course Workbook



 **FIRST NATIONS
LAND MANAGEMENT
RESOURCE CENTRE**

 **Training, Mentorship &
Professional Development**

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Developing a Regime for CHR

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Welcome

This courselet will introduce how a First Nation (FN) can develop a governance regime for Cultural-Heritage-Resource (CHR) under the Framework Agreement on First Nation land Management and First Nation Land Code (LC).

The main topics that will be discussed are the 6 steps in creating a CHR regime:

Step 1: Collecting Information and Background Research

Step 2: Creating the Governance Framework

Step 3: Creating the Plan

Step 4: Implementation of Law and Plan

Step 5: Monitoring and Enforcement

Step 6: Amend the Law and Plan as Required

The material provided in this courselet is current to the date of the courselet. Thank you to the Lands Advisory Board Resource Centre (LABRC) for aiding in the development of this courselet.



Big Picture

Introduction

CHR governance and management is an integral component of a community's social economic wealth and overall well-being. This Land governance and management area is one of many under the Framework Agreement and a FN's own LC and in most circumstances will be another duty or responsibility of the FN's Lands Department.

Given that the governance and management of CHRs is so significant to a FN, it is important for each community to define this type of resource in the context of their own cultures and traditions.

Consider Off Reserve CHRs

When developing a CHR regime a FN will need to identify their CHRs that are located off reserve in the traditional territory or treaty area. It is important to recognize that there are many different jurisdictions and pieces of legislation that apply to this type of resource that will affect how they are managed and dealt with on and off reserve. This will affect how a FN addresses the preservation or protection of their resource.

Intellectual Property Rights

The topic of intellectual property rights (IPR) is an important aspect of CHRs that was explored in greater detail in the "CHR: Applicable Laws and Regulations" courselet. This is an important concept that should be addressed in any legislation or agreements that a FN enacts or enters into.

First Nation CHR Regime

This courselet explores some of the step-by-step activities that may be associated in CHR governance and management. It is important to remember that these are only suggestions meant to guide a community through their own creation of these governance and management frameworks. This is an opportunity for each community to incorporate their own principles, traditions and culture into the management of this resource under the Framework Agreement and their own LC.

Overview

The purpose of this courselet is to introduce some of the key concepts and considerations in developing a regime for the governance and management of CHRs.

As you may recall in the Introduction to Cultural Heritage Resources Governance courselet, we identified 4 main activities that are a part of CHR governance and management. This courselet will further define and discuss the various steps and tasks that are associated with each of the 4 identified CHR governance and management activities.

Land Governance Director's Role

For a FN CHR governance and management regime it is important for Lands Governance Directors (LGD) to have an understanding of the basic principles, key concepts, main activities, steps to creating a CHR Regime and overall how to do it for CHR governance and management on First Nation I and

The regime presented here is only a suggested process to create the structures to govern and manage CHRs on First Nation Land.

A FN LGD should understand the basic steps in the process, even if they are not required to undertake the work themselves, they should have an awareness of the steps so that they may be meaningfully engaged throughout the entire process. By the end of this courselet, a LGD should have gained a basic understanding of the steps to creating a CHRs regime.

Main Activities of CHR Governance / Management

The 4 Main Activities of CHR governance and management that were identified

are: 1) Identification & Interpretation;

- 2) Creating the Framework & Planning;
- 3) Approval & Implementation: and,
- 4) Monitoring & Enforcement

Identification & Interpretation

Identification and Interpretation involves conducting community-based and archival or other historical research in the identification of CHR, locating them on the First Nation Lands and identifying any traditional protocols.

Framework & Plan

Creating the frameworks and planning involves the identification of the various legislative, management and administrative practice options for CHR on First Nation Land. Traditional information should be incorporated into the various options as deemed appropriate.

Approval and Implementation

Approval and Implementation: This activity involves obtaining the necessary approvals for the identified governance and management frameworks and then the actual implementation of a CHR regime. Periodic reviews and revisions to any laws, policies and/or management plans should be incorporated into implementation activities.

Monitoring & Enforcement

Monitoring and enforcement activities occurring on the First Nation Land would be monitored for compliance with the transaction clauses and/or any FN laws, by-laws, regulations and policies.

Brief Overview 6 Steps in Developing a FN CHR Regime

Introduction

The development of a regime for CHRs may be approached in a number of different ways. Each FN will have its own processes and ways of doing things. Likewise, each FN will have different priorities for the governance and management of CHRs.

It is strongly suggested that each LGD familiarize themselves with their own FN's planning processes for incorporation into CHR management on their First Nation Land. The following outlines a suggested 6 step approach for the development of a regime for CHRs on First Nation Land.

Step 1: Collecting Information and Background Research

- a) Collecting Traditional Information
 - i. Key considerations in traditional information collection
- b) Background research
- c) Compiling results

d) Defining CHRs

Picture Source: [Everything math](#)



Step 2: Creating the governance framework

- a) Priorities and purpose
- b) Role and responsibilities
- c) Drafting of the Law
- d) Review the draft
- e) Approval of Law

Step 3: Creating the plan

- a) Priorities and purpose
- b) Prepare the plan
- c) Community engagement
- d) Revise the plan
- e) Adopt the Plan

Step 4: Implementation of Law and Plan

- a) Staff recruitment and office set up
- b) Develop Communication Strategy
- c) Organization, department & staff education and outreach
- d) Community education and outreach

Step 5: Monitoring and enforcement

- a) Create a monitoring program
- b) Evaluate results regularly
- c) Establish a compliance framework

Step 6: Amend the Law and Plan as Required

- a) Identify the desired amendments
- b) Draft Law or plan amendments
- c) Revise the Law or plan
- d) Community Engagement
- e) Approve Law or plan amendment

We will now take a further look at each individual step and explain its purpose and process.

Step 1: Collecting Information and Background Research

There are several reasons for collecting traditional knowledge (TK), traditional ecological knowledge and traditional land use information. Generally, the collection and sharing of traditional information within a FN may lead to the enhancement and encouragement of traditional practices and activities on First Nation Land which in turn can strengthen a community's identity and overall health and well-being.

Step 1A Collecting Traditional Information

Traditional Information and Land Governance

More specifically, traditional information can be very useful in a number of different areas of land governance including:

- Environmental assessment
- Land use planning
- CHR protection
- Natural resource management
- Education
- Negotiations
- Land claims processes
- Treaty land entitlement selection

Importance of Information Collection

When TK is being incorporated and utilized in a number of different initiatives the research process becomes very important. This is due to the fact that any weaknesses present in information collection may be translated into weaknesses in the planning or other process in which the information is being used.

The overall purpose of conducting oral history research and interviews is to document individual person's knowledge and experiences and to assemble traditional information for contribution in other areas of research, planning and policy development regarding the FN.

Tools Used to Collect Traditional Information

Some of the tools used in the collection of traditional information include (Tobias, 2000):

- Research of historical documents, archives, and existing studies, plans and reports,
- Conducting interviews and discussion with Elders and other individuals who hold land-based knowledge
- Mapping and recording of traditional sites, activities

TK Collection Process

The three (3) main aspects of TK collection process include:

1. Background research of the various sources
2. Interviews and discussions with community elders and other knowledge holders. The topics for the interviews and discussions may include the following aspects:
 - a) Life history of the interviewee
 - b) Specific events, activities, or places that have significance to the individual
 - c) Family relationships and connections within the community
 - d) Knowledge and use of traditional lands and waterways
 - e) Description of the environment in particular areas at various points in time
 - f) Cultural or traditional practices
 - g) Occupancy patterns - more specifically the timing and location of various activities such as habitation, harvesting or trade routes

Mapping and recording of traditional uses – this process may include: ground-truthing and verification, global satellite positioning of sites on traditional lands, transfer of information regarding TK into a database, and/or generation of use and occupancy maps.

Step 1 (i): Key Considerations in Traditional Information Collections

There are a few different aspects to be considered in the collection of traditional information. These [best practices](#) may assist in making the process smoother and the results the most desired (Tobias 2000).

Step 1 B: Background Research

Other background research should be conducted simultaneously with the collection of traditional information.

This research should include:

- A review of all the past and current plans
- Reports and studies that have been completed on the land including any information received from the Indigenous and Northern Affairs Canada (INAC) or Natural Resources Canada during the LC

Coordination is necessary to decrease duplication by ensuring that any materials that are reviewed here have not already been included in the collection of traditional information.

Step 1 C: Compiling Results

Once all of the background research has been completed, the materials that have been collected should be compiled or "gathered together" for an initial review. This way you may get a quick view Of all Of the information that has been collected. Information gaps may be identified so that any additional review of background information may occur at an early stage in the project.

Step 1 D: Defining Cultural Heritage Resources

Once all of the information gathering and background research has been conducted a Community can begin to define their CHRs. The [CHR Resources Table document](#) lists types Of CHR and is a good start to defining a FN's CHRs.

This is a necessary and important aspect of the development of the governance and management regime. Defining the CHRs identifies all of the things that will need to be managed, preserved or protected by the Laws or management plans. GO to " " courselet for more information on defining CHRs.

Step 2: Creating a Governance Framework

A governance-framework outlines the governing bodies, their decision-making authority and provides a formalized definition of decision-making roles and responsibilities for the governance and management of a specific subject, in this case, CHRs. The three basic components of a governance framework include:

- Formalizing the legislative framework regarding CHRs
- Creating the policies and procedures that outline and define how the FN may carry out its responsibilities
- Management planning activities that outline the access and use of CHRs

Developing these components of a framework for managing and governing CHRs can best proceed through Step 2. See the "[Laws, Policies and Regulations](#)" document for more information on these critical components of a governance framework.



Step 2A Identify Priorities and Purposes

What CHRs to Preserve?

Once a community has undertaken the work of identifying and defining the various CHRs that exist on their lands (see Step 1D), the creation of the governance framework can begin. An initial step in the creation of a CHR governance and management framework is the determination of what resources may be preserved as opposed to those that may be managed for continued use. This recognizes that there is a difference between preserving CHRs in your community from any use or managing them for exploitation by members and others. See the Introduction to CHR Governance courselet for more information on Preserving CHRs.

Picture: Long house hearth Picture Source: [Sliammon and SFU](#)



First Nation Land Use Plan

The FN Land Use Plan (LUP) can be utilized in the identification of designated areas that may require protection or special management practices due to their spiritual, cultural or natural significance on reserve lands (for example see the [Sliammon Land Use Plan](#)). If the FN does not have a LUP in place, then they may want to consider designating such areas under a land use law. If a LUP has already been created, then the FN may want to review their plan to ensure that the designated areas include all of the CHRs that they want preserved.



Developing a CHR Law

A community may also develop a CHR Law, which may outline specific areas that require protection measures or special management practices, much like the LUP. The CHR Law may also outline a process and/or a standard for the protection of future sites.

The CHR law may also classify and define the various types of CHRs on reserve lands. The management practices for the various types of CHRs would then fall out of the CHR Law.

Step 2B: Roles & Responsibilities

Another important aspect of any framework development process is the identification of roles and responsibilities. This is where the question "who does what and when" gets answered. Some of the different groups of people who might be involved at this stage are:

- Chief & Council
- FN administration
- Community members
- Technical consultants

- Lawyers

Step 2C: Draft and Law

Ways to Draft the Law

The actual drafting of the Law can begin at this point. There are a couple of ways in which the drafting of a law may occur:

1. It may be desirable to have a lawyer draft the law according to instructions and guidance from staff
2. Alternatively, the Lands Department Staff may do an initial draft and then take that to legal review.

It is always important to obtain the necessary legal expertise. It is important to note that a LC provides the opportunity to create easily read and understood or "plain language" type laws. Sometimes the drafting of laws by lawyers can result in confusing and unclear statutes.

LABRC Support

There are many examples of laws created by other [Operational](#) FNs that can be used as a reference or template. The LABRC is also mandated to provide model and draft law support to FNs.

Elements of a Draft Law

The draft of the Law (see part 4 of the Law Making Guide) is subject to any requirements set out in the LC but should include the following elements:

- Official title of the Law
- Effective date
- Preamble
- Definitions
- Description of what is being preserved or protected including legal land descriptions, maps, orthophotos or other illustrations
- Enforcement powers
- Details of fees, fines etc.
- Power to make regulations or Orders
- Amendment Details
- Any archaeological assessment requirements
- Any other aspects as desired

Step 2D: Review the Draft

Once the Law has been drafted it should be reviewed by the appropriate people, such as the Lands Committee and/or Council prior to any community engagement as part of the LC law-making process. The review would occur in accordance with the timeline that was determined prior to the onset of the initiative.

Step 2E: Approve the Law

As part of the approval and enacting of the CHR Law under your FN's LC a FN should review its FN's LC and answer the following questions:

- Are CHRs defined by your Community in the LC? If so, what is the definition provided and is it incorporated and consistent with the CHR Law. For example see [Sliammon LC Interpretation Section](#)
- Under the Law-Making Powers section of your LC is there any reference to CHR? For Example Sliammon LC Section 6.4 (e)
- Is there a clause on community consultation and approval requirements and processes for CHR Law-Making? For example see Sliammon LC Section 7. Even if your FN LC does not have specific reference to CHRs, you should be able to identify the appropriate community consultation and approval requirements for the development of a Land Law.

Step 3 Creating the Management Plan

Introduction

There are a number of approaches that may be taken in the development of the CHR management plan. Each FN may have their own planning processes that should be utilized in the creation of a plan for CHRs. The Law that was previously developed will assist in setting the priorities and the overall purpose and authorities of the management plan. At this point other existing plans, such as the LUP or Community Plan that may require amendments should also be identified.

Step 3A: Priorities and Purpose

When creating a plan, an important first step is to identify the priorities and purposes prior to beginning any of the work. The priorities and purpose(s) may be reflected in a work plan that is created to ensure that the project will achieve the ultimate desired outcomes, be conducted within budget constraints and within a specific time frame.

Step 3B: Prepare the Plan

The CHR management plan that is being developed will at a minimum include the following sections:

- A vision statement for CHRs for your FN is one of the key statements to be developed.
- A description of the CHRs, traditional protocols and of the various land based activities (both current and anticipated) occurring on the lands
- Guiding principles should be identified and reflected
- For each of the defined CHRs the goals, objectives, regulations, policies, actions and designations should be developed
- Both a written description and visual map of depicting any designated historic sites, cultural sites or heritage buildings should be identified in the plan
- For each of the defined and designated areas of CHRs the plan should discuss the type and level of access or protection for each. Any special considerations should be identified here

- A set of procedures for responses to emergencies such as new archaeological discoveries on construction sites

- The plan should also identify some of the necessary tools for implementation of the plan, such as communication requirements or required amendments of existing Laws, regulations or plans

Step 3C: Community Engagement

Your FN's LC may outline any specific requirements for community engagement in the development of Land Laws and plans. Council may choose to increase various aspects of community consultation and engagement during the management plan approval. Your community Elders may also have specific concerns in terms of "who" may need to be engaged in the community.

A community meeting is a good way to bring community members together to review and discuss the management of on-reserve as well as traditional territory CHRs. Also keep in mind that a more formal Meeting of Members may be required as per LC provisions and there are also instances where a Ratification Vote is required. That is why it is important for the LGD to always refer back to the provisions contained within their own LC to see what the necessary steps are for the approval of any land law or plan. Some of the strategies that may be used for community outreach and engagement have been discussed in the "Land Code Community Participation for Environmental Governance" courselet.

Step 3D: Revise the Plan

This phase of the plan development is greatly dependent upon the level of feedback that is received during the initial community engagement. Once all the feedback of the initial draft has been collected then the plan should be revised to address the comments, suggestions or concerns that were provided.

It is rather important to be able to provide a response back to the community demonstrating how any issues or concerns have been dealt with in the revision of the plan. This can assist in building up confidence and increase the likelihood of a positive result in the approval phase of the overall process.

Step 3E: Adopt the Plan

In accordance with the provisions of the FN's LC the approval of the final draft of the plan may be made by Council.

Step 4: Implementation

The implementation of the Law and the Plan may be done simultaneously. The activities that make up the implementation phase of the governance and management regime for CHRs may take up the largest amount of monetary and time resources. The usual basic activities for Step 4 Implementation are Steps 4A to 4D.

Step 4A: Staff Recruitment and Office Set Up

A decision will have to be made as to which staff will be responsible for the implementation of CHRs. In many cases this will quite likely be the LGD. If there is to be a new position with new duties, then recruitment and training of the new personnel will be required. Regardless of the decisions made about

staffing, there will be some office set up in terms of how any data and information regarding CHRs are stored and managed. This could be as simple as a filing system to as complex as building a facility

Step 4B Develop Communication Strategies

Introduction

Good communications requires continuous input and consistent effort to build and maintain the lines of communication. Communication activities may be conducted by a number of people working together, including but not limited to the LGD, Communications Officer or other designated worker, and other Lands Department staff.

Communication Strategy

A communication strategy is a type of plan that outlines your strategic approach for communicating and sharing information about a project, initiative, issue or subject etc. A communication strategy may assist in promoting a greater awareness, knowledge and/or understanding of a topic.

The components of an outreach strategy were the focus of the "Land Code Community Participation for Environmental Governance" courselet.

This section presented some guidelines and suggestions for the development of an outreach strategy. The [Education and Outreach Strategy Worksheet sample](#) is a helpful guide when developing your strategy.

Communication Strategy Components

A communication strategy for CHRs may include the following components:

- A background of CHRs on the reserve land;
- An introduction and overview of the Laws or plans that have been enacted in respect to CHR;
- A listing and overview of the department(s) responsible for CHRs
- Description of the standards, procedures and permitting reporting requirements for CHRs as part of the Law or plan
- Any agreements or protocols required

Step 4C: Organization, Department & Staff Education and Outreach

The LGD engaging with the Other departments and staff within the FN's organization, such as the Public Works Department or Housing Department, helps to ensure that their future and ongoing activities will be done in a manner that is in compliance with and supports the new law or plan. This type of outreach would be on component of the larger communication strategy discussed in Section 4B.

Step 4D: Community Education and Outreach

Education and outreach techniques must be identified and employed in order to support the Community in the implementation of the Law or plan and to deal with the changes that might affect the membership or services to them. This portion of outreach with the Community at large is one component of the overall communication strategy.

Step 5 Monitoring & Enforcement

Introduction

Monitoring means to observe and check something over a period of time.

Enforcement simply put means the act of compelling observance of or compliance with a law, rule or obligation.

Monitoring/Enforcement Activities

Monitoring and enforcement activities are an important component of the success of CHR governance and management on First Nation Land:

- Monitoring provides ways to assess the effectiveness of a FN's CHR regime
- Enforcement is the ability of a government to compel or impose observance of the law and impose penalties for those who do not comply with the law

Monitoring represent a range of activities of verifying compliance of CHR laws, regulations and any plans or lease agreement clauses that relate to CHRs. Monitoring and compliance are activities that a FN can use to effectively administer its FN laws and policies.

Framework Agreement & Enforcement

The Framework Agreement identifies enforcement as follows:

19.1 To enforce its land code and its First Nation laws, a First Nation will have the power to:

- a) establish offences that are punishable on summary conviction;
- b) provide for fines, imprisonment, restitution, community service, and alternate means for achieving compliance; and
- c) establish comprehensive enforcement procedures consistent with federal law, including inspections, searches, seizures and compulsory sampling, testing and the production of information.

Who Monitors and Enforces?

There are a number of people who may be involved in the creation and implementation of any monitoring/enforcement program and framework that is created, including LGDs, other Lands Staff, by-law officers, Council, lawyers and importantly, Community members. But monitoring and enforcement is typically conducted for a governing authority by individuals with adequate training/skills.

Strategic Vision

Before implementing a CHR monitoring program it is critical to have a coordinated and strategic vision of:

- What the objectives of the monitoring system are?
- What needs to be monitored?
- How the data will be used?
- How the information will be reported?

- How the monitoring results will be used?

Step 5A : Create a Monitoring Program

Based upon the requirements of the Law or plan that has been approved a monitoring program should be created. The program may include the following aspects:

- Background — what the Law or plan is, when it takes effect etc.
- Roles & responsibilities — this will identify who will be doing what
- What is being monitored, how the data will be used and where is it located?
- How often — monitoring schedule (frequency, timing, location)?
- Reporting requirements

Step 5B: Evaluate Results Regularly

The results of the monitoring program should be regularly reviewed and any action items should be moved forward accordingly.

Action items may include any issues that arise or areas where changes might result in increased efficiencies. These items may be brought forth to the Lands Committee or Council for discussion and further recommendations.

One of the greater discussions to be conducted will be about who is responsible for the protection of archaeological sites and artifacts.

step 5C: Establish a Compliance Framework

A compliance framework is a framework that is created to ensure activities are conforming with the approved Laws, regulations, contracts, permits, lands transactions, strategies and/or policies.

The framework would identify the activities in order to assess their current state and their compliance with the laws, regulations, contracts permits, lands transactions, strategies and/or policies. The framework may also identify any current or potential risks from non-compliance.

Issues Of non-compliance would have been dealt with in accordance to the provisions, fines etc. that are identified in the law, regulation, contract, permit, lands transaction, strategy and/or policy.

Step 6 Amendments to the Law and Plan

Introduction

From time to time both the Law and the management plan should be reviewed and amendments suggested ensuring that the FN's current situation, changing priorities and other identified future needs are reflected.

The Amendment process is normally identified in the FN's LC, but may be identified in greater detail in the Law or plan. A LGD should review the LC, Law or plan to ensure that proper process is followed in any amendment.

Step 6A: Identify Desired Amendments

Utilizing the results of the ongoing monitoring program and the results of evaluations any amendments that are required for the Law or plan should be identified and presented in a proposal for the Lands Committee recommendation and/or Council approval. The proposal should include the following components:

- Background of the law or plan
- What the proposed amendments are
- Why are the amendments required
- Outline of the process required by the LC, Law or plan to have the amendment approved
- Roles & Responsibilities of all the parties of the amendments process
- Timeline of activities for all of the amendment steps
- Budget
- Any other details as necessary

Step 6B: Draft Law or Plan Amendments

Once the proposed amendments have been approved, the next step is to move forward with the drafting activities. This will depend upon the proposal as to who will be doing the drafting and the review requirements are. When the proposed amendments have finished being drafted they will need to be taken back to the Lands Committee or Council for review, edits and approval. This occurs prior to community engagement.

Step 6C: Revise Law or Plan

The proposed amendments will then need to be incorporated into the revised Law or plan. They may then be presented to community members and posted at in common public areas in accordance with the LC or Law.

Step 6D: Community Engagement

This activity is conducted as part of the requirements of the LC or Law. There are a number of ways in which the community may be engaged in the review of the draft amended Law or plan prior to its approval and enactment. Many of these activities would have been identified as part of the development of the Communication Strategy discussed in Step 4: Implementation.

Step 6E: Approve Law or Plan Amendment

The approval of the Law or plan amendment(s) would be conducted in accordance with the process outlined in the LC or Law or plan itself. It will be important for the LGD to ensure that this occurs as stated.

Summary

Introduction

This courselet built upon the key concepts and considerations that were discussed previously throughout the series of CHR courselets and tied them into the main activities that are part of CHR governance and management.

Main Activities

The main activities that are a part of CHR governance and management that were identified are:

- Identification and interpretation
- Creating the frameworks and planning
- Approval and implementation
- Monitoring and enforcement

6 Step Process

Further to the overall discussion of each of the above activities was the presentation of a suggested 6 step process to create these structures for the governance and management of CHRs on First Nation Land. Each FN may have its own way in which planning activities are conducted on the lands and it will be important for you as a LGD to familiarize yourself with that process.

Lands Governance Director

Even though the LGD may not be the individual to conduct a majority of the work associated with CHRs, it will be just as important to gain a basic understanding of all the steps and activities related to their governance and management and how land-based activities may impact and affect these resources.

Sources

[Alberta culture and tourism](#)

[BC Association of Professional Archaeologists:](#)

[Union of BC Indian Chiefs- Traditional Use Studies](#)

[First Nations in BC](#)

Province of BC - Archaeology in BC

First Nations Heritage Conservation Action Plan

Canada

Canada's Digital Collections archived at Library and Archives Canada

[Library and Archives Canada](#)

National Trust for Canada

Manitoba

[Manitoba Heritage Network](#)

New Brunswick

[New Brunswick Archaeology](#)

[New Brunswick First Nations Engagement](#)

Newfoundland

[Newfoundland Business tourism Culture and rural development](#)

Northwest Territory

Summary of Best Practices for Applying TK in Government of the Northwest Territories Programming and Services

Nova Scotia

[Mi'kmaq Input on culture. Heritage and archaeology](#)

Other

Aboriginal Mapping Network

Terry Tobias's Chief Kerry's Moose: a guidebook to land use and occupancy mapping research design and data collection

Terry Tobias' sequel to Chief Kerry's Moose entitled: Living Proof The Essential Data-Collection Guide for Indigenous Use-and-Occupancy Map Surveys (Jointly published by the Union of B.C. Indian Chiefs and Eco trust Canada)

Referral Tracking System and Land Management Systems

UBC press:

1. First Nations Cultural Heritage and Law book
2. Protection of First Nations Cultural Heritage

Maa-nulth Final Agreement regarding Culture. Heritage and Artifacts

Nkmip Desert and Heritage Centre

Prince Edward Island

[PEI Archaeology](#)

[PEI Cultural Heritage](#)

Quebec

[Quebec regional report on archaeology and aboriginal peoples](#)

Saskatchewan

[Saskatchewan Government Heritage Sites](#)



ACRONYM LIST

| | | |
|----------------------------|---|--|
| BC | - | British Columbia |
| CHR | - | Cultural Heritage Resource |
| FN | - | First Nation |
| <i>FRAMEWORK AGREEMENT</i> | - | <i>Framework Agreement on First Nation Land Management</i> |
| GPS | - | Global Positioning System |
| INAC | - | Indigenous & Northern Affairs Canada |
| IPR | - | Intellectual Property Rights |
| LABRC | - | Lands Advisory Board Resource Centre |
| LC | - | Land Code |
| LGD | - | Land Governance Director |
| LUP | - | Land Use Plan |
| TOR | - | Terms of Reference |
| TK | - | Traditional Knowledge |



GLOSSARY OF TERMS

ARCHAEOLOGICAL SITES

An **archaeological site** may be defined as any property that contains an artifact or any other physical evidence of past human use or activity that is of a cultural heritage value or interest. For example village and settlement sites, camps and burial grounds/sites.

ARTIFACT

An artifact is any object, material or substance that is made, modified, used deposited or affected by human action and is of cultural heritage value or interest. For example tools, pottery, art or clothing.

BEST PRACTICES

Simply put best practices are commercial or professional procedures, method or technique that are accepted or prescribed as being correct, most effective and has consistently shown results superior to those achieved with other means, and that is used as a benchmark. Best practices are used to maintain quality as an alternative to mandatory legislated standards and can be based on self-assessment or benchmarking.

CULTURAL HERITAGE RESOURCES

Cultural Heritage Resources may be defined as the collection of resources that reflect culture, heritage and traditions. The collection of resources may include the following:

- Archaeological sites and artifacts
- Ancestral Remains
- Sacred sites
- Cultural resources
- Cultural Sites
- Historic Sites and Building's
- Traditional Arts and Crafts
- Language

DEVELOPMENTAL

When referring to the *Framework Agreement* “developmental” means those First Nations who are signatories to the *Framework Agreement* and who are developing a Land Code, an Individual Agreement with Canada, and a community approval process to ratify the *Framework Agreement*, Land Code and Individual Agreement through a vote of the eligible voters.



ENVIRONMENTAL ASSESSMENT

According to the International Association of Impact Assessments, an EA is

“the process of identifying, predicting, evaluating and mitigating the biophysical, social and other relevant effects of development proposals prior to major decisions being taken and commitments made.”

An EA examines effects of proposed projects on soil, air quality, water quality and supply, fisheries, wildlife, traffic, noise, community health, economic development, archaeology and a variety of other social, economic and environmental topics. A well-designed EA assesses the “cumulative effects” of a proposed project combined with other past and proposed future human activities. Ways of avoiding or reducing impacts are identified in an EA.

An EA is a planning tool, a means of reviewing the effects of proposed development, a process of community engagement and an instrument for complying with regulatory requirements. After considering federal and provincial environmental assessment processes, an operational First Nation can design an efficient EA regime that is beneficial to the environment and to the quality of development occurring on reserves.

FIRST NATION LAND

"First Nation land", in respect of a First Nation, means all or part of a reserve that the First Nation describes in its land code.

FRAMEWORK AGREEMENT ON FIRST NATION LAND MANAGEMENT

The *Framework Agreement on First Nation Land Management* is a government-to-government agreement. The Framework Agreement is an initiative for First Nations to opt out of the land management sections of the *Indian Act* and take over responsibility for the management and control of their reserve lands and resources. The Framework Agreement sets out the principal components of this new land management process.

The *Framework Agreement* provides First Nations with the option to manage their reserve lands under their own Land Codes. Until a First Nation community develops and approves a Land Code to take control of its reserve lands and resources, federal administration of their reserve lands continues under the *Indian Act*. The Framework Agreement is not a treaty and does not affect treaty rights or other constitutional rights of the First Nations.

GROUND-TRUTHING



Ground-truthing is a term used in various fields refers to the process of having to compare and/or confirm information that has been collected at a distance with what is found actually on-site through the conduction of surface observations and measurements (e.g. the facts that are confirmed in an actual field check at a specific location as opposed to information provided by inference).

GOVERNANCE

In the most basic sense, governance is the process of governing. The word “governance” has its origin in the Greek term for “steering, guiding or directing” water craft and in the context of this lesson has evolved to refer to guiding and directing the actions, affairs, policies, functions, etc., of a nation.

The FNs Governance Centre <http://www.fngovernance.org/> defines governance as:

- **Governance** is the traditions (norms, values, culture, language) and institutions (formal structures, organizations, practices) that a community uses to make decisions and accomplish its goals.

GOVERNANCE FRAMEWORK

A governance framework outlines the governing bodies, their decision-making authority and provides a formalized definition of decision-making roles and responsibilities for the governance and management of a specific subject (e.g. Cultural Heritage Resources)

INTELLECTUAL PROPERTY RIGHTS (IPR)

Intellectual property is a term referring to creations of the intellect, such as artistic works, inventions, literary, designs and symbols, names and images, for which a monopoly is assigned to designated owners by law. Canada defines IPR as the rights that are defined by common and civil law or by statutes to regulate how and when a person can use the creative works and ideas produced by others. IPRs are strictly defined in law, and extend only to what is defined in the law.

LAND CODE

A Land Code will be the basic land law of the First Nation and will replace the land management provisions of the Indian Act. The Land Code will be drafted by the First Nation and will make provision for the following matters: identifying the reserve lands to be managed by the First Nation (called “First Nation land”), the general rules and procedures for the use and occupation of these lands by First Nation members and others, financial accountability for revenues from the lands (except oil and gas revenues, which continue under federal law), the making and publishing of First Nation land laws, the conflict of interest rules, a community process to develop rules and procedures



applicable to land on the breakdown of a marriage, a dispute resolution process, procedures by which the First Nation can grant interests in land or acquire lands for community purposes, the delegation of land management responsibilities, and the procedure for amending the Land Code.

LANDS ADVISORY BOARD RESOURCE CENTRE

Under the *Framework Agreement*, the First Nations have established a LABRC to assist the First Nations in implementing their own land management regimes. The LABRC is the technical body intended to support First Nations in the developmental and operational phases implementing the *Framework Agreement*. The LABRC's functions are:

- Developing model land codes, laws and land management systems
- Developing model agreements for use between First Nations and other authorities and institutions, including public utilities and private organizations
- On request of a First Nation, assisting the First Nation in developing and implementing its land code, laws, land management systems and environmental assessment and protection regimes -assisting a verifier when requested by the verifier
- Establishing a resource centre, curricula and training programs for managers and others who perform functions pursuant to a land code
- On request of a First Nation encountering difficulties relating to the management of its First Nation lands, helping the First Nation in obtaining the expertise necessary to resolve the difficulty
- Proposing regulations for First Nation land registration

OPERATIONAL

When referring to the *Framework Agreement* "operational" means a First Nation which has ratified its Land Code and the Land Code is in **force**.

RESERVE

The *Constitution Act of 1867 Section 91 (24)* - "Indians and lands reserved for Indians":

- Creates a distinction between Indian reserve lands and other lands in Canada
- Provides that Indians and reserve lands are a federal responsibility
- Gives the federal government exclusive jurisdiction over reserve lands
- Provides that only Parliament can legislate with regard to the use of reserve lands

The basic legal framework underlying reserves is:

- The underlying legal title to reserves belongs to the federal Crown



- How the reserve was created (e.g. before or after Confederation in 1867)
- Pursuant to section 2 of the *Indian Act*, reserves are set aside by the Crown in Right of Canada for the use and benefit of a First Nation

The *Framework Agreement* (see Section 4) clarifies that reserve lands under a Land Code will continue to be reserves within the meaning of the *Indian Act* and that any reserve, title to which is vested in Canada, and managed by a First Nation under a Land Code, will continue to be vested in Canada for the use and benefit of the respective First Nation for which it was set apart.

TRADITIONAL INFORMATION

Traditional information is comprised of a number of types of information such as: traditional knowledge; traditional ecological knowledge; and, traditional land use.

TRADITIONAL KNOWLEDGE

Traditional knowledge is information that is passed down from generation to generation and is considered to be a collective entity, similar to the traditional territory. Some of the general types of information that comprises traditional knowledge are the beliefs, practices, arts, and spirituality of a First Nation. A First Nation may have its own definition of Traditional Knowledge that is largely reliant on how the information is collected and how it is going to be shared or used.

TRADITIONAL PRACTICES

Where First Nation peoples hand down their customs, spiritual beliefs, information, knowledge etc., from generation to generation, since time immemorial, especially orally and by practice.

FRAMEWORK AGREEMENT ON FIRST NATION LAND MANAGEMENT

EXECUTIVE SUMMARY

INTRODUCTION

The *Framework Agreement on First Nation Land Management* was signed by the Minister of Indian Affairs and Northern Development and 13 First Nations on February 12, 1996. One other First Nation was added as of December 1997. The Agreement was ratified by Canada through the *First Nations Land Management Act*, assented to June 17, 1999

The Agreement is an initiative by these 14 First Nations to take over the governance and management control of their lands and resources. This First Nation designed and driven *Framework Agreement* with Canada has expanded from the original 14 First Nation signatories to 84 First Nation Signatories in 2013. The *Framework Agreement* applies only to those First Nations who choose to ratify it.

The *Framework Agreement* is not a treaty and does not affect existing treaty or other constitutional rights of the First Nations.

The *Framework Agreement* provides the option to govern and manage reserve lands outside the *Indian Act*. The option to regain control of reserve land through a land code can only be undertaken with the consent of the community. A land code replaces approximately 30 sections of the *Indian Act*.

TAKING CONTROL OF LAND GOVERNANCE

A First Nation signatory to the *Framework Agreement* develops its land governance system by creating its own Land Code, drafting a community ratification process and entering into an individual Agreement with Canada. The specific steps are set out in the *Framework Agreement*:

The Land Code: Drafted and approved by the community, will be the basic land law of the First Nation and will replace the land management provisions of the Indian Act. The Minister of Indian Affairs and Northern Development will no longer be involved in the management and decision making of a First Nation's reserve lands. The Land Code does not have to be approved by the Minister or AANDC.

The Land Code is drafted by each First Nation and provides for the following matters:

- Identifies the reserve lands to be governed by the First Nation under its Land Code,
- Sets out the general rules and procedures for the use and occupation of these lands by First Nation members and others,
- Provides financial accountability for revenues from the lands (except oil and gas revenues, which continue under the Indian Oil and Gas Act),
- Provides the procedures for making and publishing First Nation land laws,
- Provides conflict of interest rules,
- Provides a community process to develop rules and procedures applicable to land on the breakdown of a marriage,
- Identifies a dispute resolution process,
- Sets out procedures by which the First Nation can grant interests in land or acquire lands for community purposes,
- Allows the delegation of certain land management responsibilities,
- Sets out the procedure for amending the Land Code,
- Deals with any other matter respecting the governance of First Nation reserve land and resources.

Individual Transfer Agreement: An Individual Agreement between each community and the Minister will be negotiated to deal with such matters as:

- The reserve lands to be managed by the First Nation,
- The specifics of the transfer of the administration of land from Canada to the First Nation,
- The transitional and operational funding to be provided by Canada to the First Nation for land governance.

Community Ratification Process: In order for the First Nation to assume control over its lands, the Land Code and the Individual Agreement must be ratified by the voting age members of the First Nation. All members of the First Nation who are at least 18 years of age, whether living off-reserve or on-reserve, have the right to vote on the Land Code and the Individual Agreement. The procedure for the community ratification process is developed by the community in accordance with the *Framework Agreement*.

Federal Legislation: Canada agreed to ratify the *Framework Agreement* by enacting federal legislation that is consistent with the *Framework Agreement*. The *First Nations Land Management Act* was enacted and given royal assent on June 17, 1999.

Verification: An independent person selected jointly by the First Nation and Canada, called a Verifier, confirms that the community ratification process and Land Code are consistent with the *Framework Agreement*. The Verifier monitors the community ratification process to ensure that the rules are followed.

Recognition of Land Governance Authority: If the community ratifies their own Land Code and the Individual Agreement, control over First Nation lands and resources are no longer be subject to the *Indian Act*, but recognized to be under the governance authority of the First Nation.

TITLE TO FIRST NATIONS

Reserve lands under the *Indian Act* are held by Her Majesty and are set apart for the use and benefit of a First Nation. This will not change under the *Framework Agreement*. These lands remain a federal responsibility under section 91(24) of the *Constitution Act, 1867*. In addition, the First Nation's land will be protected against future surrender for sale.

LEGAL STATUS AND POWERS OF FIRST NATIONS

The *Framework Agreement* provides First Nations with all the legal status and powers needed to govern and manage their lands and resources. While First Nations will not be able to sell their land, they will be able to lease or develop their lands and resources, subject to any limits imposed by their own community Land Code.

Law-Making Powers: A First Nation governing its lands under a Land Code will have the power to make laws in respect of the development, conservation, protection, management, use and possession of First Nation land. The Land Code does not authorize laws relating to the taxation of real or personal property. Such laws must be made separately pursuant to section 83 of the *Indian Act*. The First Nation's Council can also continue to make by-laws under section 81 of the *Indian Act*.

Land Management: The *Framework Agreement* provides the First Nation with all the powers of an owner in relation to its First Nation Land, except for control over title or the power to sell it. The First Nation's Council can manage land and resources, as well as revenues from the land and resources, in accordance with its Land Code.

Third Party Interests: Interests in First Nation land held by third parties, or by Canada, will continue in effect according to their terms and conditions under a Land Code. No new interests or licences may be acquired or granted except in accordance with the Land Code.

First Nation Expropriation: The First Nation will have the option to acquire lands for community purposes upon payment of fair compensation to those whose interests are affected.

Accountability: A Land Code will make provision for a First Nation to report to its members and to be accountable for the governance of their lands, resources and revenues.

Marriage Breakdown: A First Nation will be able make rules on the rights of spouses to interests in First Nation land if their marriage breaks down. The community must, within 12 months of passage of its Land Code, develop and enact rules and procedures on this topic. The new rules and procedures will ensure the equality of women and men.

Registration of Interests: All documents pertaining to land interests of a reserve will be recorded in the First Nation Land Registry System (FNLRS).

The FNLRS is:

- Electronic
- Provides for Instant Registration
- Priority based
- Paperless
- Backed by Regulation (Unlike the *Indian Act* registry system)

The FNLRS system and regulations are landmark achievements. These regulations made it possible for reserve to have greater land certainty, mortgageability, title insurance and drastically reduced or eliminated land transaction costs

PROTECTION OF FIRST NATION LAND

The preserving of the quantity and quality of existing First Nations lands is a fundamental principle of the *Framework Agreement*. Some aspects of this principle are summarized below:

Taxation and Seizure under Legal Process: The current exemption of reserve lands, and personal property situated on-reserve, will continue under the relevant provisions of the *Indian Act*.

Environmental Protection: A First Nation with a land code in effect will be required to develop an environmental protection regime. A First Nation will have the power to make environmental assessment and protection laws and will harmonize these laws with federal and respective provincial environmental laws.

Voluntary Exchange of Lands: A First Nation may decide that it is advantageous to exchange some of its First Nation lands for other lands. Provision can be made in its Land Code for a procedure to negotiate and approve such exchanges. An exchange of land cannot occur without the consent of the First Nation community.

No Provincial Expropriation: Under the *Framework Agreement* there can be no expropriation of First Nation land by a provincial or municipal government or agency.

Restricted Federal Expropriation: Canada's power to expropriate First Nation land is greatly restricted. That power can only be exercised with Cabinet approval and only when the expropriation is justified and necessary for a federal public purpose that serves

the national interest. Compensation must include provision for equivalent lands so that the land base of the First Nation is not diminished.

Enforcement: The First Nation will have full power to enforce its land and environmental laws and may enter into further agreements with other jurisdictions to assist in such enforcement. A First Nation can appoint its own Justice of the Peace or special prosecutor to try offences created under a Land Code or a First Nation law. First Nation laws may make provision for search and seizure, fines, imprisonment, restitution, community service or alternate means for achieving compliance with its laws.

CONTINUING FEDERAL RESPONSIBILITY

Canada will remain liable for and will indemnify a First Nation for losses suffered as a result of any act or omission by Canada, or its agents, that occurred before the Land Code comes into effect. After that date, the First Nation is responsible for its own acts or omissions in managing its lands.

DISPUTE RESOLUTION

The First Nation will establish its own processes for dealing with disputes in relations to its lands and resources. These can include mediation, neutral evaluation and arbitration. In the case of a disagreement between the First Nations and Canada on the meaning or implementation of the *Framework Agreement*, there are provisions in the *Framework Agreement* to resolve the dispute outside the courts.

LANDS ADVISORY BOARD AND RESOURCE CENTRE

The First Nations party to the *Framework Agreement* established a Lands Advisory Board and Resource Centre to assist them in implementing their own land governance regimes, including developing model land codes, laws, documents, agreements and management systems.

FIRST NATIONS INVOLVED

The following is a list of the 40 First Nations who signed the *Framework Agreement* and who have enacted Land Codes pursuant to the *Framework Agreement*.

BC

1. Beecher Bay
2. Kitselas
3. Leq' a: mel
4. Lheidli T'enneh
5. Matsqui
6. Musqueam
7. Seabird Island
8. Shx'wha:y Village
9. Skawahlook
10. Sliammon
11. Snaw Naw As (Nanoose)
12. Songhees
13. Squiala
14. Sumas
15. Tsawout
16. Tsawwassen^(a)

MB

1. Chemawawin
2. Opaskwayak
3. Swan Lake

17. Tsekani (McLeod Lake)
18. Ts'kw'aylaxw (Pavilion)
19. T'sou-ke
20. Tsleil-Waututh
21. Tzeachten
22. Westbank^(b)
23. We Wai Kai (Cape Mudge)
24. We Wai Kum (Campbell River)

SK

1. Kahkewistahaw
2. Kinistin
3. Muskeg Lake
4. Muskoday
5. Whitecap Dakota
6. Flying Dust

ON

1. Anishinaabeg of Naongashiing
2. Georgina Island
3. Henvey Inlet
4. Mississauga
5. Nipissing
6. Scugog Island
7. Whitefish Lake

(a) Now implementing treaty

(b) Now implementing full self-government

**Text of the Framework
Agreement on First Nation Land
Management**

(signed in 1996)

Includes modifications resulting from

Amendment #1 1998
Amendment #2 1998
Amendment #3 2002
Amendment #4 2007
Amendment #5 2011

**Texte de l'Accord-Cadre relatif
à la Gestion des Terres de
Premières Nations**

(signé en 1996)

Comprend les changements apportés par
les modifications suivantes

Modification #1 1998
Modification #2 1998
Modification #3 2002
Modification #4 2007
Modification #5 2011

Framework Agreement on First Nation Land Management

FRAMEWORK AGREEMENT ON FIRST NATION LAND MANAGEMENT

BETWEEN:

THE FOLLOWING FIRST NATIONS:

WESTBANK, MUSQUEAM, LHEIDLI T'ENNEH (formerly known as "LHEIT-LIT'EN"), N'QUATQUA, SQUAMISH, SIKSIKA, MUSKODAY, COWESSESS, OPASKWAYAK CREE, NIPISSING, MISSISSAUGAS OF SCUGOG ISLAND, CHIPPEWAS OF MNJIKANING, CHIPPEWAS OF GEORGINA ISLAND, SAINT MARY'S, as represented by their Chiefs and all other First Nations that have adhered to the Agreement

AND

HER MAJESTY THE QUEEN IN RIGHT OF CANADA, as represented by the Minister of Indian Affairs and Northern Development

WHEREAS:

The First Nations have a profound relationship with the land that is rooted in respect for the Spiritual value of the Earth and the gifts of the Creator and have a deep desire to preserve their relationship with the land;

The First Nations should have the option of

Accord-cadre relatif à la Gestion des Terres de Premières Nations

ACCORD-CADRE RELATIF À LA GESTION DES TERRES DE PREMIÈRES NATIONS

ENTRE :

LES PREMIÈRES NATIONS SUIVANTES :

WESTBANK, MUSQUEAM, LHEIDLI T'ENNEH (autrefois connue sous le nom de "LHEIT-LIT'EN"), N'QUATQUA, SQUAMISH, SIKSIKA, MUSKODAY, COWESSESS, OPASKWAYAK CREE, NIPISSING, MISSISSAUGAS OF SCUGOG ISLAND, CHIPPEWAS OF MNJIKANING, CHIPPEWAS OF GEORGINA ISLAND, SAINT MARY'S, représentées par leurs chefs et toutes les autres Premières Nations qui se sont jointes à l'Entente

ET

SA MAJESTÉ LA REINE DU CHEF DU CANADA, représentée par le ministre des Affaires indiennes et du Nord canadien

ATTENDU QUE :

Les premières nations entretiennent une relation profonde avec la terre, basée sur la valeur spirituelle qu'elles attribuent à la Terre et aux dons du Créateur et qu'elles ont le désir de préserver cette relation;

Les premières nations devraient avoir la possibilité de soustraire leurs terres aux

withdrawing their lands from the land management provisions of the Indian Act in order to exercise control over their lands and resources for the use and benefit of their members;

The Parties wish to enter into a government to government agreement, within the framework of the constitution of Canada, to deal with the issues of land management;

The Parties understand that this Agreement must be ratified;

NOW THEREFORE,

In consideration of the exchange of promises contained in this Agreement and subject to its terms and conditions, the Parties agree that the First Nations shall have the option of exercising control over their lands and resources.

PART I PRELIMINARY MATTERS

1. INTERPRETATION 1.

1.1 In this Agreement,

"Canada" or "Crown" means Her Majesty the Queen in right of Canada; ("Canada")

"eligible voter" means a member of a First Nation who is eligible, pursuant to clause 7.2, to vote under this Agreement; ("électeurs")

"federal law" means a law enacted by

dispositions de la Loi sur les Indiens concernant la gestion des terres de façon à exercer un contrôle sur leurs terres et sur leurs ressources à l'usage et au profit de leurs membres;

Les parties souhaitent conclure un accord de gouvernement à gouvernement, dans le cadre de la constitution du Canada, concernant des questions touchant la gestion des terres;

Les parties reconnaissent que le présent accord doit être ratifié;

PAR CONSÉQUENT,

En contrepartie de l'échange des promesses figurant dans le présent accord et sous réserve de ses modalités, les Parties conviennent que les premières nations doivent avoir la possibilité d'exercer un contrôle sur leurs terres et sur leurs ressources.

PARTIE I QUESTIONS PRÉLIMINAIRES

INTERPRÉTATION

1.1 Les définitions qui suivent s'appliquent au présent accord.

« Canada » ou « Couronne » Sa Majesté la Reine du chef du Canada; (« Canada »)

« code foncier » Code adopté par une première nation conformément au présent accord contenant les dispositions générales relatives à l'exercice des droits et pouvoirs de la première nation sur ses terres de

Canada and does not include a land code or a First Nation law; ("loi fédérale")

"federal legislation" means the legislation to be enacted by Canada under Part X; ("loi de ratification")

"First Nation" means a band that is a Party to this Agreement; ("première nation")

"First Nation land", in respect of a First Nation, means all or part of a reserve that the First Nation describes in its land code; ("terres de première nation")

"First Nation Lands Register" means the register established pursuant to clause 51 to register interests or land rights in First Nation land; ("registre des terres de premières nations")

"First Nation law" means a law enacted by a First Nation in accordance with its land code; ("texte législative de la Première nation")

"interest", in relation to First Nation land in any province or territory other than Québec, means any interest, right or estate of any nature in or to that land, including a lease, easement, right of way, servitude, or profit à prendre, but does not include title to that land; ("intérêt")

"land code" means a code, approved by a First Nation in accordance with this Agreement, that sets out the basic provisions regarding the exercise of the First Nation's rights and powers over its First Nation land (although each First Nation can select its own name for the land code); ("code

première nation (les premières nations peuvent néanmoins donner l'appellation de leur choix à ce code foncier). (« land code »)

« Conseil consultatif des terres » Le conseil visé à l'article 38. (« Land Advisory Board »)

« droit foncier » Relativement aux terres de première nation dans la province de Québec, tout droit de quelque nature qu'il soit portant sur ces terres, à l'exclusion du titre de propriété; y sont assimilés les droits du locataire. (« land right »)

« électeurs » Les membres d'une première nation qui ont le droit de voter en vertu de l'article 7.2 du présent accord. (« eligible voters »)

« intérêt » Relativement aux terres de première nation situées dans toute province ou territoire autre que le Québec, tout intérêt, droit ou domaine de quelque nature qu'il soit portant sur ces terres, notamment un bail, une servitude, un droit de passage, un service foncier ou un profit à prendre, à l'exclusion du titre sur ces terres. (« interest »)

« loi de ratification » La loi adoptée par le Canada aux termes de la Partie X. (« federal legislation »)

« loi fédérale » Loi adoptée par le Canada mais ne comprend pas un code foncier ou un texte législatif d'une première nation. (« federal law »)

« membre » À l'égard d'une première

foncier")

"land right", in relation to First Nation land in the Province of Québec, means any right of any nature in or to that land excluding title, and includes the rights of a lessee; ("droit foncier")

"Lands Advisory Board" means the board referred to in clause 38; ("Conseil consultatif des terres")

"licence", in relation to First Nation land, ("permis")

(a) in a province or territory other than Québec, means any right of use or occupation of First Nation land, other than an interest in that land;

(b) in the Province of Québec, any right to use or occupy First Nation land, other than a land right in that land;

"member", in respect of a First Nation, means ("membre")

(a) a person whose name appears on the Band List, or

(b) a person who is entitled to have his or her name appear on the Band List;

"Minister" means the Minister of Indian Affairs and Northern Development, or such other member of the Queen's Privy Council as is designated by the Governor in Council for the purposes of this Agreement; ("ministre")

nation : (« member »)

a) personne dont le nom figure sur la liste de bande;

b) personne qui a droit à ce que son nom y figure.

« ministre » Le ministre des Affaires indiennes et du Nord canadien ou un membre du Conseil privé de la Reine désigné par le gouverneur en conseil aux fins du présent accord. (« Minister »)

« permis » Relativement aux terres d'une première nation : (« licence »)

a) dans une province ou un territoire autre que le Québec, tout droit d'usage ou d'occupation des terres de première nation, autre qu'un intérêt sur ces terres;

b) dans la province de Québec, tout droit d'utiliser ou d'occuper les terres de première nation autre qu'un droit foncier sur ces terres.

« première nation » Une bande qui est Partie au présent accord. (« First Nation »)

« registre des terres de premières nations » Le registre créé conformément à l'article 51 pour l'enregistrement des intérêts ou des droits fonciers sur les terres de premières nations. (« First Nation Lands Register »)

« terres de première nation » Dans le cas d'une première nation, tout ou partie d'une réserve décrite dans son code foncier. (« First Nation land »)

"verifier" means the person appointed pursuant to clauses 8 and 44 to monitor and verify the opting in process for a First Nation. ("vérificateur")

1.2 Terms that are defined or used in the Indian Act have the same meaning in this Agreement, unless the context otherwise requires.

1.3 This Agreement is not a treaty and shall not be considered to be a treaty within the meaning of section 35 of the Constitution Act, 1982.

1.4 The Parties acknowledge that the Crown's special relationship with the First Nations will continue.

1.5 This Agreement does not affect any lands, or any rights in lands, that are not subject to this Agreement.

1.6 This Agreement is not intended to define or prejudice inherent rights, or any other rights, of First Nations to control their lands or resources or to preclude other negotiations in respect of those rights.

1.7 The parties agree that when a provision of this agreement contains both civil law and common law terminology, or terminology that has different meanings in the civil law and the common law, the civil law

« texte législatif de la première nation »
Une loi ou un autre texte législatif adopté par une première nation conformément à son code foncier. (« First Nation law »)

« vérificateur » La personne chargée, en application des articles 8 et 44, de surveiller et de vérifier le processus d'adhésion d'une première nation.
(« verifier »)

1.2 Sauf indication contraire, les termes du présent accord qui sont définis ou utilisés dans la Loi sur les Indiens s'entendent au sens de cette loi.

1.3 Le présent accord ne constitue pas un traité et n'est pas considéré comme un traité au sens de l'article 35 de la Loi constitutionnelle de 1982.

1.4 Les Parties reconnaissent que la Couronne maintiendra la relation spéciale qu'elle entretient avec les premières nations.

1.5 Le présent accord ne s'applique pas aux terres ou aux droits sur ces terres qui ne sont pas visés par lui.

1.6 Le présent accord n'a pas pour but de définir les droits inhérents ou autres des premières nations d'exercer un contrôle sur leurs terres et leurs ressources ni d'y porter atteinte, ni d'empêcher que ces droits fassent l'objet d'autres négociations.

1.7 Les parties conviennent, que lorsque une disposition du présent accord emploie à la fois des termes propres au droit civil et à la common-law ou des termes qui ont

terminology or meaning is intended to apply to this provision with respect to First Nations in the Province of Quebec and the common law terminology or meaning is intended to apply with respect to First Nations in a province or territory other than Quebec.

2. FIRST NATION LAND

2.1 Land that is a reserve of a First Nation is eligible to be managed by that First Nation under a land code as First Nation land.

2.2 First Nation land includes all the interests and rights or all the land rights and other rights, as well as the resources that belong to that land, to the extent that these are under the jurisdiction of Canada and are part of that land.

2.3 The Parties agree that First Nation lands are lands reserved for Indians within the meaning of section 91(24) of the Constitution Act, 1867.

3. INDIAN OIL AND GAS

3.1 The Indian Oil and Gas Act will continue to apply to any First Nation lands, or interests or land rights in First Nation land, that are "Indian lands" within the meaning of that Act.

un sens différent dans l'un et l'autre de ces systèmes, l'intention est, d'appliquer à cette disposition la terminologie de droit civil ou le sens qu'on lui donne dans ce système en ce qui a trait aux Premières nations au Québec et la terminologie de common-law ou le sens qu'on lui donne dans ce système en ce qui a trait aux Premières nations dans toute province ou territoire autre que le Québec.

2. TERRES D'UNE PREMIÈRE NATION

2.1 Les terres qui constituent une réserve d'une première nation sont admissibles à être gérées par celle-ci en vertu d'un code foncier à titre de terres de première nation.

2.2 Les terres de première nation comprennent tous les intérêts et droits ou tous les droits fonciers et autres droits ainsi que les ressources relatifs à ces terres dans la mesure où ils relèvent de la juridiction du Canada et font partie de ces terres.

2.3 Les parties reconnaissent que les terres de premières nations sont des terres réservées aux Indiens au sens du point 24 de l'article 91 de la Loi constitutionnelle de 1867.

3. PÉTROLE ET GAZ DES INDIENS

3.1 La Loi sur le pétrole et le gaz des terres indiennes continuera à s'appliquer aux terres de premières nations et aux intérêts ou droits fonciers sur les terres de premières nations qui sont des « terres indiennes » au sens de cette Loi.

3.2 Any interest or land right in First Nation land that is granted to Canada for the exploitation of oil and gas under a land code will be deemed to be "Indian lands" within the meaning of the Indian Oil and Gas Act.

3.3 Section 4 of the Indian Oil and Gas Act will continue to apply to revenues and royalties from oil or gas on First Nation land, despite anything to the contrary in clause 12.

4. RESERVES

4.1 Any reserve managed by a First Nation under a land code will continue to be a reserve within the meaning of the Indian Act.

4.2 Any reserve, title to which is vested in Canada, and managed by a First Nation under a land code, will continue to be vested in Canada for the use and benefit of the respective First Nation for which it was set apart.

4.3 Where a First Nation wishes to manage a reserve, the whole of the reserve will be included as First Nation land to avoid disjointed administration of the reserve, subject to clauses 4.4, 4.5 and 4.5A.

4.4 Subject to clause 4.5A, a portion of a reserve may be excluded from a land code only if:

(a) the portion of the reserve is in an environmentally unsound condition and the condition cannot be remedied

3.2 Les intérêts ou droits fonciers sur les terres de première nation octroyés au Canada pour l'exploitation du pétrole et du gaz en vertu d'un code foncier seront réputés être des « terres indiennes » au sens de la Loi sur le pétrole et le gaz des terres indiennes.

3.3 L'article 4 de la Loi sur le pétrole et le gaz des terres indiennes continuera de s'appliquer aux revenus et aux redevances provenant du pétrole ou du gaz situés sur les terres de première nation, nonobstant toute disposition contraire de l'article 12.

4. RÉSERVES

4.1 Les réserves gérées par une première nation en vertu d'un code foncier demeurent des réserves au sens de la Loi sur les Indiens.

4.2 Toute réserve, dont le titre est détenu par le Canada et qui est gérée par une première nation en vertu d'un code foncier, continuera d'appartenir au Canada à l'usage et au profit de la première nation pour laquelle la réserve fut mise de côté.

4.3 Lorsqu'une première nation souhaite gérer une réserve, l'ensemble de la réserve sera inclus comme terres de première nation de façon à éviter la double administration de la réserve sous t²ugt^xg des articles 4.4, 4.5 et 4.5A.

4.4 Sous réserve de l'article 4.5A, il est permis de soustraire une partie d'une réserve à l'application du code foncier seulement dans l'un ou l'autre des cas suivants :

a) l'environnement y est si dégradé que

by measures that are technically and financially feasible before the land code is expected to be submitted for community approval;

(b) the portion of the reserve is the subject of ongoing litigation that is unlikely to be resolved before the land code is expected to be submitted for community approval;

(c) the portion of the reserve is uninhabitable or unusable as a result of a natural disaster; or

(d) there exist one or more other reasons which the First Nation and the Minister agree justify excluding a portion of a reserve.

4.5 A portion of a reserve may not be excluded if the exclusion would have the effect of placing the administration of a lease or other interest or right in land in more than one land management regime.

4.5A Land may be excluded from the application of the land code when it is uncertain whether the land forms part of the reserve. An exclusion for this reason shall be without prejudice to the right of the First Nation or Her Majesty to assert that the land forms part of the reserve. If excluding the land would have the effect of placing a lease, other interest or right in land in more than one land management regime, then all land that is subject to that lease, interest or right shall be excluded from the application of the land code.

des mesures réalisables sur les plans technique et économique ne permettront pas de l'assainir avant la présentation prévue du code foncier à l'approbation de la communauté;

b) cette partie de la réserve fait l'objet d'un litige qui ne sera probablement pas résolu avant la présentation prévue du code foncier à l'approbation de la communauté;

c) cette partie de la réserve est inhabitable ou inutilisable en raison d'un sinistre naturel;

d) l'exclusion est justifiée pour une ou plusieurs autres raisons convenues par la première nation et le ministre.

4.5 Une partie de la réserve ne peut être exclue si l'exclusion a pour effet d'assujettir un bail ou tout autre intérêt ou droit foncier à plus d'un régime de gestion foncière.

4.5A Une terre peut être exclue de l'application du code foncier lorsqu'il y a incertitude quant à la question de savoir si la terre est située ou non dans la réserve. L'exclusion pour ce motif ne porte pas atteinte au droit de la première nation ou de Sa Majesté de faire valoir que la terre fait partie de la réserve. Si l'exclusion a pour effet d'assujettir un bail ou tout autre intérêt ou droit foncier à plus d'un régime de gestion foncière, toute la partie de la réserve qui est assujettie au bail ou autre intérêt ou droit foncier doit être exclue de l'application du code foncier.

4.6 The First Nation will make provision to

amend the description of its First Nation land in its land code to include the excluded portion of the reserve when the First Nation and the Minister agree that the condition justifying the exclusion no longer exists and the individual agreement will be amended accordingly.

PART II OPTING IN PROCEDURE

4.6 Lorsque la première nation et le ministre conviennent que la condition justifiant l'exclusion d'une partie d'une réserve n'existe plus, la première nation fera en sorte que la description des terres de première nation contenue dans son code foncier soit modifiée pour y inclure la partie jusqu'à présent exclue et l'accord distinct sera modifié en conséquence.

PARTIE II PROCÉDURE D'ADHÉSION

5. DEVELOPMENT OF A LAND CODE

5.1 A First Nation that wishes to manage one or more of its reserves will first develop a land code.

5.2 The land code of a First Nation will

(a) describe the lands that are subject to the land code;

(b) set out the general rules and procedures that apply to the use and occupancy of First Nation land, including use and occupancy under

(i) licenses and leases, and

(ii) interests or land rights in First Nation land held pursuant to allotments under subsection 20(1) of the Indian Act or pursuant to the custom of the First Nation;

(b.1) set out the procedures that apply to the transfer, by testamentary disposition or succession, of any interest or land rights in First Nation land;

(c) set out the general rules and procedures that apply to revenues from natural resources belonging to First Nation land;

(d) set out the requirements for accountability to First Nation members for the management of moneys and First Nation lands under

5. ÉLABORATION D'UN CODE FONCIER

5.1 La première nation qui souhaite gérer une ou plusieurs de ses réserves doit préalablement élaborer un code foncier.

5.2 Les éléments suivants figurent dans le code foncier d'une première nation :

a) la description des terres qui y sont assujetties;

b) les règles générales - de procédure et autres - applicables en matière d'utilisation et d'occupation des terres de première nation, notamment :

(i) en vertu d'un permis ou d'un bail,

(ii) en vertu d'un intérêt ou d'un droit foncier sur les terres de première nation découlant soit de l'attribution de cet intérêt ou droit foncier en vertu du paragraphe 20(1) de la Loi sur les Indiens, soit de la coutume de la première nation;

(b.1) les règles de procédure applicables en matière de transfert d'intérêts ou de droits fonciers sur les terres de première nation, par disposition testamentaire ou succession;

c) les règles générales – de procédure et autres - applicables aux revenus tirés des ressources naturelles relatives aux terres de première nation;

d) les exigences touchant l'obligation de rendre compte de la gestion des fonds et des terres de première nation aux termes

the land code;

(e) set out the procedures for making and publishing its First Nation laws;

(f) set out the conflict of interest rules for land management;

(g) identify or establish a forum for the resolution of disputes in relation to interests or land rights in First Nation lands, including the review of land management decisions where a person, whose interest or land right in First Nation land is affected by a decision, disputes that decision;

(h) set out the general rules and procedures that apply to the First Nation when granting or expropriating interests or land rights in First Nation land, including provisions for notice and the service of notice;

(i) set out the general authorities and procedures whereby the First Nation council delegates administrative authority to manage First Nation land to another person or entity; and

(j) set out the procedure by which the First Nation can amend its land code or approve an exchange of its First Nation land.

5.3 A land code could also contain the following provisions:

du code foncier devant les membres de la première nation;

e) les règles d'édiction et de publication des textes législatifs de la première nation;

f) les règles applicables en matière de conflit d'intérêts dans la gestion des terres;

g) la création ou l'identification d'une instance chargée de résoudre les différends concernant les intérêts ou les droits fonciers sur les terres de première nation, y compris la révision de toute décision en matière de gestion des terres contestée par une personne dont les intérêts ou les droits fonciers sur ces terres sont affectés par cette décision;

h) les règles générales – de procédure et autres - applicables à la première nation en matière d'attribution ou d'expropriation d'intérêts ou de droits fonciers sur des terres de première nation, y compris les dispositions en matière d'avis et de notification;

i) les pouvoirs et procédures généraux applicables en matière de délégation, par le conseil de la première nation à une autre personne ou entité, des pouvoirs de gestion des terres de première nation;

j) la procédure selon laquelle la première nation peut modifier son code foncier ou approuver un échange de ses terres de première nation.

5.3 Peuvent également figurer dans le code foncier :

(a) any general conditions or limits on the power of the First Nation council to make First Nation laws;

(b) in any province or territory other than Quebec, any general exceptions, reservations, conditions or limitations to be attached to the rights and interests that may be granted in First Nation land;

(b.1) in the province of Quebec, any general exceptions, reservations, conditions or limits to be attached to the land rights or other rights that may be granted in First Nation land;

(c) any provisions respecting encumbering, seizing, or executing a right or an interest or land right in First Nation land as provided in clause 15; and

(d) any other matter respecting the management of First Nation land.

5.4 In order to clarify the intentions of the First Nations and Canada in relation to the breakdown of a marriage as it affects First Nation land:

(a) a First Nation will establish a community process in its land code to develop rules and procedures, applicable on the breakdown of a marriage, to the use, occupancy and possession of First Nation land and the division of interests or land rights in that land;

a) les conditions ou limites générales applicables au pouvoir du conseil de la première nation d'édicter des textes législatifs de la première nation;

b) dans une province ou un territoire autre que le Québec, les exclusions, réserves, conditions ou délimitations générales applicables en matière d'attribution des droits et des intérêts sur les terres de première nation;

b.1) dans la province de Québec, les exceptions, réserves, conditions ou limites générales applicables en matière d'attribution des droits fonciers et autres droits sur les terres de première nation;

c) les dispositions, telles que prévues à l'article 15, concernant la saisie ou l'exécution d'un droit ou d'un intérêt ou droit foncier sur les terres de première nation, ou le fait de les gérer;

d) toute autre disposition concernant la gestion des terres de première nation.

5.4 Afin de préciser l'intention des premières nations et du Canada en ce qui a trait à l'échec du mariage et à ses effets sur les terres de premières nations :

a) une première nation établira, dans son code foncier, un processus communautaire pour l'élaboration de règles et de procédures applicables, au moment de l'échec d'un mariage, en matière d'usage, d'occupation et de possession des terres de première nation et en matière de partage des intérêts ou des droits fonciers sur ces terres;

(b) for greater certainty, the rules and procedures referred to in clause (a) shall not discriminate on the basis of sex;

(c) the rules and procedures referred to in clause (a) shall be enacted in the First Nation's land code or First Nation laws;

(d) in order to allow sufficient time for community consultation during the community process referred to in clause (a), the First Nation shall have a period of 12 months from the date the land code takes effect to enact the rules and procedures;

(e) any dispute between the Minister and a First Nation in respect of this clause shall, notwithstanding clause 43.3, be subject to arbitration in accordance with Part IX;

(f) for greater certainty, this clause also applies to any First Nation that has voted to approve a land code before this clause comes into force.

6. DEVELOPMENT OF INDIVIDUAL FIRST NATION AGREEMENT

6.1 The Minister and each First Nation that intends to manage its First Nation land will also enter into an individual agreement to settle the actual level of operational funding for the First Nation and the specifics of the transfer of administration between Canada and the First Nation.

b) il est entendu que les règles et procédures mentionnées à l'alinéa a) ne peuvent faire aucune distinction fondée sur le sexe;

c) les règles et procédures mentionnées à l'alinéa a) sont prévues soit dans le code foncier de la première nation, soit dans ses textes législatifs;

d) afin qu'il puisse y avoir une période suffisante pour consulter la communauté, tel que mentionné à l'alinéa a), la première nation dispose d'un délai de 12 mois, à compter de la date d'entrée en vigueur de son code foncier, pour adopter ces règles et procédures;

e) tout différend entre le ministre et une première nation au sujet du présent article est, par dérogation à l'article 43.3, porté en arbitrage en conformité avec la Partie IX;

f) il est entendu que le présent article s'applique également à toute première nation qui a voté en faveur de l'adoption d'un code foncier avant que le présent article n'entre en vigueur.

6. ÉLABORATION D'UN ACCORD DISTINCT AVEC CHAQUE PREMIÈRE NATION

6.1 Le ministre et la première nation qui entend gérer ses propres terres concluront également un accord distinct fixant le niveau du financement opérationnel destiné à la première nation ainsi que les modalités du transfert des responsabilités en matière d'administration entre le

6.2 The First Nation and the Minister will each choose a representative to develop the individual agreement and to assist in transferring administration of the First Nation land.

6.3 Upon the request of a First Nation that is developing a land code, the Minister will provide it with the following information, as soon as practicable:

(a) a list of all the interests or land rights and licences, in relation to the proposed First Nation land, that are recorded in the Reserve Land Register and the Surrendered and Designated Lands Register under the Indian Act;

(b) all existing information, in Canada's possession, respecting any actual or potential environmental problems with the proposed First Nation land; and

(c) any other information in Canada's possession that materially affects the interests or land rights and licences mentioned in clause 6.3(a).

6.4 An amendment to an individual agreement with the Minister must be made in accordance with the procedure in that agreement.

7. COMMUNITY APPROVAL

7.1 Both the First Nation's land code and its

Canada et la première nation.

6.2 La première nation et le ministre désignent chacun un représentant chargé de préparer l'accord distinct et de faciliter le transfert de l'administration des terres de première nation.

6.3 À la demande de la première nation qui élabore un code foncier le ministre lui fournit les renseignements suivants, dans les meilleurs délais :

a) une liste de tous les intérêts ou droits fonciers et permis concernant les terres de la première nation proposées, qui sont consignés dans le registre des terres de réserve et le registre des terres désignées et cédées aux termes de la Loi sur les Indiens;

b) tous les renseignements en la possession du Canada concernant les problèmes environnementaux réels ou potentiels concernant les terres de la première nation proposées;

c) tout autre renseignement en la possession du Canada qui touche notamment les intérêts ou droits fonciers et les permis mentionnés à l'alinéa 6.3 a).

6.4 L'accord distinct conclu avec le ministre est modifié selon la procédure prévue dans celui-ci.

7. APPROBATION DE LA COMMUNAUTÉ

7.1 Le code foncier de la première nation

individual agreement with the Minister need community approval in accordance with this clause.

7.2 Every person who is a First Nation member, whether resident on or off-reserve, who is at least 18 years of age, is eligible to vote on whether to approve their First Nation's proposed land code and its individual agreement with the Minister.

7.3 The land code and individual agreement will be considered approved by the community if

(a) a majority of eligible voters participate in the vote and at least a majority of the participating voters vote to approve them;

(b) the First Nation registers all eligible voters who signified, in a manner determined by the First Nation, their intention to vote, and a majority of the registered voters vote to approve them; or

(c) the community approves them in such other manner as the First Nation and the Minister may agree upon.

7.4 The land code and individual agreement will not be considered approved if less than 25% plus one of all eligible voters voted to approve them.

7.5 The First Nation council may, by resolution, increase the minimum percentage for community approval otherwise required under this clause.

et l'accord distinct conclu avec le ministre doivent être approuvés par la communauté conformément au présent article.

7.2 A le droit de voter, dans le cadre de l'approbation du projet de code foncier de la première nation et de l'accord distinct conclu avec le ministre, tout membre de la première nation qui a au moins 18 ans, qu'il réside ou non dans la réserve.

7.3 Le code foncier et l'accord distinct sont réputés valablement approuvés par la communauté dans les cas suivants :

a) la majorité des électeurs participent au scrutin et au moins une majorité des électeurs participants ont exprimé un vote favorable;

b) la première nation inscrit tous les électeurs qui ont fait connaître, selon les modalités fixées par la première nation, leur intention de voter et une majorité des électeurs inscrits ont exprimé un vote favorable;

c) la communauté les approuve selon d'autres modalités fixées conjointement par la première nation et par le ministre.

7.4 Dans tous les cas cependant, le code foncier et l'accord distinct ne sont approuvés que si au moins vingt-cinq pour cent plus un des électeurs ont exprimé un vote favorable.

7.5 Le conseil de la première nation peut, par résolution, augmenter le pourcentage minimum requis en vertu du présent article pour recueillir l'approbation de la communauté.

7.6 A First Nation will take reasonable steps to locate its eligible voters and inform them of

- (a) their right to participate in the approval process and the manner in which that right can be exercised; and
- (b) the content of this Agreement, the individual agreement with the Minister, the proposed land code and the federal legislation.

7.7 Reasonable steps to locate and inform eligible voters may include the following :

- (a) mailing out information to eligible voters at their last known addresses;
- (b) making enquiries of family members and others to locate eligible voters whose addresses are not known or are uncertain;
- (c) making follow up contact with eligible voters by mail or telephone;
- (d) placing advertisements in newspapers circulating in the community and in newspapers circulating in other localities where the number of eligible voters warrants;
- (e) posting notices in the community;
- (f) holding information meetings in the community and in other places where appropriate; and

7.6 Le conseil de la première nation doit prendre des mesures raisonnables pour retrouver les électeurs et les informer :

- a) de leur droit de participer au processus d'approbation et de la manière d'exercer ce droit;
- b) du contenu du présent accord, de l'accord distinct conclu avec le ministre, du projet de code foncier et de la loi de ratification.

7.7 Parmi les mesures raisonnables envisagées pour retrouver les électeurs et les informer, le conseil peut prendre les mesures suivantes :

- a) envoyer par courrier de l'information aux électeurs à leur dernière adresse connue;
- b) s'enquérir auprès des membres de la famille et d'autres personnes afin de retrouver les électeurs dont l'adresse est inconnue ou incertaine;
- c) effectuer un suivi auprès des électeurs par courrier ou par téléphone;
- d) publier des avis dans les journaux distribués dans la communauté et dans toute autre localité où le nombre d'électeurs le justifie;
- e) afficher des avis dans la communauté;
- f) tenir des réunions d'information dans la communauté et à tout autre endroit approprié;

(g) making copies of the documents referred to in clause 7.6(b) available at the administration office of the First Nation and in other places where appropriate.

7.8 A First Nation will, within a reasonable time before the vote, also take appropriate measures to inform other persons having an interest or land right in its lands of the federal legislation, the proposed land code and the date of the vote.

7.9 Where the federal legislation has not yet been enacted when a First Nation proceeds under this clause, Canada will provide the First Nation with a draft copy of its proposed legislation which the First Nation will use to inform its eligible voters and other persons.

7.10 An amendment to a land code must be made in accordance with the procedure in the First Nation's land code.

8. VERIFICATION PROCESS

8.1 Where a First Nation develops a proposed land code and resolves to submit it to the community for approval, an independent person will be appointed as a verifier to monitor and verify the opting in process. The verifier will be chosen in accordance with clause 44.

8.2 The representatives of the First Nation

g) rendre disponible, au bureau d'administration de la première nation et à tout autre endroit approprié, une copie des documents mentionnés à l'alinéa 7.6b).

7.8 La première nation doit prendre dans un délai raisonnable avant le jour du scrutin, des mesures appropriées pour informer les autres personnes ayant un intérêt ou un droit foncier sur ses terres au sujet de la loi de ratification, du projet de code foncier et de la date du scrutin.

7.9 Si la loi de ratification n'a pas encore été adoptée au moment où la première nation met en oeuvre le présent article, le Canada fournira à la première nation une ébauche du projet de loi que la première nation portera à la connaissance des électeurs et des autres personnes concernées.

7.10 Le code foncier d'une première nation est modifié selon la procédure prévue dans celui-ci.

8. PROCESSUS DE VÉRIFICATION

8.1 Lorsqu'une première nation élabore un projet de code foncier et décide de le présenter à la communauté pour approbation, une personne indépendante doit être nommée à titre de vérificateur chargée de surveiller le processus d'adhésion et d'en vérifier la régularité. Le vérificateur est choisi conformément à l'article 44.

8.2 Les représentants de la première nation

and the Minister, who have been assisting in the process of transferring administration of the land, will meet with the verifier and provide information and advice to the verifier, after consulting with their respective Parties.

8.3 The First Nation will submit the following information to the verifier:

- (a) a copy of the proposed land code;
- (b) an initial list of the names of every First Nation member who, according to the First Nation's records at that time, would be eligible to vote on whether to approve the proposed land code; and
- (c) a detailed description of the community approval process that the First Nation proposes to use under clause 7.

8.4 The verifier will

- (a) decide whether the proposed land code conforms with the requirements of clause 5;
- (b) decide whether the proposed community approval process conforms with the requirements of clause 7;
- (c) determine whether the community approval process is conducted in accordance with the process that was confirmed; and
- (d) certify as being valid a First

et du ministre, qui ont participé au processus de transfert de la gestion des terres, rencontrent le vérificateur et lui fournissent renseignements et avis, après avoir consulté leurs Parties respectives.

8.3 La première nation communique au vérificateur les documents suivants :

- a) un exemplaire du projet de code foncier;
- b) la liste initiale des membres de la première nation qui, selon les registres de la première nation disponibles à ce moment, auraient le droit de voter aux fins de l'approbation de ce code;
- c) un exposé détaillé du processus d'approbation de la communauté proposé par la première nation aux termes de l'article 7.

8.4 Le vérificateur a pour mandat:

- a) de décider de la conformité du projet de code foncier avec les exigences de l'article 5;
- b) de décider de la conformité du processus d'approbation de la communauté proposé avec les exigences de l'article 7;
- c) de décider de la conformité du déroulement du scrutin avec le processus retenu pour l'approbation de la communauté;
- d) d'attester la validité du code foncier de

Nation's land code that is properly approved by the First Nation.

la première nation dûment approuvé par elle.

8.5 The verifier also has the power to make a final decision to resolve

8.5 Le vérificateur a également le pouvoir de trancher de façon définitive :

(a) any dispute regarding whether a portion of a reserve may be excluded from a land code pursuant to clause 4.4; and

a) tout différend ayant trait à la question de savoir si une partie d'une réserve peut être soustraite à l'application du code foncier selon l'article 4.4;

(b) any dispute regarding the specifics of the transfer of administration between Canada and the First Nation.

b) tout différend concernant les modalités du transfert des pouvoirs d'administration entre le Canada et la première nation.

8.6 A verifier will make decisions that are consistent with clauses 4.4 and 4.5.

8.6 Les décisions du vérificateur doivent être conformes aux paragraphes 4.4 et 4.5.

8.7 A verifier will not deal with disputes over funding.

8.7 Le vérificateur ne peut être saisi des différends concernant le financement.

8.8 Within 30 days of receiving the First Nation's information pursuant to clause 8.3, the verifier will issue a written notice to the First Nation and the Minister stating whether the proposed land code and community approval process are consistent with this Agreement.

8.8 Le vérificateur émet à la première nation et au ministre, dans les 30 jours de la réception des documents visés à l'article 8.3, un avis écrit indiquant si le projet de code foncier et le processus d'approbation de la communauté proposé sont conformes au présent accord.

8.9 The verifier will provide written reasons to the First Nation and the Minister in any case where he or she decides that the proposed land code and community approval process are not consistent with this Agreement.

8.9 Dans tous les cas où, à son avis, le projet de code foncier ou le processus proposé pour obtenir l'approbation de la communauté ne sont pas conformes au présent accord, le vérificateur consigne par écrit les motifs de cette décision qu'il transmet à la première nation et au ministre.

9. CONDUCT OF COMMUNITY VOTE

9. TENUE DU SCRUTIN

9.1 Once the verifier confirms that the

9.1 Après que le vérificateur ait décidé que

proposed land code and community approval process are consistent with this Agreement, the First Nation may proceed to submit its proposed land code, and the individual agreement with the Minister, for community approval.

9.2 The verifier will publish one or more notices advising the community of the date, time and place of the First Nation's approval vote.

9.3 The verifier may designate one or more assistants to help observe the conduct of the vote.

9.4 The verifier and any assistant observers will have complete authority to observe the approval process.

9.5 Within 15 days of the conclusion of the vote, the verifier will issue a written report to the First Nation and to the Minister on whether the community approval process was conducted in accordance with the process as previously confirmed.

10. CERTIFICATION OF LAND CODE

10.1 Where a First Nation approves a land code and its individual agreement with the Minister, the First nation council must, without delay, send a true copy of the land code to the verifier together with a true copy of the fully signed individual agreement and a statement from the First Nation council that the land code and the individual agreement were properly approved.

le projet de code et le processus proposé pour obtenir l'approbation de la communauté sont conformes au présent accord, la première nation peut soumettre à l'approbation de la communauté le projet de code foncier et l'accord distinct conclu avec le ministre.

9.2 Le vérificateur fait publier un ou plusieurs avis informant la communauté de la date, de l'heure et du lieu du scrutin.

9.3 Le vérificateur peut s'adjoindre un ou plusieurs assistants pour l'aider à surveiller le déroulement du scrutin.

9.4 Le vérificateur et ses adjoints ont pleins pouvoirs pour surveiller le processus d'approbation de la communauté.

9.5 Le vérificateur remet à la première nation et au ministre, dans les 15 jours suivant la fermeture du scrutin, son rapport écrit au sujet de la conformité du déroulement du scrutin avec le processus d'approbation retenu.

10. CERTIFICATION DU CODE FONCIER

10.1 Lorsque la première nation approuve le code foncier et l'accord distinct avec le ministre, le conseil de la première nation adresse au vérificateur, dans les meilleurs délais, une copie certifiée conforme de l'accord distinct entièrement signé et du code foncier approuvé ainsi qu'une déclaration du conseil de la première nation indiquant que le code foncier et l'accord distinct ont été dûment approuvés.

10.2 Upon receiving a copy of a First Nation's land code, signed individual agreement and statement, the verifier will, subject to clause 11, certify the land code as being valid.

10.3 The verifier will immediately provide the First Nation, the Lands Advisory Board and the Minister with a copy of any certified land code.

10.4 The Lands Advisory Board will, in such manner as it considers advisable, publish a notice announcing the certification of a land code and the date the land code takes effect and advising the public of the means of obtaining copies of it.

10.4.1 Certified copies of the land code will be made available to the public at such places deemed necessary by the First Nation.

10.5 Once a land code is certified by a verifier and takes effect, the land code has the force of law and will be given judicial notice.

10.6 A land code that has been certified pursuant to this Agreement is deemed to have been validly approved by the First Nation.

10.7 A land code takes effect on the day that it is certified by the verifier or on such later date as may be specified in the land code.

11. DISPUTED VOTE

11.1 The Minister or any eligible voter may, within five days after the conclusion of the vote, report any irregularity in the voting

10.2 Sur réception de la copie du code foncier, de l'accord distinct signé et de la déclaration, le vérificateur atteste la validité du code foncier, sous réserve de l'article 11.

10.3 Le vérificateur adresse immédiatement à la première nation, au Conseil consultatif des terres et au ministre une copie du code foncier dont il a attesté la validité.

10.4 Le Conseil consultatif des terres publie, selon les modalités qu'il estime appropriées, un avis attestant la validité du code foncier, sa date d'entrée en vigueur et faisant connaître au public la façon de s'en procurer des copies.

10.4.1 Des copies certifiées du code foncier seront mises à la disposition du public aux endroits que la première nation estime appropriés.

10.5 Dès que le code foncier reçoit l'attestation du vérificateur et qu'il entre en vigueur, il a dès lors force de loi et est admis d'office dans toute instance.

10.6 Une fois sa validité attestée conformément au présent accord, le code est réputé avoir été dûment approuvé par la première nation.

10.7 Le code foncier entre en vigueur à la date de l'attestation de sa validité par le vérificateur ou à la date postérieure fixée dans le code.

11. CONTESTATION DU VOTE

11.1 Le ministre ou tout électeur peut, dans les cinq jours suivant la clôture du scrutin, informer le vérificateur de toute

process to the verifier.

11.2 A verifier will not certify a land code if he or she is of the opinion that the following two conditions exist:

(1) the process by which the land code was approved varied from the process previously confirmed by the verifier or was otherwise irregular; and

(2) the land code might not have been approved but for the irregularity in the process.

11.3 Before making a decision under this clause, the verifier will provide the First Nation and the Minister with a reasonable opportunity to make submissions on the issue.

11.4 Any decision by a verifier under this clause must be made within 10 days of the conclusion of the vote.

PART III

FIRST NATION LAND MANAGEMENT RIGHTS AND POWER

12. LAND MANAGEMENT POWERS

12.1 A First Nation with a land code in effect will, subject to clause 13, have the power to manage its First Nation land and exercise its powers under this Agreement.

irrégularité dont a été entaché le déroulement du scrutin.

11.2 Le vérificateur ne peut attester la validité du code foncier s'il en vient aux conclusions suivantes :

(1) d'une part, le déroulement du scrutin n'est pas conforme au processus d'approbation qu'il a lui-même confirmé au préalable ou est autrement entaché d'irrégularité;

(2) d'autre part, le code n'aurait peut-être pas été approuvé sans cette irrégularité.

11.3 Avant de prononcer une décision aux termes du présent article, le vérificateur donne à la première nation et au ministre l'occasion de présenter des observations.

11.4 Toute décision du vérificateur en vertu du présent article doit être prise dans un délai de 10 jours suivant la conclusion du vote.

PARTIE III

DROITS ET POUVOIRS DE GESTION DES TERRES DE PREMIÈRE NATION

12. POUVOIRS DE GESTION DES TERRES

12.1 Dès que le code foncier entre en vigueur, la première nation a le pouvoir de gérer ses terres de première nation et d'exercer ses pouvoirs en vertu du présent accord, sous réserve de l'article 13.

12.2 This power includes

(a) all the rights, powers and privileges of an owner, in relation to its First Nation land; and

(b) the authority to grant interests or land rights and licences in relation to its First Nation land and to manage its natural resources, subject to clauses 3, 18.5 and 23.6.

12.3 In any province or territory other than Quebec, an interest or licence granted in relation to First Nation land is subject to any exception, reservation, condition or limitation established by the First Nation in its land code.

12.3A In the province of Quebec, a land right or licence granted in relation to First Nation land is subject to any exceptions, reservations, conditions or limits established by the First Nation in its land code.

12.4 For any purpose related to First Nation land, a First Nation will have legal capacity to acquire and hold property, to borrow, to contract, to expend and invest money, to be a party to legal proceedings, to exercise its powers and to perform its duties.

12.5 First Nation land, revenues, royalties, profits and fees in respect of that land will be managed by the First Nation council or its delegate for the use and benefit of the First Nation.

12.2 Elle peut notamment :

a) exercer tous les droits, pouvoirs et privilèges d'un propriétaire, pour ce qui est de ses terres de première nation;

b) sous réserve des articles 3, 18.5 et 23.6, attribuer des permis et des intérêts ou droits fonciers relatifs à ses terres de première nation et gérer ses ressources naturelles.

12.3 Dans une province ou un territoire autre que le Québec, un intérêt ou un permis relatif aux terres de première nation est assujéti aux exclusions, réserves, conditions ou délimitations énoncées par la première nation dans son code foncier.

12.3A Dans la province de Québec, un droit foncier ou un permis relatif aux terres de première nation est assujéti aux exceptions, réserves, conditions ou limites énoncées par la première nation dans son code foncier.

12.4 À l'égard de ses terres de première nation, la première nation a la capacité juridique d'acquérir et de détenir des biens, de conclure des contrats et d'emprunter, de dépenser des fonds et de faire des investissements, d'ester en justice et d'exercer ses pouvoirs et attributions.

12.5 Le conseil de la première nation ou son délégué administre les terres de première nation ainsi que les revenus, les redevances, les recettes et les droits y afférents à l'usage et au profit de la première nation.

12.6 If a First Nation establishes an entity for the purpose of administering its First Nation land, the entity shall be deemed to be a legal entity with the capacity, rights, powers and privileges of a natural person.

12.7 A First Nation has the right, in accordance with its land code, to receive and use all moneys acquired by or on behalf of the First Nation under its land code.

12.8 Once a First Nation's land code takes effect, all revenue moneys collected, received or held by Canada for the use and benefit of the First Nation or its members before that date, and from time to time thereafter, shall cease to be Indian moneys under the Indian Act, except for the purposes of paragraph 90 (1) (a), and shall be transferred by Canada to the First Nation

13. PROTECTION OF FIRST NATION LAND

13.1 Title to First Nation land is not changed when a First Nation's land code takes effect.

13.2 The Parties declare that it is of fundamental importance to maintain the amount and integrity of First Nation land.

13.3 First Nation land will not be sold, exchanged, conveyed or transferred, except for any exchange or expropriation of First Nation land made in accordance with this Agreement.

12.6 Si la première nation met sur pied une entité pour gérer ses terres, l'entité est réputée être une entité juridique ayant la capacité, les pouvoirs, les droits et les privilèges d'une personne physique.

12.7 La première nation a, conformément à son code foncier, le droit de recevoir et d'utiliser les sommes acquises par ou pour le compte de la première nation en vertu de son code foncier.

12.8 À compter de la date d'entrée en vigueur du code foncier d'une première nation, les fonds perçus, reçus et détenus par la Canada à l'usage et au profit de la première nation ou de ses membres avant cette date, ainsi que ceux qui le sont après cette date, cessent d'être de l'argent des Indiens aux fins de la Loi sur les Indiens, sauf aux fins de l'alinéa 90(1)a), et sont transférés par le Canada à la première nation.

13. PROTECTION DES TERRES DE PREMIÈRE NATION

13.1 L'entrée en vigueur du code foncier d'une première nation n'a pas pour effet de modifier le titre des terres de première nation.

13.2 Les Parties déclarent reconnaître l'importance fondamentale que revêt la préservation de la superficie et de l'intégrité des terres de première nation.

13.3 Les terres de première nation ne sont pas susceptibles d'être vendues, échangées ou transférées, si ce n'est dans le cadre d'un échange ou d'une expropriation effectué en conformité avec le présent

14. VOLUNTARY EXCHANGE OF FIRST NATION LAND

14.1 A First Nation has the right to exchange a parcel of First Nation land for another parcel of land, if that other parcel of land becomes First Nation land. An exchange of First Nation land may provide for additional compensation, including land that may not become First Nation land, and may be subject to any other terms and conditions.

14.2 Any exchange of First Nation land will require community approval in accordance with the process established in the land code.

14.3 First Nation land will only be exchanged for land that Canada consents to set apart as a reserve. In addition, the agreement of Canada is required on the technical aspects of the exchange.

14.4 The title to the land to be received in exchange for that First Nation land will be transferred to Canada and will be set apart by Canada as a reserve, as of the date of the land exchange or such later date as the First Nation may specify. This does not apply to land that is received by the First Nation as additional compensation and that is not intended to become First Nation land.

14.5 Where an exchange of First Nation land is approved by a First Nation in accordance with its land code, the First Nation can

accord.

14. ÉCHANGE VOLONTAIRE DE TERRES DE PREMIÈRE NATION

14.1 Une première nation a le droit d'échanger une parcelle des terres de première nation contre une autre parcelle, si cette autre parcelle fait dès lors partie des terres de première nation. L'échange peut également comporter une contrepartie supplémentaire, notamment des terres supplémentaires qui ne sont pas destinées à devenir des terres de première nation, et être assorti d'autres conditions.

14.2 Tout échange de terres de première nation doit être approuvé par les membres de la première nation selon les modalités prévues par le code foncier.

14.3 Des terres de première nation ne peuvent être échangées que contre des terres que le Canada accepte de mettre de côté à titre de réserve. L'accord du Canada est également requis quant aux aspects techniques de l'opération.

14.4 Le titre des terres reçues en échange des terres de première nation sera transféré au Canada, qui mettra ces terres de côté à titre de réserve, à la date de l'échange ou à la date ultérieure fixée par la première nation. Cette disposition ne s'applique pas aux terres remises à une première nation à titre de contrepartie supplémentaire et qui ne sont pas destinées à devenir des terres de première nation.

14.5 Lorsque l'échange des terres de première nation est approuvé par la première nation conformément à son code

execute an authorization to Canada to transfer title to the land.

14.6 Upon the issuance to Canada of an authorization to transfer title to First Nation land under clause 14.5, Canada will transfer title to the land in accordance with the authorization and the applicable terms and conditions of the exchange.

14.7 A copy of the instruments or acts transferring title to First Nation land will be registered in the First Nation Lands Register.

14.8 As of the date of the land exchange, or such later date as the First Nation may specify, the description of First Nation land in the land code will be deemed to be amended to delete the description of the First Nation land that was exchanged and to add the description of the First Nation land received in exchange.

14.9 For greater certainty, the First Nation land that was exchanged will cease to be a reserve.

15. IMMUNITY FROM SEIZURE, ETC.

15.1 The Parties confirm that section 29 and subsections 89(1) and (2) of the Indian Act will continue to apply to any reserve that is First Nation land.

15.2 Subsection 89(1.1) of the Indian Act will continue to apply to all leasehold interests or leases that existed when the land code took effect if the First Nation land was

foncier, la première nation peut délivrer au Canada une autorisation de procéder au transfert du titre sur les terres en question.

14.6 Le Canada procède, sur réception de l'autorisation prévue à l'article 14.5, au transfert du titre sur les terres en question, en conformité avec cette autorisation et avec les conditions de l'échange.

14.7 Une copie des instruments ou actes de transfert du titre sur les terres de première nation sera enregistrée dans le registre des terres de premières nations.

14.8 À partir de la date de l'échange de terres, ou à la date ultérieure fixée par la première nation, la description des terres de première nation dans le code foncier est réputée être modifiée de façon à supprimer la description des terres de première nation qui ont été échangées et à ajouter celle des terres de première nation reçues en échange.

14.9 Il est entendu que les terres de première nation qui ont été échangées cessent de constituer une réserve.

15. INSAISSABILITÉ, ETC.

15.1 Les parties confirment que l'article 29 et les paragraphes 89(1) et (2) de la Loi sur les Indiens continuent de s'appliquer aux réserves faisant partie des terres de première nation.

15.2 Le paragraphe 89(1.1) de la Loi sur les Indiens continue de s'appliquer à tous les baux ou intérêts à bail qui existaient lorsque le code foncier est entré en

designated land at that time.

15.3 A land code may provide that some or all of the provisions of subsection 89(1.1) of the Indian Act are also applicable to other leasehold interests or leases in any First Nation lands.

15.4 The Parties confirm that section 87 of the Indian Act continues to apply to First Nation land, so that

(a) the interest of an Indian or a First Nation in a reserve that is First Nation land remains exempt from taxation, subject to section 83 of the Indian Act; and

(b) the personal property or the movables of an Indian or a First Nation, situated on a reserve that is First Nation land, remains exempt from taxation.

16. THIRD PARTY INTERESTS 16.

16.1 Interests or land rights or licences held by third parties or Canada in First Nation land, that exist at the time the land code takes effect, continue in force according to their terms and conditions.

16.2 Any rights of locatees in possession of First Nation land, either by custom or by allotment under the Indian Act, to transfer, lease and share in natural resource revenues will be defined in the land code.

vigueur, dans le cas où les terres de première nation étaient des terres désignées à ce moment.

15.3 Le code foncier peut énoncer que les dispositions du paragraphe 89(1.1) de la Loi sur les Indiens sont également applicables, en tout ou en partie, aux autres baux ou intérêts à bail sur les terres de première nation.

15.4 Les parties confirment que l'article 87 de la Loi sur les Indiens continue de s'appliquer aux terres de première nation de façon à ce que:

a) le droit d'un Indien ou d'une première nation sur une réserve faisant partie des terres de première nation demeure exempté de taxation, sous réserve de l'article 83 de la Loi sur les Indiens;

b) les biens personnels ou les meubles d'un Indien ou d'une première nation situés sur une réserve faisant partie des terres de la première nation demeurent exemptés de taxation.

INTÉRÊTS DES TIERS

16.1 Les intérêts ou droits fonciers ou les permis que détiennent les tiers ou le Canada sur des terres de première nation lorsque le code foncier entre en vigueur continuent d'avoir effet selon leurs conditions.

16.2 Les droits des occupants en possession de terres de première nation, que ce soit conformément à la coutume ou par attribution aux termes de la Loi sur les Indiens, en matière de transfert, de bail et

16.3 Once a land code takes effect, no interest, land right or licence in relation to First Nation land may be acquired or granted except in accordance with the land code.

16.4 For greater certainty, disputes in relation to third party interests shall be dealt with in the forum identified or established in a land code pursuant to clause 5.2(g).

17. EXPROPRIATION BY FIRST NATIONS

17.1 A First Nation with a land code in effect has the right to expropriate interests or land rights in First Nation lands without consent if deemed by the First Nation council to be necessary for community works or other First Nation purposes.

17.2 A First Nation's power of expropriation will be exercised in accordance with the rules and procedures specified in its land code, its laws and this Agreement.

17.3 In any province or territory other than Québec, an interest in First Nation land that a First Nation expropriates becomes the property of the First Nation free of any previous claim or encumbrance in respect of the interest.

17.3A In the province of Québec, the First Nation that expropriates a land right in its First Nation lands becomes the holder of that

de partage des revenus provenant de ressources naturelles seront définis par le code foncier.

16.3 Après l'entrée en vigueur du code foncier, les permis, les intérêts ou droits fonciers concernant les terres de première nation ne peuvent être acquis ou accordés qu'en conformité avec ce code.

16.4 Il est entendu que les différends relatifs aux intérêts des tiers sont réglés selon ce que prévoit le code foncier conformément à l'alinéa 5.2g).

17. EXPROPRIATION PAR LES PREMIÈRES NATIONS

17.1 La première nation ayant un code foncier en vigueur a le droit d'exproprier sans consentement des intérêts ou droits fonciers sur ses terres de première nation, si le conseil de la première nation estime en avoir besoin pour réaliser des ouvrages communautaires ou à d'autres fins de la première nation.

17.2 La première nation procède à l'expropriation conformément aux règles et procédures établies dans son code foncier, à ses textes législatifs et au présent accord.

17.3 Un intérêt sur les terres de première nation dans une province ou un territoire autre que le Québec exproprié par la première nation devient la propriété de celle-ci, libre de toute réclamation ou tout grèvement antérieurs quant à cet intérêt.

17.3A La première nation qui exproprie un droit foncier sur ses terres de première nation dans la province de Québec devient

right free of any previous right, charge or claim in respect of that land right.

17.4 A First Nation that expropriates an interest or land right in First Nation land will give fair compensation based on the heads of compensation set out in the Expropriation Act (Canada).

17.5 A First Nation will establish a mechanism to resolve disputes over compensation it pays for expropriation.

17.6 Any interest in First Nation land that was obtained pursuant to section 35 of the Indian Act or any interest or land right that has been acquired by Canada, or that is acquired after this Agreement comes into force by Canada in accordance with this Agreement, is not subject to First Nation expropriation.

17.7 A First Nation is not precluded from entering into an agreement with a utility or public body for the purpose of granting it an interest or land right in First Nation land that is exempt from expropriation by the First Nation.

17.8 No expropriation of an interest or land right in First Nation land by a First Nation takes effect earlier than either of the following days:

(a) the date the notice of expropriation is registered in the First Nation Lands Register; or

titulaire de ce droit foncier, libre de tout droit, charge ou réclamation antérieurs.

17.4 La première nation qui exproprie un intérêt ou droit foncier sur ses terres de première nation est tenue de verser une indemnité équitable, calculée selon les règles énoncées dans la Loi sur l'expropriation (Canada).

17.5 La première nation est tenue de mettre sur pied un mécanisme de règlement des différends relatifs à l'indemnisation qu'elle paye pour les expropriations.

17.6 Ne sont toutefois pas susceptibles d'expropriation par la première nation les intérêts ou les droits fonciers sur les terres de première nation obtenus sous le régime de l'article 35 de la Loi sur les Indiens ou qui ont été acquis par le Canada ou encore qui seront acquis par le Canada après l'entrée en vigueur du présent accord conformément à celui-ci.

17.7 Il n'est pas interdit à la première nation de conclure avec un organisme public ou une société de service public un accord lui attribuant un intérêt ou un droit foncier sur les terres de première nation non susceptible d'être exproprié par la première nation.

17.8 L'expropriation par une première nation d'un intérêt ou d'un droit foncier sur les terres de première nation ne prend effet qu'à la première des dates suivantes :

a) la date d'inscription de l'avis d'expropriation dans le registre des terres de la première nation;

(b) the 30th day after the day the last copy of the notice is served.

PART IV FIRST NATION LAW MAKING

18. LAW MAKING POWERS

18.1 The council of a First Nation with a land code in effect will have the power to make laws, in accordance with its land code, respecting the development, conservation, protection, management, use and possession of First Nation land and interests or land rights and licences in relation to that land. This includes laws on any matter necessary or ancillary to the making of laws in relation to First Nation land.

18.2 The following examples illustrate some of the First Nation laws contemplated by the Parties:

- (a) laws on the regulation, control and prohibition of zoning, land use, subdivision control and land development;
- (b) laws on the creation, regulation and prohibition of interests or land rights and licences in relation to First Nation land;
- (c) laws on environmental assessment and protection;
- (d) laws on the provision of local

b) le 30^e jour suivant la signification de la dernière copie de cet avis.

PARTIE IV POUVOIRS DE LÉGIFÉRER DE LA PREMIÈRE NATION

18. POUVOIRS DE LÉGIFÉRER

18.1 Le conseil de la première nation ayant un code foncier en vigueur peut édicter des textes législatifs, conformément à celui-ci, concernant le développement, la conservation, la protection, la gestion, l'utilisation et la possession des terres de première nation et des intérêts ou droits fonciers et permis les concernant. Cela comprend les textes législatifs portant sur des questions nécessaires ou afférentes à l'élaboration des textes législatifs relatifs aux terres de première nation.

18.2 Les exemples qui suivent illustrent certaines des fins pour lesquelles les premières nations peuvent adopter des textes législatifs, comme l'envisagent les Parties :

- a) pour régler, régir ou interdire le zonage, l'aménagement, l'utilisation, le lotissement ou la mise en valeur des terres;
- b) pour créer et régler les permis et les intérêts ou les droits fonciers relatifs aux terres de première nation ou prévoir des interdictions à cet égard;
- c) pour régir la protection de l'environnement et l'évaluation environnementale;

services in relation to First Nation land and the imposition of equitable user charges; and

(e) laws on the provision of services for the resolution, outside the courts, of disputes in relation to First Nation land.

18.3 A land code will not address the taxation of real or personal property or of immovables or movables. Section 83 of the Indian Act will continue to apply.

18.4 In any proceeding, a copy of a First Nation law, appearing to be certified as a true copy by an officer of the First Nation is, without proof of the officer's signature or official character, evidence of its enactment on the date specified in the law.

18.5 This Agreement does not affect or extend existing rights and powers, or create additional rights and powers, related to fisheries.

19. ENFORCEMENT OF FIRST NATION LAWS

19.1 To enforce its land code and its First Nation laws, a First Nation will have the power to

(a) establish offences that are punishable on summary conviction;

(b) provide for fines, imprisonment,

d) pour régir la prestation de services locaux relatifs aux terres de première nation et l'imposition de frais équitables à leurs usagers;

e) pour régir la prestation de services de règlement extrajudiciaire des différends relatifs aux terres de première nation.

18.3 Le code foncier ne traite pas de l'imposition des biens réels ou personnels ou des immeubles ou meubles. L'article 83 de la Loi sur les Indiens continue de s'appliquer.

18.4 La copie d'un texte législatif de la première nation paraissant certifiée conforme par un fonctionnaire de la première nation fait foi, dans le cadre de toute procédure, de son adoption à la date qui y est inscrite sans qu'il soit nécessaire de prouver l'authenticité de la signature ou la qualité officielle du signataire.

18.5 Le présent accord ne modifie en rien les droits et pouvoirs actuels relatifs aux pêcheries, ni ne crée des droits ou pouvoirs additionnels à cet égard.

19. CONTRÔLE D'APPLICATION DES TEXTES LÉGISLATIFS DE LA PREMIÈRE NATION

19.1 Aux fins de contrôle d'application de son code foncier et de ses textes législatifs, la première nation peut :

a) créer des infractions punissables par procédure sommaire;

b) prévoir des peines, notamment les

restitution, community service, and alternate means for achieving compliance; and

(c) establish comprehensive enforcement procedures consistent with federal law, including inspections, searches, seizures and compulsory sampling, testing and the production of information.

19.2 First Nation laws may adopt or incorporate by reference the summary conviction procedures of the Criminal Code for the purpose of enforcement.

19.3 Persons may be appointed by the First Nation or the Governor in Council to act as justices of the peace for the purposes of enforcement. If no justice of the peace is appointed, then First Nation laws will be enforced through the provincial courts.

19.4 A person appointed as a justice of the peace under this clause will have jurisdiction to try offences established by or under a land code or a First Nation law.

19.5 Decisions made by a justice of the peace appointed under this clause may be appealed to a court of competent jurisdiction.

19.6 The First Nation will protect the independence of each justice of the peace it appoints in a way similar to that in a province, for example tenure, removal and

amendes, l'emprisonnement, la restitution, les travaux d'intérêt collectif ou toute autre mesure de nature à assurer l'observation de ces textes;

c) établir, conformément aux lois fédérales, des mesures de contrôle d'application de ces textes notamment en matière d'inspection, de perquisition, de saisie, de prise d'échantillons, d'examen et de communication de renseignements.

19.2 Les textes législatifs de la première nation peuvent, à ces fins, reproduire ou incorporer par renvoi la procédure sommaire du Code criminel.

19.3 La première nation ou le gouverneur en conseil peut nommer des juges de paix chargés d'assurer le contrôle d'application des textes législatifs de la première nation. En l'absence de juges de paix, les poursuites relatives aux textes législatifs de la première nation sont instruites devant les tribunaux provinciaux.

19.4 Il relève de la compétence du juge de paix nommé aux termes du présent article d'instruire les poursuites relatives aux infractions créées par un code foncier ou par un texte législatif de la première nation.

19.5 Les décisions du juge de paix nommé aux termes du présent article sont susceptibles d'appel devant un tribunal compétent.

19.6 La première nation est tenue de protéger l'indépendance des juges de paix qu'elle nomme, de façon analogue à ce que font les provinces, par exemple la durée de

remuneration.

19.7 The First Nation and Canada may enter into agreements for the training, supervision and administrative support for justices of the peace appointed by the First Nation. Provinces may also be parties to such agreements with First Nations.

19.8 The First Nation and Canada will enter into an agreement for the appointment, training, supervision and administrative support for any justice of the peace appointed under this clause by the Governor in Council. The affected province will be invited to participate in the development of and be a party to such agreement.

19.9 For the purpose of prosecuting offences, the First Nation will follow one or more of these options:

- (a) retain its own prosecutor;
- (b) enter into an agreement with Canada and the government of the province to arrange for a provincial prosecutor; or
- (c) enter into an agreement with Canada to arrange for a federal agent to prosecute these offenses.

20. APPLICATION OF FEDERAL LAWS

20.1 Federal laws applicable on First Nation land will continue to apply, except to the extent that they are inconsistent with the

leur mandat, leur destitution et leur rémunération.

19.7 La première nation et le Canada peuvent conclure des ententes concernant la formation, la surveillance et le soutien administratif des juges de paix nommés par la première nation. Les provinces peuvent également être parties à ces ententes avec les premières nations.

19.8 La première nation et le Canada sont tenus de conclure une entente relativement à la nomination, la formation, la surveillance et le soutien administratif des juges de paix nommés aux termes du présent article par le gouverneur en conseil. La province concernée sera invitée à participer à l'élaboration de cette entente et à être partie à celle-ci.

19.9 Aux fins des poursuites, la première nation peut se prévaloir d'une ou de plusieurs des mesures suivantes :

- a) embaucher ses propres procureurs;
- b) conclure avec le Canada et le gouvernement provincial concerné une entente prévoyant le recours à un procureur provincial;
- c) conclure avec le Canada une entente prévoyant le recours à un mandataire fédéral.

20. APPLICATION DES LOIS FÉDÉRALES

20.1 Les lois fédérales applicables sur les terres de première nation continuent de s'appliquer à celles-ci sauf dans la mesure

federal legislation.

20.2 Notwithstanding any inconsistency with the federal legislation, the Emergencies Act will apply on First Nation land, but any appropriation of an interest or land right in First Nation land under the Emergencies Act shall be authorized expressly by an order in council.

20.3 For greater certainty, and subject to Part VII, the Atomic Energy Control Act or any successor legislation continue to apply to First Nation lands.

21. INAPPLICABLE SECTIONS OF INDIAN ACT AND REGULATIONS

21.1 Once a land code takes effect, the First Nation, its members and its First Nation land will not be subject to the following:

- (a) sections 18 to 20 and 22 to 28 of the Indian Act;
- (b) sections 30 to 35 of the Indian Act;
- (c) sections 37 to 41 of the Indian Act;
- (d) sections 49, 50(4) and 53 to 60 of the Indian Act;
- (e) sections 66, 69 and 71 of the Indian Act;

où elles sont incompatibles avec la loi de ratification.

20.2 La Loi sur les mesures d'urgence est applicable sur les terres de première nation, même si elle est incompatible avec la loi de ratification. Cependant, la réquisition d'intérêts ou de droits fonciers sur les terres de première nation aux termes de la Loi sur les mesures d'urgence doit être expressément autorisée par un décret.

20.3 Sous réserve de la partie VII, il est entendu que la Loi sur le contrôle de l'énergie atomique, ou toute loi qui la remplace, continue de s'appliquer sur les terres de première nation.

21. INAPPLICABILITÉ DE CERTAINS ARTICLES DE LA LOI SUR LES INDIENS ET DES RÈGLEMENTS Y AFFÉRENTS

21.1 Dès l'entrée en vigueur de son code foncier, la première nation, ses membres et les terres de première nation, cessent d'être assujettis aux dispositions suivantes :

- a) les articles 18 à 20 et 22 à 28 de la Loi sur les Indiens;
- b) les articles 30 à 35 de la Loi sur les Indiens;
- c) les articles 37 à 41 de la Loi sur les Indiens;
- d) l'article 49, le paragraphe 50(4) et les articles 53 à 60 de la Loi sur les Indiens;
- e) les articles 66, 69 et 71 de la Loi sur les

- (f) section 93 of the Indian Act;
- (g) regulations made under section 57 of the Indian Act; and
- (h) regulations made under sections 42 and 73 of the Indian Act to the extent that they are inconsistent with this Agreement or the land code or the laws of the First Nation.

22. EXISTING FIRST NATION BY-LAWS

22.1 A First Nation will continue to have the authority under the Indian Act to make by-laws.

PART V ENVIRONMENT

23. GENERAL PRINCIPLES 23.

23.1 The council of a First Nation with a land code in effect will have the power to make environmental laws relating to First Nation land.

23.2 The Parties intend that there should be both an environmental assessment and an environmental protection regime for each First Nation.

23.3 The principles of these regimes are set out below.

Indiens;

f) l'article 93 de la Loi sur les Indiens;

g) les règlements pris en application de l'article 57 de la Loi sur les Indiens;

h) les règlements pris en application des articles 42 et 73 de la Loi sur les Indiens dans la mesure où ils sont incompatibles avec le présent accord, avec le code foncier ou avec les textes législatifs de la première nation.

22. RÈGLEMENTS ADMINISTRATIFS ACTUELS DE LA PREMIÈRE NATION

22.1 La première nation conserve le pouvoir d'adopter des règlements administratifs aux termes de la Loi sur les Indiens.

PARTIE V ENVIRONNEMENT

PRINCIPES GÉNÉRAUX

23.1 Le conseil de la première nation ayant un code foncier en vigueur a le pouvoir d'édicter des textes législatifs de nature environnementale concernant les terres de première nation.

23.2 Les Parties s'entendent pour qu'il y ait un régime de protection de l'environnement et un régime d'évaluation environnementale pour chaque première nation.

23.3 Les principes de ces régimes sont énoncés ci-dessous.

23.4 The environmental assessment and protection regimes will be implemented through First Nation laws.

23.5 The Parties agree to harmonize their respective environmental regimes and processes, with the involvement of the provinces where they agree to participate, to promote effective and consistent environmental regimes and processes and to avoid uncertainty and duplication.

23.6 This Agreement is not intended to affect rights and powers relating to migratory birds or endangered species. These matters may be dealt with in the context of other negotiations. This Agreement is not intended to determine or prejudice the resolution of these issues.

24. ENVIRONMENTAL MANAGEMENT

24.1 Subject to clause 27, a First Nation with a land code in effect will develop an environmental protection regime, with the assistance of the appropriate federal agencies to the extent that they agree to participate.

24.2 Each First Nation agrees to

harmonize environmental protection with the province in which the First Nation is situated, where the province agrees to participate

23.4 Les régimes de protection et d'évaluation environnementales seront mis en oeuvre par des textes législatifs de la première nation.

23.5 Les Parties conviennent d'harmoniser leurs régimes et processus environnementaux respectifs, en invitant les provinces à participer à cette opération si celles-ci le souhaitent, dans le but de promouvoir l'uniformité et l'efficacité des régimes et processus environnementaux et d'éviter les incertitudes et le double emploi.

23.6 Le présent accord n'a pas pour effet de modifier les droits et pouvoirs concernant les oiseaux migrateurs et les espèces en voie de disparition. Ces questions pourront faire l'objet d'autres négociations. Le présent accord n'a pas pour objet de déterminer la résolution de ces questions ou d'y porter préjudice.

24. GESTION DE L'ENVIRONNEMENT

24.1 Sous réserve de l'article 27, une première nation qui a un code foncier en vigueur élaborera un régime de protection environnementale, avec l'appui des organismes fédéraux concernés, dans la mesure où les organismes fédéraux acceptent de participer.

24.2 Chaque première nation accepte d'harmoniser son régime de protection environnementale avec celui de la province où elle est située, dans la mesure où la province accepte de participer.

24.3 The First Nation environmental protection standards and punishments will have at least the same effect as those in the laws of the province in which the First Nation is situated.

24.4 For greater certainty, if there is an inconsistency between the provision of a federal law respecting the protection of the environment and a provision in a land code or First Nation law respecting the protection of the environment, the federal provision will prevail to the extent of any inconsistency.

25. ENVIRONMENTAL ASSESSMENT

25.1 Subject to clause 27, a First Nation will, with the assistance of the Lands

24.3 Les normes de protection environnementale et les pénalités de la première nation devront avoir au moins l'effet équivalent à celui des lois de la province où se situe la première nation.

24.4 Il est entendu qu'en cas d'incompatibilité entre une disposition d'une loi fédérale en matière de protection de l'environnement et une disposition d'un code foncier ou d'un texte législatif des premières nations en matière de protection de l'environnement, la disposition fédérale l'emporte dans la mesure de l'incompatibilité.

25. ÉVALUATION ENVIRONNEMENTALE

25.1 Sous réserve de l'article 27, la première nation s'efforce, avec l'aide du

Advisory Board and the appropriate federal agencies, make best efforts to develop an environmental assessment process within one year after the First Nation's land code takes effect, or within such longer period as the Minister and the First Nation may agree to.

25.2 The First Nation and the Minister will, in the individual agreement referred to in clause 6, address how to conduct the environmental assessment of projects on First Nation land during the interim period until the First Nation's environmental assessment process is developed.

25.3 The First Nation's environmental assessment process will be consistent with requirements of the Canadian Environmental Assessment Act.

25.4 The First Nation's environmental assessment process will be triggered in appropriate cases where the First Nation is approving, regulating, funding or undertaking a project on First Nation land. The assessment will occur as early as possible in the planning stages of the project before an irrevocable decision is made.

25.5 The Parties agree that section 10 of the Canadian Environmental Assessment Act will not apply to projects located on First Nation land.

Conseil consultatif des terres et des organismes fédéraux intéressés, élaborer un processus d'évaluation environnementale dans l'année suivant l'entrée en vigueur du code foncier de la première nation ou dans un délai plus long convenu entre le ministre et la première nation.

25.2 L'accord distinct conclu entre la première nation et le ministre conformément à l'article 6 doit prévoir les modalités de l'évaluation environnementale des projets devant être réalisés sur les terres de première nation au cours de la période transitoire, jusqu'à ce que la première nation ait élaboré un processus d'évaluation environnementale.

25.3 Le processus d'évaluation environnementale mis sur pied par la première nation doit être compatible avec les exigences de la Loi canadienne sur l'évaluation environnementale.

25.4 Sera un élément déclencheur du processus d'évaluation environnementale dans les cas indiqués, tout projet sur les terres de première nation devant être réalisé, financé, approuvé ou réglementé par celle-ci. Cette évaluation doit s'effectuer le plus tôt possible au cours des premières étapes de la planification du projet avant que des décisions irrévocables ne soient prises.

25.5 Les Parties conviennent que l'article 10 de la Loi canadienne sur l'évaluation environnementale ne s'applique pas aux projets situés sur les terres de première nation.

25.6 The Parties agree to use their best efforts to implement the principle that the First Nation's environmental assessment process be used where an environmental assessment of a project on First Nation land is required by the Canadian Environmental Assessment Act.

25.7 The Parties agree to develop a plan to harmonize their respective environmental assessment processes, with the involvement of the provinces where they agree to participate.

26. OTHER AGREEMENTS 26.

26.1 The First Nation and Canada recognize that it may be advisable to enter into other agreements with each other and other jurisdictions to deal with environmental issues like harmonization, implementation, timing, funding and enforcement.

26.2 Where matters being negotiated pursuant to clause 26.1 normally fall within provincial jurisdiction, or may have significant impacts beyond the boundaries of First Nation land, the parties will invite the affected province to be a party to such negotiations and resulting agreements.

27. RESOURCES

27.1 The Parties understand that the obligation of a First Nation to establish

25.6 Les Parties s'efforceront de mettre en œuvre le principe selon lequel le processus d'évaluation environnementale de la première nation sera appliqué lorsque la Loi canadienne sur l'évaluation environnementale exige qu'un projet devant être réalisé sur des terres de première nation fasse l'objet d'une telle évaluation.

25.7 Les Parties conviennent d'élaborer un plan visant à harmoniser leurs processus d'évaluation environnementale respectifs, avec la participation des provinces si celles-ci le souhaitent.

AUTRES ENTENTES

26.1 La première nation et le Canada reconnaissent qu'il pourrait être souhaitable de conclure d'autres ententes, entre elles et avec d'autres gouvernements, dans le domaine de l'environnement, notamment au sujet des questions d'harmonisation, de mise en œuvre, de calendrier, de financement et de contrôle d'application.

26.2 Si une question faisant l'objet de négociation en vertu de l'article 26.1 relève normalement de la compétence de la province, ou si de telles questions sont susceptibles d'avoir des effets importants à l'extérieur des terres de première nation, les Parties inviteront la province concernée à être partie à ces négociations et à l'entente qui en résulte.

27. RESSOURCES

27.1 Les Parties reconnaissent qu'une première nation ne peut remplir son

environmental assessment and environmental protection regimes depends on adequate financial resources and expertise being available to the First Nation.

PART VI FUNDING

28. APPROPRIATION 28.

28.1 Any amounts provided by Canada to the First Nations pursuant to funding arrangements in relation to First Nation land shall be paid out of such moneys as may be appropriated by Parliament for this purpose.

29. DEVELOPMENTAL FUNDING

29.1 Canada and the Lands Advisory Board will enter into a funding arrangement to allow the First Nations to develop land codes and community approval processes for their land codes, to negotiate the individual agreements mentioned in clause 6 and to seek community approval under clause 7.

30. OPERATIONAL FUNDING

30.1 An individual agreement between the Minister and a First Nation will determine the resources to be provided by Canada to the First Nation to manage First Nation lands and make, administer and enforce its laws under a land code. The agreement will determine specific funding issues, for example period of time, and terms and

obligation relative à l'établissement de régimes de protection et d'évaluation environnementales que si elle dispose des ressources financières et de l'expertise nécessaires.

PARTIE VI FINANCEMENT

CRÉDITS

28.1 Les sommes versées par le Canada aux premières nations conformément aux ententes en matière de financement à l'égard des terres de première nation sont prélevées sur les crédits affectés à cette fin par le Parlement.

29. FINANCEMENT DE DÉMARRAGE

29.1 Le Canada et le Conseil consultatif des terres sont tenus de conclure une entente de financement pour permettre aux premières nations d'élaborer leur code foncier et leur processus d'approbation de la communauté relatif à ce code, de négocier l'accord distinct mentionné à l'article 6 et d'obtenir l'approbation de la communauté prévue à l'article 7.

30. FINANCEMENT DE FONCTIONNEMENT

30.1 L'accord distinct conclu entre le ministre et la première nation fixera les ressources que le Canada s'engage à fournir à la première nation pour que celle-ci gère les terres de première nation et édicte, administre et applique les textes législatifs de la première nation pris en vertu du code foncier. L'accord précisera

conditions. les

30.2 A method for allocating such operating funds as may have been appropriated by Parliament will be developed by the Parties and the Lands Advisory Board.

30.3 Unless a First Nation and Canada agree otherwise, an individual agreement respecting the provision of funding under this clause will have a maximum term of five years and will include provisions for its amendment and renegotiation.

31. LANDS ADVISORY BOARD FUNDING

31.1 Canada will enter into a funding arrangement with the Lands Advisory Board for the five year period following the coming into force of this Agreement.

PART VII EXPROPRIATION OF FIRST NATION LAND BY CANADA

32. RESTRICTIONS 32.

32.1 In accordance with the principle stated in clause 13.2, the Parties agree, as a general principle, that First Nation lands will not be subject to expropriation.

32.2 Despite the general principle against expropriation, First Nation land may be expropriated by Canada

(a) only with the consent of the

différents aspects du financement, par exemple sa périodicité et ses modalités.

30.2 Les Parties et le Conseil consultatif des terres sont tenus d'élaborer une méthode d'attribution des fonds de fonctionnement autorisés par le Parlement.

30.3 À défaut d'entente contraire de la première nation et du Canada, l'accord distinct concernant le financement prévu par le présent article sera en vigueur pour une durée maximale de cinq ans et prévoira des dispositions concernant sa modification et sa renégociation.

31. FINANCEMENT DU CONSEIL CONSULTATIF DES TERRES

31.1 Le Canada est tenu de conclure avec le Conseil consultatif des terres une entente de financement qui portera sur une période de cinq ans à partir de l'entrée en vigueur du présent accord.

PARTIE VII EXPROPRIATION DE TERRES DE PREMIÈRES NATIONS PAR LE CANADA

RESTRICTIONS

32.1 Conformément au principe énoncé à l'article 13.2, les parties conviennent qu'en règle générale, les terres de première nation ne peuvent faire l'objet d'une expropriation.

32.2 Malgré le principe général voulant que les terres ne puissent faire l'objet d'une expropriation, le Canada peut toutefois exproprier les terres de première nation, si les conditions suivantes sont

Governor in Council; and

(b) only by and for the use of a federal department or agency.

32.3 The Governor in Council will only consent to an expropriation of First Nation land if the expropriation is justifiable and necessary for a federal public purpose that serves the national interest.

32.4 When making a decision to expropriate First Nation land, the Governor in Council, in addition to other steps that may be required before making such a decision, will at a minimum follow these steps:

(a) it will consider using means other than expropriation and will use those other means where reasonably feasible;

(b) it will use non-First Nation land, where such land is reasonably available;

(c) if it must use First Nation land, it will make reasonable efforts to acquire the land through agreement with the First Nation, rather than by expropriation;

(d) if it must expropriate First Nation land, it will expropriate only the smallest interest or land right necessary and for the shortest time required; and

réunies :

a) le gouverneur en conseil y consent;

b) l'expropriation est faite par un ministère ou un organisme fédéral pour ses seuls besoins.

32.3 Le gouverneur en conseil ne consentira à l'expropriation de terres de première nation que si cela est justifiable et nécessaire à des fins d'intérêt public national relevant de la compétence fédérale.

32.4 Avant de donner son consentement à une expropriation de terres de première nation, le gouverneur en conseil, en plus des autres mesures qui peuvent être requises, prendra au moins les mesures suivantes :

a) il envisagera d'autres moyens que l'expropriation et utilisera ces moyens lorsque cela est raisonnablement faisable;

b) il utilisera des terres autres que celles d'une première nation, lorsque de telles terres sont raisonnablement disponibles;

c) s'il faut utiliser des terres de première nation, il s'efforcera de procéder à l'acquisition des terres par convention avec la première nation et non par expropriation;

d) s'il doit exproprier des terres de première nation, il veillera à ce que l'expropriation se limite au strict nécessaire, tant en ce qui touche l'étendue de l'intérêt ou du droit foncier que la

(e) in every case, it will first provide the First Nation with information relevant to the expropriation.

32.5 Prior to the Governor in Council issuing an order consenting to the expropriation of First Nation land, the federal department or agency will make public a report on the reasons justifying the expropriation and the steps taken in satisfaction of this clause and will provide a copy of the report to the First Nation.

32.6 Where a First Nation objects to a proposed expropriation it may refer the issue to an independent third party for a neutral evaluation under Part IX, within 60 days of the release of the report referred to in clause 32.5.

32.7 An order of the Governor in Council consenting to the expropriation will not be issued earlier than

(a) the end of the 60 day period referred to in clause 32.6; or

(b) the day the opinion or recommendation of the neutral evaluator is released, where the First Nation referred the proposed expropriation to an independent evaluator under clause 32.6.

33. COMPENSATION BY CANADA

période pour laquelle il est exproprié;

e) dans tous les cas, il communiquera d'abord à la première nation tous les renseignements se rapportant à l'expropriation.

32.5 Avant que le gouverneur en conseil ne prenne un décret consentant à l'expropriation de terres de première nation, le ministère ou l'organisme fédéral est tenu de publier un rapport qui énonce les motifs la justifiant et les mesures prises en application du présent article et de fournir en même temps une copie de ce rapport à la première nation.

32.6 Si une première nation s'oppose à un projet d'expropriation, elle peut, dans les 60 jours de la publication du rapport mentionné à l'article 32.5, renvoyer l'affaire à une tierce partie indépendante pour conciliation aux termes de la Partie IX.

32.7 Un décret du gouverneur en conseil consentant à l'expropriation ne sera pas émis avant :

a) soit l'expiration du délai de 60 jours prévu à l'article 32.6;

b) soit le jour où l'opinion ou la recommandation du conciliateur est publiée, si la première nation renvoie le projet d'expropriation à un conciliateur, en application de l'article 32.6.

33. INDEMNISATION PAR LE CANADA

33.1 In the event of the expropriation of First Nation land by Canada under this Part, Canada will provide compensation to the First Nation in accordance with this clause.

33.2 The compensation will include alternate land of equal or greater size or of comparable value. If the alternate land is of less than comparable value, then additional compensation will be provided. The alternate land may be smaller than the land being expropriated only if that does not result in the First Nation having less land area than when its land code took effect.

33.3 The total value of the compensation provided by Canada under this clause will be based on the following:

- (a) the market value of the land or interest or land right that is acquired;
- (b) the replacement value of any improvement to the land that is acquired;
- (c) the damages attributable to disturbance;
- (d) the value of any special economic advantage arising out of or incidental to the occupation or use of the affected First Nation land to the extent that this value is not otherwise

33.1 Si le Canada exproprie des terres de première nation sous le régime de la présente partie, il est tenu d'indemniser la première nation conformément aux termes du présent article.

33.2 L'indemnité comprendra des terres substitutives ayant une superficie égale ou supérieure ou ayant une valeur comparable à celles qui ont été expropriées. Si les terres substitutives ont une valeur inférieure aux terres expropriées, le Canada est alors tenu d'offrir une indemnité supplémentaire. Les terres substitutives peuvent avoir une superficie moindre que les terres expropriées seulement si, à la suite de l'opération, la première nation dispose d'une superficie de terres qui n'est pas inférieure à celle qu'elle avait lorsque son code foncier est entré en vigueur.

33.3 La valeur totale de l'indemnité versée par le Canada aux termes du présent article doit tenir compte des éléments suivants :

- a) la valeur marchande des terres ou de l'intérêt ou du droit foncier acquis;
- b) la valeur de remplacement des améliorations apportées aux terres acquises;
- c) les dommages attribuables au trouble de jouissance;
- d) la valeur de tout avantage économique particulier découlant ou résultant de l'occupation ou de l'utilisation des terres de première nation concernée, dans la mesure où cette valeur n'a pas déjà donné lieu à

compensated;

(e) damages for any reduction in the value of a remaining interest or land right; and

(f) damages for any adverse effect on any cultural or other special value of the land.

33.4 If the value and nature of the compensation cannot be agreed upon by the federal department or agency and the affected First Nation, either party may refer a dispute on compensation to arbitration under Part IX.

33.5 In any province or territory other than Québec, any claim or encumbrance in respect of the interest, or in Québec any right, charge or claim in respect of the land right, expropriated by Canada may only be claimed against the amount of compensation that is otherwise payable to the person or entity whose interest or land right is being expropriated.

33.6 Interest on the compensation is payable from the date the expropriation takes effect, at the same rate as for prejudgment interest in the superior court of the province in which the First Nation land is located.

34. STATUS OF LANDS

34.1 Where less than the full interest or only part of the land right of the First Nation in

une indemnité;

e) les dommages attribuables à la diminution de la valeur de l'intérêt ou du droit foncier non exproprié;

f) les dommages attribuables aux répercussions négatives sur la valeur culturelle ou toute autre valeur particulière de ces terres.

33.4 En cas de différend relatif à la valeur ou à la nature de l'indemnité, le ministère ou l'organisme fédéral ou la première nation peut saisir un arbitre de tout différend relatif à l'indemnité aux termes de la Partie IX.

33.5 Dans les provinces ou territoires autres que le Québec, le recouvrement de toute réclamation ou tout grèvement concernant l'intérêt exproprié par le Canada, ou dans la province de Québec, le recouvrement de tout droit, charge ou réclamation concernant le droit foncier ainsi exproprié, ne peut être demandé que jusqu'à concurrence de l'indemnité par ailleurs payable à la personne ou à l'entité dont l'intérêt ou le droit foncier est visé par l'expropriation.

33.6 L'indemnité porte intérêt à partir de la prise d'effet de l'expropriation, au taux applicable à l'intérêt avant jugement applicable devant la Cour supérieure de la province où sont situées les terres de première nation.

34. STATUT DES TERRES

34.1 Dans les cas où l'expropriation par le Canada porte sur moins que la totalité de

First Nation land is expropriated by Canada,

(a) the land retains its status as First Nation land;

(b) the land remains subject to the land code and to any law of the First Nation that is otherwise applicable, except to the extent the land code or law is inconsistent with the expropriation; and

(c) the First Nation may continue to use and occupy the land, except to the extent the use or occupation is inconsistent with the expropriation.

34.2 Alternate land accepted by the First Nation as part of the compensation will become both a reserve and First Nation land.

35. REVERSION OR RETURN OF INTERESTOR LAND RIGHT IN FIRST NATION LAND

35.1 In any province or territory other than Québec, where an expropriated interest in First Nation land which is less than the full interest of the First Nation in the land is no longer required by Canada for the purpose for which it was expropriated, the interest in land will revert to the First Nation.

35.1A In the province of Québec, where the expropriated land right in First Nation land constitutes only part of the land right of the First Nation in the land, and it is no longer required by Canada for the purpose for

l'intérêt ou seulement sur une partie du droit foncier de la première nation sur les terres en question :

a) les terres conservent leur statut de terres de première nation;

b) les terres demeurent assujetties au code foncier et aux textes législatifs adoptés par la première nation, sauf dans la mesure où le texte ou le code foncier est incompatible avec l'expropriation;

c) la première nation peut continuer à utiliser et à occuper ces terres, sauf dans la mesure où cette utilisation ou cette occupation est incompatible avec l'expropriation.

34.2 Les terres substitutives acceptées par la première nation comme partie de l'indemnité deviennent à la fois une réserve et des terres de première nation.

35. RÉVERSION OU RETOUR D'UN INTÉRÊT OU DROIT FONCIER SUR LES TERRES DE PREMIÈRE NATION

35.1 Dans une province ou territoire autre que le Québec, lorsque l'intérêt exproprié est moindre que la totalité de l'intérêt de la première nation sur les terres en question, cet intérêt est, lorsqu'il n'est plus nécessaire au Canada aux fins de l'expropriation, retourné à la première nation.

35.1A Dans la province de Québec, lorsque l'expropriation porte seulement sur une partie du droit foncier de la première nation sur les terres en question,

which it was expropriated, the land right will return to the First Nation.

35.2 The Minister responsible for the expropriating department or agency, without the consent of the Governor in Council, may decide that the interest or the land right is no longer required and determine the disposition of any improvements.

36. RETURN OF FULL INTEREST OR ENTIRE LAND RIGHT IN FIRST NATION LAND

36.1 Where the full interest or the entire land right of a First Nation in First Nation land was expropriated but is no longer required by Canada for the purpose for which it was expropriated, the land will be returned to the First Nation on terms negotiated by the First Nation and the federal department or agency, at the time of the expropriation or at a later date as agreed to by them.

36.2 Where the terms and conditions of the return cannot be agreed upon by the First Nation and the federal department or agency, either party may refer the dispute to arbitration under Part IX.

36.3 The Minister responsible for the expropriating department or agency, without the consent of the Governor in Council, may decide that the land is no longer required and determine the disposition of any

le droit foncier est, lorsqu'il n'est plus nécessaire au Canada aux fins de l'expropriation, retourné à la première nation.

35.2 Le ministre responsable du ministère ou de l'organisme à l'origine de l'expropriation peut, sans le consentement du gouverneur en conseil, décider que l'intérêt ou le droit foncier exproprié n'est plus nécessaire et il peut déterminer comment disposer des améliorations.

36. RETOUR DE LA TOTALITÉ DE L'INTÉRÊT OU DU DROIT FONCIER SUR LES TERRES DE PREMIÈRE NATION

36.1 Lorsque la totalité de l'intérêt ou le droit foncier entier de la première nation sur les terres en question a été exproprié et qu'il n'est plus nécessaire au Canada aux fins de l'expropriation, les terres seront retournées à la première nation selon les conditions négociées par la première nation et le ministère ou l'organisme fédéral, soit au moment de l'expropriation, soit à une date ultérieure convenue par eux.

36.2 En cas de différend relatif aux conditions du retour, la première nation ou le ministère ou l'organisme fédéral peut renvoyer l'affaire à un arbitre nommé aux termes de la Partie IX.

36.3 Le ministre responsable du ministère ou de l'organisme à l'origine de l'expropriation peut, sans le consentement du gouverneur en conseil, décider que les terres expropriées ne sont plus nécessaires

improvements.

37. APPLICATION OF EXPROPRIATION ACT

37.1 Any provisions of the Expropriation Act, (Canada) that are applicable to an expropriation of First Nation land by Canada continue to apply, unless inconsistent with this Agreement.

PART VIII LANDS ADVISORY BOARD

38. LANDS ADVISORY BOARD

38.1 The Lands Advisory Board shall consist of at least three members appointed:

(a) Prior to September 1, 2003, by the Councils of the original First Nation parties to this Agreement; and

(b) After September 1, 2003, by the Councils of the First Nations that have ratified this Agreement, whether they ratify the Agreement on, before or after that date.

38.2 The Lands Advisory Board will have all necessary powers and capacity to properly perform its functions under this Agreement.

38.3 The Lands Advisory Board will select a chairperson to preside over the Board and, subject to the direction of the Board, to act

et il peut déterminer comment disposer des améliorations apportées aux terres concernées.

37. APPLICATION DE LA LOI SUR L'EXPROPRIATION

37.1 Les dispositions de la Loi sur l'expropriation (Canada) applicables à l'expropriation de terres de première nation par le Canada continuent de s'appliquer dans la mesure où elles ne sont pas incompatibles avec le présent accord.

PARTIE VIII CONSEIL CONSULTATIF DES TERRES

38. CONSEIL CONSULTATIF DES TERRES

38.1 Le Conseil consultatif des terres sera formé d'au moins trois membres nommés :

a) avant le 1er septembre 2003 par les conseils des premières nations qui étaient parties initiales au présent accord;

b) après le 1er septembre 2003 par les conseils des premières nations qui ont ratifié le présent accord, qu'ils l'aient ratifié à cette date, ou avant ou après cette date.

38.2 Le Conseil consultatif des terres possédera tous les pouvoirs et la capacité nécessaires à l'exercice efficace de ses attributions en vertu du présent accord.

38.3 Le Conseil consultatif des terres est tenu de choisir un président qui peut, sous réserve des instructions du conseil, agir

on its behalf.

39. FUNCTIONS OF THE LANDS ADVISORY BOARD

39.1 In addition to any other functions specifically assigned to it by the Parties, the Lands Advisory Board will be responsible for the following functions:

(a) developing model land codes, laws and land management systems;

(b) developing model agreements for use between First Nations and other authorities and institutions, including public utilities and private organizations;

(c) on request of a First Nation, assisting the First Nation in developing and implementing its land code, laws, land management systems and environmental assessment and protection regimes;

(d) assisting a verifier when requested by the verifier;

(e) establishing a resource centre, curricula and training programs for managers and others who perform functions pursuant to a land code;

(f) on request of a First Nation encountering difficulties relating to the management of its First Nation lands, helping the First Nation in obtaining the expertise necessary to resolve the difficulty;

pour le compte du conseil.

39. ATTRIBUTIONS DU CONSEIL CONSULTATIF DES TERRES

39.1 Outre les autres attributions que pourraient lui confier les Parties, le Conseil consultatif des terres possédera les attributions suivantes :

a) il élabore des modèles de code foncier, de textes législatifs et de systèmes de gestion des terres;

b) il élabore des modèles d'ententes destinés à être utilisés entre les premières nations et les autres autorités et institutions, notamment les sociétés de service public et les organismes privés;

c) à la demande d'une première nation, il assiste celle-ci dans l'élaboration et la mise en oeuvre de son code foncier, de ses textes législatifs, de ses systèmes de gestion des terres, et de ses régimes de protection et d'évaluation environnementales;

d) il apporte son aide au vérificateur, à la demande de ce dernier;

e) il met sur pied un centre de ressources, des cours et des programmes de formation à l'intention des gestionnaires et des autres personnes qui exercent des attributions aux termes d'un code foncier;

f) à la demande d'une première nation qui éprouve des difficultés dans la gestion des terres de la première nation, il l'aide à obtenir l'expertise dont elle a besoin pour

(g) proposing regulations for First Nation land registration;

(h) proposing to the Minister such amendments to this Agreement and the federal legislation as it considers necessary or advisable;

(i) in consultation with First Nations, negotiating a funding method with the Minister; and

(j) performing such other functions or services for a First Nation as are agreed to between the Board and the First Nation.

39.2 The Lands Advisory Board will have authority to adopt rules for the procedure at its meetings and generally for the conduct of its affairs.

40. RECORD KEEPING

40.1 The Lands Advisory Board will maintain a record containing

(a) the name of each First Nation that approves a land code;

(b) a copy of that land code;

(c) a copy of each amendment to a land code; and

(d) the dates on which each was approved and certified.

résoudre les difficultés;

g) il propose des règlements concernant l'enregistrement des terres de première nation;

h) il propose au ministre les modifications au présent accord et à la loi de ratification qu'il estime souhaitables ou nécessaires;

i) en consultation avec les premières nations, il négocie avec le ministre un mécanisme de financement;

j) il exerce les autres attributions ou fournit à une première nation les services dont le conseil et celle-ci peuvent convenir.

39.2 Le Conseil consultatif des terres a le pouvoir d'adopter des règles de procédure pour la tenue de ses réunions et, d'une façon générale, pour l'exercice de ses activités.

40. TENUE DES DOSSIERS

40.1 Le Conseil consultatif des terres est tenu de maintenir un registre dans lequel figurent :

a) le nom des premières nations ayant adopté un code foncier;

b) une copie de ces codes fonciers;

c) une copie des modifications apportées aux codes fonciers;

d) les dates auxquelles les codes ont été approuvés et celles auxquelles leur validité a été attestée.

40.2.1 The Lands Advisory Board shall, in consultation with the Minister, prescribe procedures for a First Nation to authorize the signing of this Agreement and for the formal signature of the First Nations to this Agreement, and shall advise the Minister when a First Nation has completed the procedures.

40.2.2 Subject to sub-clause 40.2.1, a First Nation may only become a signatory under this section with the consent of Canada, and Canada shall advise the Lands Advisory Board if and when such consent is given.

40.2.3 The Lands Advisory Board shall receive and record the adhesion of a First Nation party to this Agreement, made after January 1, 2001, and advise the Minister that the said First Nation has signed the Framework Agreement.

41. ANNUAL REPORT 41.

41.1 Within 90 days following the end of each year of operation, the Lands Advisory Board will deliver to the Parties an annual report, in both official languages, on the work of the Board for that year.

41.2 The Minister will cause a copy of the Lands Advisory Board's annual report to be laid before each House of Parliament within the first 30 sitting days of that House after the Minister receives it.

42. LANDS ADVISORY BOARD NO LONGER IN EXISTENCE

40.2.1 Le Conseil consultatif des terres doit, en consultation avec le ministre, prescrire les procédures qu'une première nation doit suivre pour autoriser la signature du présent accord et les procédures régissant la signature formelle de cet accord par les premières nations et il doit aviser le ministre lorsqu'une première nation a complété les procédures.

40.2.2 Sous réserve de l'article 40.2.1, une première nation peut devenir signataire en vertu de cet article seulement avec le consentement du Canada, et ce dernier doit aviser le Conseil consultatif des terres lorsque le consentement a été accordé.

40.2.3 Le Conseil consultatif des terres doit recevoir et inscrire l'adhésion d'une première nation qui est Partie au présent accord, intervenue après le 1^{er} janvier 2001, et aviser le ministre de la signature de l'accord par celle-ci.

RAPPORT ANNUEL

41.1 Le Conseil consultatif des terres remet aux Parties, dans les 90 jours suivant la fin de son année de fonctionnement, un rapport annuel, dans les deux langues officielles, concernant les travaux accomplis pendant cette année.

41.2 Le ministre est tenu de présenter le rapport annuel du Conseil consultatif des terres aux deux Chambres du Parlement dans les 30 premiers jours de séance de chaque Chambre suivant sa réception par le ministre.

42. DISPARITION DU CONSEIL CONSULTATIF DES TERRES

42.1 In the event that the Lands Advisory Board is no longer in existence, the functions of the Lands Advisory Board under this Agreement will be performed by the Parties, except as follows:

(a) the functions set out in clauses 29 and 39, except clause 39.1(g), will be performed by the First Nations; and

(b) the functions set out in clauses 10 and 40 will be assumed by the First Nations Lands Register.

PART IX DISPUTE RESOLUTION

43. GENERAL PRINCIPLES 43.

43.1 The Parties are committed to resolving any dispute that may arise out of this Agreement among themselves, amicably and in good faith. Where they cannot resolve a dispute through negotiation, the Parties agree to establish and participate in the out-of-court processes referred to in this Part to resolve the dispute.

43.2 Nothing in this Agreement is to be construed as preventing the Parties from using mediation to assist them in reaching an amicable agreement in respect of any issue in dispute. Where a Party has referred a dispute to mediation, the other Party is obliged to attend an initial meeting with the mediator. However, either Party can end a mediation process any time after the initial meeting.

43.3 Subject to clause 43.4, any dispute

42.1 En cas de disparition du Conseil consultatif des terres, les attributions de celui-ci en vertu du présent accord seront exercées par les Parties, sous réserve des dispositions suivantes :

a) les attributions énumérées aux articles 29 et 39, sauf pour ce qui est de l'alinéa 39.1g), seront exercées par les premières nations;

b) les attributions prévues aux articles 10 et 40 seront assumées par le bureau du Registre des terres des premières nations.

PARTIE IX RÈGLEMENT DES DIFFÉRENDS

PRINCIPES GÉNÉRAUX

43.1 Les Parties s'engagent à résoudre entre elles, à l'amiable et de bonne foi, les différends qui peuvent découler du présent accord. Lorsque les Parties n'arrivent pas à s'entendre pour résoudre un différend par la négociation, elles conviennent de mettre sur pied les processus extrajudiciaires de règlement des différends décrits dans la présente partie et d'y avoir recours.

43.2 Les dispositions du présent accord n'empêchent pas les Parties de recourir à la médiation en vue de régler à l'amiable un différend. Lorsqu'une partie a soumis un différend à un médiateur, l'autre partie est tenue d'assister à une première rencontre avec le médiateur. L'une ou l'autre des Parties peut toutefois mettre fin à la médiation en tout temps après cette première rencontre.

43.3 Sous réserve de l'article 43.4, les

arising from the implementation, application or administration of this Agreement, the federal legislation, an individual agreement or an environmental management agreement may be resolved in either of two ways:

(a) Neutral evaluation - it may be referred to neutral evaluation by one party to the dispute; or

(b) Arbitration - it may be referred to arbitration by both parties to the dispute.

43.4 Any dispute respecting compensation for First Nation land expropriated by Canada or the terms and conditions for the return of the full interest or the entire land right in First Nation land will be referred to arbitration.

43.5 Any objection by a First Nation to a proposed expropriation under Part VII that has been referred to neutral evaluation will be evaluated and a report submitted by the neutral evaluator to the First Nation and Canada within 60 days of the referral to the neutral evaluator.

44. PANELS OF ARBITRATORS, ETC.

44.1 The Parties and the Lands Advisory Board will jointly establish lists of mutually acceptable persons willing to act as mediators, arbitrators, verifiers and neutral evaluators.

différents découlant de la mise en oeuvre, de l'application ou de l'administration du présent accord, de la loi de ratification, d'un accord distinct ou d'un accord en matière de gestion de l'environnement peuvent être résolus selon l'un des deux moyens suivants :

a) la conciliation — le différend peut être renvoyé à un conciliateur par l'une des parties impliquées dans le différend;

b) l'arbitrage — le différend peut être soumis à l'arbitrage par les deux parties impliquées dans le différend.

43.4 Sont soumis à l'arbitrage, les différends portant sur l'indemnité à verser par le Canada en raison de l'expropriation par celui-ci de terres de première nation, ou sur les conditions du retour de la totalité de l'intérêt ou du droit foncier entier sur les terres de première nation.

43.5 Toute opposition, par la première nation, à un projet d'expropriation en vertu de la Partie VII qui aura été porté devant un conciliateur sera évalué par ce dernier. Par la suite, un rapport sera soumis, par ce dernier, à la première nation et au Canada dans un délai de 60 jours suivant le dépôt de l'opposition devant le conciliateur.

44. LISTES D'ARBITRES, ETC.

44.1 Les Parties et le Conseil consultatif des terres sont tenus d'établir conjointement des listes de personnes mutuellement acceptables prêtes à agir en qualité de médiateur, d'arbitre, de vérificateur et de conciliateur.

44.2 Parties who become involved in a dispute may select mediators, arbitrators and neutral evaluators from the appropriate list, or may agree to the appointment of an individual who is not on the list.

44.3 The selection and assignment of verifiers and the procedure to be followed by verifiers will be arranged by the Lands Advisory Board, Canada and the First Nation.

44.4 Individuals appointed to act as mediators, arbitrators, verifiers or neutral evaluators must be unbiased and free from any conflict of interest relative to the matter in issue and have knowledge or experience to act in the appointed capacity.

45. NEUTRAL EVALUATION

45.1 Where a dispute is referred to neutral evaluation, the evaluator will where appropriate,

- (a) identify the issues in the dispute;
- (b) assess the strengths of each party's case;
- (c) structure a plan for the progress of the case;
- (d) encourage settlement of the dispute; and
- (e) provide the parties with a non-binding opinion or recommendation to resolve the dispute.

44.2 Les parties à un différend peuvent choisir, parmi ces listes, un médiateur, un arbitre et un conciliateur ou s'entendre sur la nomination d'une personne qui ne figure pas sur ces listes.

44.3 Le Conseil consultatif des terres, le Canada et la première nation choisiront les vérificateurs, définiront leurs attributions et fixeront la procédure que ces derniers doivent utiliser.

44.4 Les personnes nommées en qualité de médiateur, d'arbitre, de vérificateur ou de conciliateur doivent être impartiales et ne pas se trouver en situation de conflit d'intérêts par rapport aux questions en litige; elles doivent par ailleurs posséder la compétence ou l'expérience nécessaires pour agir en cette qualité.

45. CONCILIATION

45.1 Lorsque la situation l'exige, le conciliateur saisi d'un différend exerce les fonctions suivantes :

- a) il précise les questions sur lesquelles porte le différend;
- b) il évalue le bien-fondé des arguments des parties;
- c) il établit un plan afin de faire progresser la situation;
- d) il encourage le règlement du différend;
- e) il remet aux parties une opinion ou une recommandation non exécutoire visant à mettre fin au différend.

46. ARBITRATION 46.

46.1 Unless otherwise agreed by the Parties, each arbitration will be conducted in accordance with this clause.

46.2 The procedure will follow the Commercial Arbitration Code, which is a schedule to the Commercial Arbitration Act.

46.3 If no appropriate procedural provision is in that Code, the parties in dispute may adopt the Commercial Arbitration Rules in force from time to time of the British Columbia International Commercial Arbitration Centre.

46.4 The arbitrator will establish the procedures of the arbitration, subject to this clause.

47. RELATED ISSUES

47.1 The parties to a dispute will divide the costs of the dispute resolution process equally between themselves.

47.2 Any person whose interests will be adversely affected by a dispute that is referred to a dispute resolution process may participate in the process, if

(a) all parties to the process consent; and

(b) the person pays the costs of his or her participation, unless otherwise agreed by the other parties to the dispute.

47.3 The decision of a verifier and a

ARBITRAGE

46.1 Sauf entente contraire des Parties, l'arbitrage s'effectuera conformément au présent article.

46.2 La procédure qui sera suivie est celle du Code d'arbitrage commercial, figurant à l'annexe de la Loi sur l'arbitrage commercial.

46.3 Si ce Code ne contient pas de disposition procédurale appropriée, les parties au différend peuvent suivre les Règles d'arbitrage commercial établies à l'occasion par le British Columbia International Commercial Arbitration Centre.

46.4 L'arbitre est tenu de déterminer la procédure d'arbitrage à suivre, sous réserve du présent article.

47. QUESTIONS CONNEXES

47.1 Les parties à un différend assument les frais relatifs à sa résolution à parts égales.

47.2 Toute personne dont les intérêts seraient lésés par un différend porté devant l'un des mécanismes de règlement des différends peut participer au mécanisme de règlement si :

a) d'une part, toutes les parties au mécanisme y consentent;

b) d'autre part, cette personne assume les frais de sa participation, sauf entente contraire des autres parties au différend.

47.3 La décision du vérificateur et la

decision or award of an arbitrator will be final and binding on the participating parties.

47.4 No order shall be made, processed, entered or proceeding taken in any court, whether by way of injunction, mandamus, certiorari, prohibition or quo warranto to contest, review, impeach or limit the action of a person acting as a verifier, an arbitrator or a neutral evaluator under this Agreement.

47.5 Despite clause 47.4, judicial review may be taken under the Federal Court Act within 30 days of a decision of a person acting as a verifier, an arbitrator or a neutral evaluator under this Agreement in respect of such person exceeding his or her jurisdiction, refusing to exercise his or her jurisdiction or failing to observe a principal of natural justice.

PART X RATIFICATION AND ENACTMENTS BY THE PARTIES

48. RATIFICATION OF AGREEMENT 48.

48.1 The Parties agree that they will seek to ratify this Agreement and implement it in the following manner:

- (a) each First Nation agrees to develop a land code and to seek community approval; and
- (b) following community approval by two First Nations, Canada agrees to recommend to Parliament the

décision ou sentence d'un arbitre sont définitives et lient les parties qui ont participé aux mécanismes de règlement.

47.4 Aucune ordonnance ne peut être rendue, exécutée ou inscrite, et aucune poursuite ne peut être initiée devant une cour par voie d'injonction, de mandamus, de certiorari, de prohibition ou de quo warranto pour contester, réviser, empêcher ou limiter une mesure prise par le vérificateur, l'arbitre ou le conciliateur nommé sous le régime du présent accord.

47.5 Malgré l'article 47.4, une demande de révision judiciaire peut, dans les 30 jours qui suivent la décision prise par toute personne agissant comme vérificateur, arbitre ou conciliateur sous le régime du présent accord, être présentée en vertu de la Loi sur les Cours fédérales au motif que cette personne a outrepassé sa compétence, refusé de l'exercer ou n'a pas respecté un principe de justice naturelle.

PARTIE X RATIFICATION PAR LES PARTIES ET MESURES LÉGISLATIVES

RATIFICATION DE L'ACCORD

48.1 Les Parties conviennent de ratifier le présent accord et de le mettre en oeuvre de la façon suivante :

- a) chaque première nation s'engage à élaborer un code foncier et à le soumettre à l'approbation de la communauté;
- b) une fois un code approuvé par deux premières nations, le Canada s'engage à recommander au Parlement l'adoption

enactment of legislation.

48.2 This Agreement will be considered to have been ratified by a First Nation when the First Nation approves a land code, and to have been ratified by Canada when the federal legislation comes into force.

49. ENACTMENTS BY THE PARTIES

49.1 Canada agrees that the federal legislation that it recommends to Parliament will be consistent with and will ratify this Agreement.

49.2 In the event of an inconsistency or conflict between the federal legislation and any other federal enactment, the federal legislation will prevail to the extent of the inconsistency or conflict.

49.3 In the event of any inconsistency or conflict between the land code of a First Nation and the provisions of a First Nation law or of a by-law made by its council under section 81 of the Indian Act, the land code will prevail to the extent of the inconsistency or conflict.

PART XI OTHER MATTERS

50. LIABILITY

50.1 The First Nation will not be liable for acts or omissions of Canada or any person or entity authorized by Canada to act in relation to First Nation land that occurred before the First Nation's land code takes effect.

d'une loi de ratification.

48.2 Le présent accord sera réputé avoir été ratifié par une première nation lorsque celle-ci aura approuvé un code foncier, et il sera réputé avoir été ratifié par le Canada au moment de l'entrée en vigueur de la loi de ratification.

49. MESURES LÉGISLATIVES ADOPTÉES PAR LES PARTIES

49.1 Le Canada s'engage à ce que la loi de ratification qu'il présentera au Parlement soit conforme au présent accord et ait pour effet de le ratifier.

49.2 En cas d'incompatibilité ou de conflit entre la loi de ratification et une autre loi fédérale, la loi de ratification l'emporte dans la mesure de l'incompatibilité ou du conflit.

49.3 En cas d'incompatibilité ou de conflit entre le code foncier d'une première nation et des dispositions de ses textes législatifs ou de règlements administratifs pris par son conseil en vertu de l'article 81 de la Loi sur les Indiens, le code foncier l'emporte dans la mesure de l'incompatibilité ou du conflit.

PARTIE XI AUTRES QUESTIONS

50. RESPONSABILITÉ

50.1 La première nation n'est pas responsable des actes ou omissions du Canada ou d'une personne ou entité autorisée par le Canada à agir à l'égard des terres de première nation et qui surviendraient avant l'entrée en vigueur du

50.2 Canada will not be liable for acts or omissions of the First Nation or any person or entity authorized by the First Nation to act in relation to First Nation land that occur after the First Nation's land code takes effect.

50.3 Canada will indemnify a First Nation for any loss arising from an act or omission by Canada, or any person or entity acting on behalf of Canada, in respect of First Nation land that occurred before the First Nation's land code takes effect.

50.4 The First Nation will indemnify Canada for any loss arising from an act or omission by the First Nation, or any person or entity acting on behalf of the First Nation, in respect of First Nation land that occurs after the land code takes effect.

50.5 No action or other proceeding lies or shall be commenced against a person acting as a member of the Lands Advisory Board, a mediator, verifier, neutral evaluator or arbitrator for or in respect of anything done, or omitted to be done, in good faith, during the course of and for the purposes of carrying out his or her functions under this Agreement.

51. FIRST NATION LANDS REGISTER 51.

51.1 Canada will establish a First Nation

code foncier de la première nation.

50.2 Le Canada n'est pas responsable des actes ou omissions de la première nation ou d'une personne ou entité autorisée par celle-ci à agir à l'égard des terres de première nation et qui surviendraient après l'entrée en vigueur du code foncier de la première nation.

50.3 Le Canada s'engage à indemniser la première nation de toute perte découlant d'un acte ou d'une omission du Canada, ou d'une personne ou entité agissant pour son compte, à l'égard des terres de première nation et qui surviendrait avant l'entrée en vigueur du code foncier de la première nation.

50.4 La première nation s'engage à indemniser le Canada de toute perte découlant d'un acte ou d'une omission de la première nation, ou d'une personne ou entité agissant pour son compte, à l'égard des terres de première nation et qui surviendrait après l'entrée en vigueur du code foncier.

50.5 Aucune action ni autre procédure ne peut être intentée contre une personne agissant en qualité de membre du Conseil consultatif des terres, de médiateur, de vérificateur, de conciliateur ou d'arbitre pour avoir, de bonne foi, agi ou omis d'agir dans l'exercice de ses fonctions ou dans le but de les exercer aux termes du présent accord.

REGISTRE DES TERRES DE PREMIÈRES NATIONS

51.1 Le Canada est tenu d'établir un

Lands Register to record documents respecting First Nation land or interests or land rights in First Nation land. It will be administered by Canada as a subsystem of the existing Reserve Land Register.

51.2 A separate register will be maintained for each First Nation with a land code in effect.

51.3 The Governor in Council will be authorized in the federal legislation to make regulations respecting the First Nation Lands Register. These regulations will be developed by the Lands Advisory Board and the Minister.

52. STATUS OF DOCUMENTS

52.1 The Statutory Instruments Act, or any successor legislation, will not apply to a land code or to First Nation laws.

53. PROVINCIAL RELATIONS

53.1 Where Canada and a First Nation intend to enter into an agreement that is not referred to in this Agreement but is required to implement this Agreement and where it deals with matters that normally fall within provincial jurisdiction, or may have significant impacts beyond the boundaries of First Nation land, Canada and the First Nation will invite the affected province to be a party to the negotiations and resulting agreement.

registre des terres de premières nations où seront consignés les documents relatifs aux terres de premières nations ou aux intérêts ou aux droits fonciers sur celles-ci. Ce registre sera administré par le Canada à titre de sous-système du registre actuel des terres de réserve.

51.2 Un registre distinct sera créé pour chaque première nation ayant un code foncier en vigueur.

51.3 La loi de ratification autorisera le gouverneur en conseil à prendre un règlement concernant le registre des terres de premières nations. Ce règlement sera élaboré conjointement par le Conseil consultatif des terres et le ministre.

52. STATUT DES DOCUMENTS

52.1 La Loi sur les textes réglementaires ou les lois qui pourraient la remplacer, ne s'appliqueront pas au code foncier, ni aux textes législatifs des premières nations.

53. RAPPORT AVEC LES PROVINCES

53.1 Si le Canada et une première nation entendent conclure une entente qui n'est pas mentionnée dans le présent accord mais qui est nécessaire à la mise en oeuvre du présent accord, et si cette entente traite des questions qui relèvent normalement de la compétence des provinces ou risque d'avoir des effets importants à l'extérieur des terres de première nation, le Canada et la première nation inviteront la province concernée à participer aux négociations de l'entente ainsi qu'à l'entente qui en résulte.

54. TIME LIMITS

54.1 The time limits in this Agreement for the doing of anything may be waived on consent.

55. OTHER REGIMES 55.

55.1 Nothing in this Agreement prevents a First Nation, at any time, from opting into any other regime providing for community decision-making and community control, if the First Nation is eligible for the other regime and opts into it in accordance with procedures developed for that other regime.

55.2 Sub-clause 38.1 and clause 57 do not apply to a First Nation to which sub-clause 55.1 applies.

56. REVIEW PROCESS

56.1 The Lands Advisory Board will, on a continuing basis, consult with representatives of the Parties for the purpose of assessing the effectiveness of this Agreement and the federal legislation.

56.2 Within four years of the federal legislation coming into force, the Minister and the Lands Advisory Board or their representatives will jointly conduct a review of this Agreement. It will focus on the following issues, among others:

- (a) the functioning of land management under this Agreement;
- (b) the adequacy and appropriateness of the funding arrangements;

54. DÉLAIS

54.1 Les Parties peuvent, par consentement mutuel, renoncer aux délais prévus par le présent accord.

AUTRES RÉGIMES

55.1 Aucune disposition du présent accord n'empêche une première nation, en tout temps, d'adhérer à tout autre régime en matière de prise de décision et de contrôle par la communauté, à la condition que cette première nation soit admissible à adhérer à cet autre régime et y adhère, conformément à la procédure prévue par cet autre régime.

55.2 Le paragraphe 38.1 et l'article 57 ne s'appliquent pas à une première nation à laquelle le paragraphe 55.1 s'applique.

56. MÉCANISME D'EXAMEN

56.1 Le Conseil consultatif des terres est tenu de consulter régulièrement les représentants des Parties dans le but d'évaluer l'efficacité du présent accord et de la loi de ratification.

56.2 Dans les quatre ans de l'entrée en vigueur de la loi de ratification, le ministre et le Conseil consultatif des terres ou leurs représentants procéderont conjointement à un examen du présent accord. Cet examen portera notamment sur les points suivants :

- a) le fonctionnement de la gestion des terres aux termes du présent accord;
- b) le caractère adéquat et approprié des modalités de financement;

(c) the role of the Lands Advisory Board;

(d) whether there is a demand by other First Nations to use this Agreement;

(e) changes that may improve the functioning of First Nation land management;

(f) the dispute resolution processes; and

(g) such other issues as may be agreed to by the Parties.

56.3 Canada and the First Nations will make best efforts to complete this review within one year. Following completion of the review, the Minister will meet with representatives of the First Nations to discuss the results of the review.

57. AMENDMENTS

57.1 Until September 1, 2003, this Agreement may be amended by agreement of the parties, provided that the amendments to Part VIII may be made with the consent of Canada and 2/3 of the original First Nation parties to this Agreement.

57.2 No amendment affecting the powers, authorities, obligations, operations or operational funding of a First Nation that has ratified this agreement is effective with respect to that First Nation without the consent of that First Nation.

c) le rôle du Conseil consultatif des terres;

d) l'identification d'autres premières nations désirant se prévaloir du présent accord;

e) les changements qui pourraient améliorer le fonctionnement de la gestion des terres de première nation;

f) les mécanismes de règlement des différends;

g) toute autre question convenue par les Parties.

56.3 Le Canada et les premières nations sont tenus de s'efforcer d'achever cet examen dans un délai d'un an. À la fin de l'examen, le ministre rencontrera les représentants des premières nations pour en analyser les résultats.

57. MODIFICATIONS

57.1 Le présent accord peut être modifié jusqu'au 1^{er} septembre 2003 avec le consentement des parties, pourvu que les modifications à la Partie VIII soient apportées avec le consentement du Canada et des deux tiers des premières nations qui étaient Parties initiales au présent accord.

57.2 Aucune modification ayant une incidence sur les pouvoirs, les autorités, les obligations, les opérations ou les fonds de fonctionnement d'une première nation qui a ratifié le présent accord ne peut entrer en vigueur à l'égard de cette dernière sans son consentement.

57.3 After September 1, 2003, this Agreement, may, subject to 57.2, be amended with the consent of Canada and 2/3 of the First Nations which have ratified the Agreement, before, on or after that day.

58. RECITALS 58.

58.1 The recitals form part of this Agreement.

59. COMING INTO FORCE

59.1 This Agreement will come into force in respect of Canada and a First Nation when Canada and that First Nation both ratify this Agreement under Part X.

59.2 Despite clause 59.1, such provisions of this Agreement as are necessary to allow a First Nation to ratify this Agreement before Canada ratifies this Agreement will have effect as of the day Canada and that First Nation both sign this Agreement.

57.3 Sous réserve du paragraphe 57.2, après le 1er septembre 2003, le présent accord peut être modifié avec le consentement du Canada et des deux tiers des premières nations qui l'ont ratifié que ce soit à cette date, ou avant ou après cette date.

PRÉAMBULE

58.1 Les dispositions figurant au préambule font partie du présent accord.

59. ENTRÉE EN VIGUEUR

59.1 Le présent accord entrera en vigueur pour ce qui est du Canada et d'une première nation au moment où le Canada et cette première nation auront tous deux ratifié le présent accord conformément à la Partie X.

59.2 Malgré le paragraphe 59.1, les dispositions du présent accord nécessaires à sa ratification par une première nation avant que le Canada ne l'ait ratifié entrent en vigueur le jour où le Canada et cette première nation auront tous deux signé le présent accord.

LAND CODE SUMMARY

There are 9 Sections in this Land Code:

Part 1: Preliminary Matters

This introduces the Land Code to the reader and defines how the document should be read. There is a description of the terms that will be used in the document, an explanation of where the authority to govern comes from, what the purpose of the Land Code is and what lands the Land Code applies to (the reserve land description).

Part 2: First Nations Legislation

This section outlines what law making power the First Nation will have out of the Land Code and the procedure for how new land laws will be created and implemented (including where they will be published and when they take effect) under the Land Code.

Part 3: Community Consultation and Approvals

This section defines how and what the process is for implementing various elements of the Land Code. For example, approving a land use plan or enacting land laws requires community approval under the conditions defined in this section. Furthermore, this section touches on the procedures for a “meeting of members”, and the ratification process and approval thresholds are for passing laws or other matters such as: i.e. development of a heritage site, amendment to the Land Code, or any other matter.

Part 4: Protection of Land

This section outlines some of the key protections the Land Code offers- and the special conditions by which the First Nation could expropriate land (only by community approval through ratification vote) and the conditions for calculating compensation, but also the rights that may not be expropriated. This section also defines the necessity for a law on heritage sites, and ensures no development or amendment can be made to the land use plan to get rid of a heritage site created under this law. Finally this section states that an agreement is necessary for the First Nation to exchange land with another party (i.e. First Nation, Province, and Federal Government) and there are conditions to be met for lands to be received (such as the need for an appointed negotiator, freedom of receiving additional compensation or land in trust, and federal commitment to add any lands to the existing reserve base).

Part 5: Accountability

This section really has to do with how the Land Code is administered by First Nation including the rules for a “conflict of interest” and the duty to report and abstain from participation in land matters where there is a conflict. Also in the context of conflict of interest this section defines the non-application of these rules for common interests, dealing with disputes and penalties.

This section also applies to how financial management, audit and financial reporting will be conducted – establishing separate lands bank accounts, signing officers, bonding, signing authorities, and the adoption of the fiscal year for operations and reporting. This section also goes into detail about the specific rules for a year to year lands budget and financial policy. The

final part of this section is about financial records and the member's right to access information on year to year financial statements, audit report, the annual report on lands, and the penalties for interference or obstructing the inspection of these records by another member- and the coordination and roles responsible for creating and making these documents public (i.e. auditor and council).

Part 6: Land Administration

This section starts off by establishing the Lands Committee - it defines the composition, eligibility requirements, selection method, term of office and dealing with vacancies. This section also defines how revenue monies from lands will be handled (from fees, leases etc.), how the registration of land interests (leases, permits, licences) will be conducted and how it is captured through First Nations Land Registry System (FNLRS) and a duplicate register if directed.

Part 7: Interests in Land

This section relates more to the operation of the First Nation's lands administration and how it will address existing interests (e.g. CPs) and new land related interests (e.g. CPs or allocations). This section defines that there will need to be written documents, standards created, and that consent will be necessary to process any granting or disposing of assignments of land. This section defines the rights of CP holders and the procedure for cancelling a CP, the transfer and use of a CP, and the situation when a CP holder ceases to be a member. This section also defines the limits on mortgages and seizures, transfers upon death, and the principles for spousal property law (to be made into a Matrimonial Real Property law)

Part 8: Dispute Resolution

This section is created to address how possible disputes that could arise by any benefactor (e.g. First Nation member) of the Land Code and how the process for addressing disputes will be conducted. For example, an adjudicator would be established to resolve disputes in relation to lands unless members could come to some resolve by way of an informal resolution of disputes. The section sets out the powers for the adjudicator, adjudication procedures and decisions and the member's ability to appeal these decisions and expectations around costs.

Part 9: Other Matters

This section defines four (or more) items to address common issues such as:

1. Liability- the need for director and officers insurance for Lands Committee members,
2. Offences and enforcement- what are offences and what is the penalty,
3. Amendments to Land Code- specifically the process for amending this Land Code,
4. Commencement- defines when the actual start date will be.



| Cultural Heritage Resources Table | | |
|--|--|---|
| CHR Type | Defined (Example) | Other Information |
| Archaeological Sites and Artifacts | An archaeological site may be defined as any property that contains an artifact or any other physical evidence of past human use or activity that is of a cultural heritage value or interest. | <p>For example, village and settlement sites, camps and burial grounds.</p> <p>An artifact is any object, material or substance that is made, modified, used deposited or affected by human action and is of cultural heritage value or interest. For example tools, pottery, art or clothing.</p> |
| Ancestral Remains | Ancestral Remains refers to the discovery of previously unidentified, buried human remains that are of ancestry to a First Nation. | In most instances, the provincial authority will have law or policy in place to deal with the discovery of human remains. However, each First Nation may have its own traditional practices that require special protocols to be conducted in the event of ancestral remains discovery and subsequent handling. |
| Sacred Sites | Sacred Sites are the products of cultural and spiritual beliefs and place of practice. They may not be apparent to people not familiar with the First Nation and its traditions and customs. | Examples of sacred sites may include the locations of ceremonial practices, where rock paintings (pictographs and/or petroglyphs) exist, where transformations occur, areas said to be created or inhabited by supernatural beings, and/or birth & death sites. |
| Cultural Resources | Cultural resources include materials that are accessed for use in traditional and cultural activities. | Some cultural resources are ceremonial plants sage, sweet grass, cedar or other materials and large trees utilized in carvings for totems or to make canoes. Animals harvested for food or ceremonial processes are also considered to be cultural resources |
| Cultural Sites | Cultural sites are the locations where cultural resource harvesting and use takes place. These places | Examples of cultural sites include: moose or other animal kill sites, sites of traditional foods acquisition, locations of where medicinal plants |



| | | |
|------------------------------|---|---|
| | are commonly referred to as harvest sites or areas, although the term may be applied to other cultural activities as well. | grow and are picked and also where materials used in traditional arts and crafts are obtained and the location of spiritual practices. |
| Historic Sites and Buildings | Historic sites and buildings are often very old buildings, and the sites where significant historical events have occurred. | Structures that were built prior to a specified date, that have some cultural significance in the community or have some architecturally significant characteristics may be considered a historic or heritage building. Historic Sites may be the location of an important event. |
| Traditional Arts and Crafts | Traditional arts and crafts are considered to be a whole host of activities that are related to the making of things with one's hands and own personal skill. | Carvings, designs, weavings and paintings are all examples of traditional arts and crafts. |
| Food and Medicinal Gathering | Harvesting areas that contain concentrations of particular plant and animals often actively managed and utilized in a traditional fashion. | For example Camas, fiddleheads, various berries, bitter root, wild cucumber, wintergreen, shellfish etc. |
| First Nation Language | First Nation language contains a spiritual vibration, cultural, historical, scientific and ecological knowledge and is a key component to First Nation spiritual and cultural identity. | More than 65 dialects make up the 11 groups of Aboriginal language in Canada. Only the Northwest Territories and Nunavut give official status to native languages. |

**(insert First Nation name)
Communications Strategy
And
Workplan**

Date (insert date here)

- Title:** (insert First Nation name) Communications Strategy.
- Purpose:** To guide the overall communication program and assist in the preparation and approval of the (insert First Nation name) Land Code and Individual Agreement.
- Central Idea:** Provide timely fact based information to the (insert First Nation name) membership in order to make an informed decision on the Land Code and Individual Agreement.

Introduction

The (insert First Nation name) recognizes that membership and public communications are essential components of every initiative. As such, communication plans will be prepared for the proposed (insert First Nation name) Land Code and Individual Agreement. This will include a post community referendum evaluation in order to improve future effectiveness. These plans will follow the general format as described in this model outline.

Goals and Objectives

- Create transparency by providing timely fact-based information
- Explain the “Past, Present, and Future” of the (insert First Nation name)
- Design and implement an effective communications plan to inform the community
- Promote a free flow of information and to facilitate dialogue and networking among community members
- Enhance communications with the community, the media, and the general public
- Encourage community members to contact Land Management Administration/Committee, Chief and Council on issues that are important to them
- Inform membership and receive a positive vote at the end of the Land Management process

Strategic Issues

- Elections:** Chief and Council and the Committee need to consider the next Council elections as part of the Communications planning.
- Harvesting Season:** Need to consider harvest season from May to August. Members are often away from home in the summer months and may not be attending community meets.

Other Initiatives:

(insert First Nation name) has other initiatives that will require membership input, review and decisions. When planning communications activities, the Land Management team must consider the communications workplans from the other (insert First Nation name) groups. The following is a list of (insert First Nation name) Chief and Council initiatives:

- (These are examples only – insert ones specific to your First Nation)
- **Treaty**
- **Integrated Approach to Community Development (part is land management)**
- **Comprehensive Community Plan**
- **Specific Claims**
- **Forestry Agreement**
- **Fire Hall**
- **Education Jurisdiction**

Family Groupings:

Committee should consider meeting with representatives from each of the (insert First Nation name) family groupings as part of the communications plan.

Reading Level:

All communications products should be written at an appropriate reading level.

Assumptions

Knowledge Base

(e.g. only) 90% have no idea how land management works.

Internet Access

(e.g. only) Approximately 10% of membership has access to the internet.

(e.g. only) Approximately 70 people have emails for information.

Demographics

(Following is example only insert your First Nation's demographics)

189 - Terrace Area

(##) - Prince George

(##) - Prince Rupert

(##) - 15-29 Westbank

Age – 18-35 (etc)

Membership Issues

CP's with Band Constructed Houses on their lot, i.e. Social Housing

Saw Mill on Reserve

Gravel Extraction

Flooding

Erosion
Species at Risk
Traditional Land Holdings
Environmental Contamination
(INSERT OTHER ASSUMPTIONS)

Target Audiences

- (insert First Nation name) Members – On and Off IR
- (insert First Nation name) Staff
- General Public
- Media

Key Messages

- Land Code will get us out from under the watch of Aboriginal Affairs and Northern Development Canada in relation to Land Management. Other areas like Health, Education will remain for now.
- We need to ensure that we keep our Traditions as we move forward in the 21st Century.
- Land Code has nothing to do with:
 - Taxation
 - Treaty
 - Aboriginal Rights and Title
 - Additions to Reserve
 - Land Claims.
- Land Code Initiative is about resuming and exercising control over our Reserve Land and Resources for the benefit of enabling timely:
 - Developmental Leases
 - Business Licenses
 - Environmental Protection
 - Land Use and Occupancy regulations or Law-Making
 - other
- The final decision on the Land Code is up to the (insert First Nation name) People not Chief and Council. Nothing is finalized without membership approval.

Communications Tactics

Communications Products

- Bulletins
- Newsletters
- Fact Sheets
- Question and Answer Document(s)
- Power Point Presentations

All communications products should be personalized (individual names) and distributed to all members both on and off-reserve on a consistent basis.

Telephoning

- Telephone communication – outreach to membership both on and off reserve
- Inbound – Log calls from the (insert First Nation name) office toll free number/message centre
- Outbound Telephone Calling – outreach to membership both on and off reserve

Interactive Communications

- Website – develop website (if not already live) and update website with new and revised communications products and material
- E-mail – Establish a functional database to send the electronic versions of required material and products and updates on Land Code
- Facebook page- create a separate Facebook page to disseminate to members using Facebook

Media Relations

- Key Messages
- Backgrounders
- News Releases and Media Advisories
- Arranging print and broadcast media interviews and news coverage
- Meet with Editorial Boards

Community Meetings

- Meet with Youth, Elders, Staff
- Meetings with all (insert First Nation name) members
- Home visits as required

Communications Workplan

Before starting any process it is important to identify the Roles and Responsibilities of those who will be working on the project.

1. Address Database Management: _____
2. Communications: _____
3. Spokesperson: _____
4. Project Signing Authority: _____
5. Logistics: _____
6. Web Designer: _____
7. Telephone Team Leader: _____
8. Survey Coordinator: _____
9. Meeting Facilitator: _____
10. Ratification Officer(s): _____
11. Video: _____
12. Support Staff i.e. LABRC: _____
13. Lands Committee Chairperson: _____

Bulletins/Factsheets/Newsletters

- Research and analyse the Land Code Process
- Identify key information
- Develop, write and draft text
- Edit and finalize text
- Design layout and text placement
- Prepare postage, envelopes
- Prepare packages (fold, stuff and seal)
 - Arrange for mail out
- Arrange for delivery on reserve
- Distribute to members both on and off reserve
- Prepare material electronically for website and e-mail

Calendar of Events

- Identify who the Lands Committee would like to meet with (*elders, youth, staff, family groupings*)
- Identify Information meeting dates/times
- Prepare calendar for membership
- Distribute calendar to membership
- Identify follow-up Information meeting dates/times (*10 days before the actual vote*)
- Identify other important community meetings (not to conflict with other initiatives)

Mail out System

- Establish a functional database (name, address, sort level)
- Identify who maintains the database for constant updates and printing of labels and labelling of envelopes
- Identify who is responsible for stamping/delivering to postal outlet
- Delivery on reserve by mail and door-to-door
- Off reserve mail out (*take into account the Canada Post system in terms of business days for actual delivery - timing is important*)

Telephoning

- Contact telephone company and select the best type of Call Management Services
- Develop voice message centre that includes the following:
 - Toll free number
 - Extension business voice mail
- Identify who will update voice mail messages

- Identify who will retrieve and log voice mail messages
- Identify person to answer live calls 4 weeks before vote

Web site

- Select web designer
- Identify person to work with designer (*to coordinate, research, develop content and scan information*)
- Identify sections for website
- Identify person to receive and respond to e-mails
- Updated weekly or as required

Community Meetings

- Select facilitator
- Prepare agenda
- Develop meeting strategy and tactics
- Identify meeting length
- Identify spokesperson and other people to respond to questions
- Establish meeting guidelines
- Develop speeches and speaking points for presenters
- Prior to initial meetings review/rehearse presentation
- Identify who is responsible for coordinating and booking meetings
- Identify times, locations and dates
- If transportation for on reserve members is provided, identify pick up times and locations
- Book facilities
- Identify floor plan and set up
- Set up equipment, tables and chairs
- Select caterer and menu
- Identify person responsible for sign-in
- Identify person responsible for recoding and transcribing minutes
- Identify type of sound equipment and AV required such as:
 - Laptop computer, projection screen, sound system for recording, microphones (*standing and table*), projector for power point presentation, TV and video, writing pads, pens
- Identify who is responsible for:
 - bringing all relevant printed materials and supplies
 - storing all documentation and supplies after the meeting
 - gathering information for the meeting place
 - follow-up of questions from meetings

Video Production

- Identify person to assist with the production
- Confirm concepts, messages, and vision
- Develop outline and script
- Identify interviewees
- Identify narrator
- Identify and confirm shoots
- Edit footage and complete rough cut
- Duplicate video

Surveys

- Determine if a survey is necessary
- If yes, be specific what information you are seeking
- The survey should be clear and easy to understand
- Do a test sample on 10- 20 nation members in the community
- Canvassers 10 - 12 people (3 to people phone off reserve members) depending on the size of community. This service allows the members to have someone go through the survey and pick it up, remind them it is important for their input
- Determine who will input the results in a database
- Identify how the results will be analysed and used for the land code

Media Relations

- Identify 1 person to receive all calls from the media
- Select spokesperson
- Respond to enquires in timely manner
- Target list of media outlets to be prepared and reviewed monthly
- Facilitate relationships with local and National media
- Develop fact sheets, backgrounders, and press lines
- Write/distribute news releases, feature stories, media advisories
- Communicate directly with reporters and editors to ensure the Nation's message makes it into print and electronic media
- Create press kits and other media materials
- Arrange print and broadcast media interviews and news coverage
- Handle media inquiries and crisis communications
- Media interview training
- Design and implement inquiry tracking systems

Distribution Plan

The number and variety of communication materials will be identified for each communications tactic. Persons responsible for the distribution of specified materials will be identified, as well as where and when to distribute them.

Approval

The Chief and Council (*or its designate*) will approve the implementation of all communications tactics.

Binder of Information

- Copies of all information products for initiative
- Checklist of who was at the meetings
- Summary of who the information was sent too

Deliverables

- Key Messages
- Speeches
- Bulletin/Newsletters (4 minimum)
- Fact Sheets (9 total)
- 2-3 Question and Answer document(s)
- Power Point Presentation
- Websites (updates on a bi-monthly basis or as required)
- Database
 - Membership list of addresses
- Telephone Calling
 - log book sheets
 - script for callers
- Meetings Sheets
 - Attendance sheets
 - Questions from Members
- Calendar of Events

Education and Outreach Methods

| Method | How information is conveyed | When to use this method |
|--|--|--|
| Newsletter | Written text and graphics presented in the community newsletter. Substantial amounts of information can be conveyed, particularly if the newsletter is devoted to a single topic. Careful editing and formatting is needed. | Newsletters are a good way to keep community members up to date on all band activities. If your community has a newsletter, community members will expect information about the initiative to be included. If your community does not have a newsletter, consider creating one as a way to keep in touch with community members. |
| Notices and flyers | A one-page notice or poster that provides information about the initiative or an event. Limited detail can be provided. | Use this method when you are holding an event or requesting public input. Posting a public notice is a requirement for some activities in Part 3 of the LABRC's Model Land Code . Post the notices or flyers in public places in the community, or hand them out before scheduled events. |
| Brochures (mail outs or emails) | Information about the engagement initiative can be sent through mail or email. Limit the document to 4 pages or less. Surveys can be included in mailed documents, and links to online survey instruments can accompany emails. | This method is useful to share complex information with members. Mail drops, direct mail or email can be used for distribution. Notification by mail may be a regulatory requirement in Part 3 of the First Nation's Land Code. |
| Website | Post information about the initiative on the First Nation website or create a new website for the initiative. Update the website regularly with information and include the website address in all outreach materials. This technique can provide text, graphics and videos. | A website should support your other communication approaches. A website may be your main communication tool for reaching businesses, industry, government and many community members. However, it is important to remember that many people may not have access to the internet or may not visit the band website regularly. Regular update and maintenance of a website is essential. |

Education and Outreach Methods

| Method | How information is conveyed | When to use this method |
|----------------------------|--|---|
| Social media | Create accounts on social media sites such as Facebook or Twitter. Post updates regularly, invite informal comments, and post links to events and draft documents. The amount and type of information that can be conveyed varies with the type of social medium. | Social media can be a great way to engage youth. It may be best for announcing events, rather than conveying large amounts of information. This method may not be appropriate for communities that have limited internet access. The First Nation needs to decide when, how and for what the use of social media will be sanctioned. Staff need to be familiar with the rules of the social media and control its management. |
| Community meeting | Most communities are familiar with the use of community meetings. To be useful, such events require structure, such as a presentation about the initiative, opportunities for people to share what they think, and perhaps use of written forms. Small-group sessions may be used to allow more in-depth discussion. Food and refreshments are commonly provided. The Squamish Nation holds Family meetings as part of their community engagement. | Meetings can be used at the beginning of a process (to gain information), in the middle (to present and discuss draft documents), or at the end (to explain a decision). Meetings are a common and familiar way to engage communities. Community meetings should not be the only method of engagement, but they allow airing of community views, and discussion of different perspectives. Meetings can offer a good balance of “information out and information in.” Substantial preparation and cost may be required. |
| Advisory committees | Advisory committees are generally a small group of between 5 and 10 people who have knowledge of, or interest in, the topics under study. Members may be appointed or may volunteer. It is important that committees represent a cross section of the community. | Committees can provide detailed review comments and information in a planning process, before information is presented to the community, and can help interpret community comments after a meeting. Committees can meet frequently and regularly throughout a long process, or they may have a more limited, short-term function. |

Education and Outreach Methods

| Method | How information is conveyed | When to use this method |
|------------------------------|--|--|
| Youth committee | A youth committee can be set up for a specific initiative or meet regularly to assist in preparing laws and plans or provide ideas and feedback. | Use this method when engaging youth is a priority. A youth committee should be considered a type of advisory committee. |
| Open house | Open houses are typically held in well-known community facilities. Information displays should be provided, and staff should be on hand to answer questions. Food and refreshments are usually expected by attendees. Structured ways of collecting comments are best, whether survey forms or encouraging attendees to draw on maps. | Use this method when broad community contact is needed, and when opportunities for one-on-one discussions are desired between staff and members. Open houses lend themselves to visual presentations, using display boards to share with the community. Open houses give community members a chance to learn about an initiative, ask questions and provide comments. Open houses are more informal than a community meeting. Similar to meetings, the “fixed schedule” of an open house excludes participation by people that are unavailable for the event. |
| “Passport” activity | Hand out “passport cards” as people enter an open house. Participants will get a stamp or sticker on their passports when they participate in each activity. Activities might include picking up a pamphlet or completing a survey. After participants have collected all of the stamps, they hand in their completed passports for a chance to win a prize. | This activity works well for events where community members need to participate in several activities, particularly if the community event presents information on several different projects. |
| Displays at community events | Set up tables of board displays at community events. Provide brochures and information for people to take away. Staff may be on hand to answer questions. | Use this method to reach people that may not attend community meetings and open houses. Displays can be considered a “mini open house.” This is a good way to communicate a limited amount of information, advertise upcoming events, and to ask people to fill out surveys. |

Education and Outreach Methods

| Method | How information is conveyed | When to use this method |
|------------------------|--|---|
| Surveys | Surveys can be conducted online, at events, by mail, or in person. Surveys require careful structuring and wording, distribution to targeted groups, and attention to accuracy in collating and interpreting results. | Surveys are more cost effective than interviews, obtain information from large numbers of people quickly and avoid bias from involvement of interviewers. On the other hand, questions must be subject to short answers, and elaboration is difficult. Respondents to mail out or online surveys are “self-selected,” which influences interpretation of results. |
| Community tours | Conduct a tour of the community. A tour can be conducted by bus, walking or a caravan of cars. Record comments during the tour. At the end of the tour meet for food and refreshments, ask questions and record the discussions. | This method is useful for land use or environmental planning processes, or when visits to areas of concern are important. Organization and transportation require care, and mobility-impaired people may not be able to participate. |
| Map making | Prepare maps with information about the reserve. Ask people to write on the maps at open houses or other display locations. | This method is useful for land use and environmental planning processes. The participants can share their knowledge of the community or what they would like to see changed. Maps help people to understand spatial relationships, and can build greater understanding of reserves. |
| Interviews | Conduct interviews of community members. Sessions can be video recorded or transcribed. | This method is useful for obtaining detailed information from knowledgeable community members, such as elders. Interviews are flexible, and allow exploration of points raised during the session. Interviews require dedicated time by staff (scheduling, conducting, transcribing and interpreting results) and the interviewee. Interviewers should be trained in proper technique. |

Education and Outreach Methods

| Method | How information is conveyed | When to use this method |
|-------------------------|---|--|
| <p>Video</p> | <p>Record interviews with elders and other community members. Take footage of community events and the reserve lands. Produce an educational video to increase community awareness.</p> | <p>Videos are a great way to engage community members in learning about complex topics. Video can provide a record of community events, and can be displayed through CDs, Internet or television.</p> <p>Production and editing can be time-consuming and expensive. Technical skill and access to appropriate cameras and computer hardware and software are required.</p> |
| <p>Workshops</p> | <p>A workshop engages participants in discussions of issues, and can impart knowledge and explore concepts.</p> | <p>Workshops are valuable to building understanding about complex issues, obtaining in-depth input, and seeking agreement on solutions. Participants have time to discuss issues with each other and the workshop leaders. Workshop sessions sometimes follow an information presentation. Greater individual participation can be achieved in workshops than in large group presentations or open houses.</p> |

Education and Outreach Strategy Worksheet Sample

| Step | Title | Description | Sample Question | Tip | FN Answer |
|------|--|---|--|---|-----------|
| 1 | Determine regulatory requirements | Before beginning the engagement process, determine if there are regulatory requirements associated with community involvement for the topic being considered. | <ul style="list-style-type: none"> Is a vote required? Is a meeting of members required? Is member discussion required? What role does the lands committee have? How much advance notice do community members need before the initiative is considered by Chief and Council? Is a mail out notice required? Is posting in public places required? | <p>Look at the First Nation Land Code for answers. (e.g. LABRC Model Land Code Section 12 to 15)</p> <p>It would be prudent for the Lands Governance Director to make note of the types of laws that require community input, community approval or a ratification vote.</p> <p>Review the Centre for First Nation Governance's Strategic Communications Plan Template to assist you in developing a communication strategy</p> | |
| 2 | Prepare a plan for education and outreach | <p>The engagement plan can help to organize people involved in the education and outreach work, and can be used to seek approval of the plan from Council. The plan should describe the following points:</p> <ul style="list-style-type: none"> Purpose Target Audience Communication Methods Timeline Roles and Responsibilities Budget Evaluation Process | <p><u>Purpose</u></p> <ul style="list-style-type: none"> What is the purpose of conducting an outreach and education program for this project? What does the initiative intend to achieve? How do we determine community values and obtain community knowledge? How do we reach a cross section of the target audience? | <p>The Education and Outreach program may be mandatory according to a First Nation Land Code that is in effect.</p> | |

Education and Outreach Strategy Worksheet Sample

| Step | Title | Description | Sample Question | Tip | FN Answer |
|------|--|---|---|--|-----------|
| 2 | Prepare a plan for education and outreach | Ensure that these groups and individuals are well represented in the process. | <p><u>Target Audience</u></p> <ul style="list-style-type: none"> Who needs to be engaged? (Be specific) Who might be affected? Who has useful knowledge? | <p>Could be entire community or specific groups (e.g. youth, elders, Third Parties, traditional users etc.)</p> <p>Engage youth by involving them in the project, planning youth only events or use social media etc.</p> <p>Focus on community members who have first-hand traditional understanding, speak the language and have experience of the land.</p> | |
| 2 | Prepare a plan for education and outreach | <p>Communication methods should be tailored to the target audience.</p> <p>In most situations, several methods should be used. Different methods may be needed for different target groups.</p> <p>Some people prefer receiving mail-outs or emails, whereas others like to attend community meetings.</p> <p>Review the effectiveness of previous community engagements.</p> | <p><u>Communication Methods</u></p> <ul style="list-style-type: none"> How will the outreach effort engage each target audience? Ask the community how they prefer to be engaged through a survey. What type of information you need from the community What information you want to share with the community Is the information clear and are the questions concrete and relevant? | <p>Depends on:</p> <ul style="list-style-type: none"> Regulatory requirements Direction from Council Available funding Size, demography & location of the target audience Types of information you need from the community (“information in”) Types of information you want to share with the community (“information out”) The education level of the target audience, and their preferred method of communication <p>Consider setting up an advisory committee to review information before it is presented to community members.</p> | |

Education and Outreach Strategy Worksheet Sample

| Step | Title | Description | Sample Question | Tip | FN Answer |
|------|--|---|---|--|-----------|
| 2 | Prepare a plan for education and outreach | <p>Timelines will need to coincide with the timelines and activities specified in the First Nation Land Code</p> <p>Ensure that community members have sufficient time to provide comments, request revisions to documents, and complete surveys.</p> | <p><u>Timeline</u></p> <ul style="list-style-type: none"> When will each component of the strategy occur? When is fishing, hunting etc. season? | <p>Do not plan community engagement when many community members will likely to be unavailable, such as during traditional fishing and hunting periods or holidays.</p> <p>Allow sufficient time to notify members before events, and include time to allow members to provide comments after events.</p> | |
| 2 | Prepare a plan for education and outreach | <p>A staff person or consultant will likely be needed to coordinate the communications activities.</p> | <p><u>Roles and Responsibilities</u></p> <ul style="list-style-type: none"> Who is responsible for implementing each part of the strategy? Do you need a communications staff person to coordinate the strategy? Which staff (e.g. Lands) needs to be involved? Should staff from other departments be involved? | <p>Base staffing needs by size and complexity of the project.</p> | |

Education and Outreach Strategy Worksheet Sample

| Step | Title | Description | Sample Question | Tip | FN Answer |
|------|--|--|--|---|-----------|
| 2 | Prepare a plan for education and outreach | Develop a realistic budget for the strategy. | <p><u>Budget</u></p> <ul style="list-style-type: none"> What is the staff/consultant cost? What is the cost of printing material, mail outs, web-design etc.? What are event costs (e.g. hall rental)? What are the costs to collating, analysing, and reporting information from participants? | <p>Organize events with other FN departments to make efficient use of scarce funds and staff.</p> <p>The funding for these activities can come from several possible sources:</p> <ul style="list-style-type: none"> FN operating budget, depending upon the structure of the First Nation Grants (foundations, corporations or government) Government funding A developer (through fees) or as project costs for community involvement in development review | |
| 2 | Prepare a plan for education and outreach | Evaluation needs to determine whether or not your communication strategy is working or where it needs improvement. | <p><u>Evaluation Process</u></p> <ul style="list-style-type: none"> How will the success of the communications strategy be evaluated? | | |
| 3 | Approve the Plan | Ensure the plan gets the required review, budget and approval. | <ul style="list-style-type: none"> Who should review and approve the engagement plan? | <ul style="list-style-type: none"> Whomever the LGD reports (Chief Operating Officer, Band Manager, Council) should review the engagement plan and seek their approval (as there will be a budget needed for this plan) The engagement plan may involve other FN departments and or Council, therefore, they should review and approve the plan. | |

Education and Outreach Strategy Worksheet Sample

| Step | Title | Description | Sample Question | Tip | FN Answer |
|------|---|---|--|--|-----------|
| 4 | Implement the education and outreach program | <p>The “Education and Outreach Method” document provides a list of methods for conducting education and outreach activities.</p> <p>Talk to other departments or Lands Governance Directors from other First Nations to find what methods they have tried and how the methods work.</p> | <ul style="list-style-type: none"> What methods worked (Ask other departments)? Did serving food get people out to the meetings? Did we need to offer shuttles to events? | <p>Determine the cost for Serving food and refreshments and weigh the turnout to the cost.</p> <p>Go to the LABRC website for more samples of communication tools.</p> | |
| 5 | Share the findings | <p>Share the results of the outreach and education program with staff in other departments, Chief and Council, the Lands Management Committee, and other people working on the law, policy or plan. Community members will also be interested in hearing the results.</p> | <ul style="list-style-type: none"> Who should we share the findings with? How will we share the findings? | <p>For large projects that could affect many people and that have substantial community outreach, it may make sense to hold a final community meeting to present the results of the initiative.</p> <p>For smaller projects, a mail out to members or summary in the community newsletter may be sufficient.</p> | |

Education and Outreach Strategy Worksheet Sample

| Step | Title | Description | Sample Question | Tip | FN Answer |
|------|-----------------------------|---|---|--|-----------|
| 6 | Evaluate the results | <p>Evaluation allows the First Nation's staff to learn from the successes and failures of an education and outreach initiative.</p> <p>Information on effectiveness can be obtained from surveys distributed at the end of community events to find out what participants liked and disliked about the event.</p> | <ul style="list-style-type: none"> What type of evaluation tool to use? What were the successes? What were the failures? | <p>Debriefing meetings can be held with staff and consultants involved in the initiative.</p> <p>Record peoples' thoughts on what worked well and what did not. Produce a short report that documents the results of the evaluation.</p> | |



Key Considerations in Traditional Information Collection

There are a few different aspects to be considered in the collection of traditional information. These best practices may assist in making the process smoother and the results the most desired¹.

- Include a clear definition for the purpose of collecting the traditional knowledge. This should be communicated to the Community members who are being engaged in the process through a written agreement, such as a Terms of Reference. A clear definition also assists in ensuring that the desired results are obtained in the data collection;
- Clearly identify the methodology that will be followed in the information gathering, including details on how the research will be collected. A clear methodology assists in reducing the amount of overall errors and increases the likelihood of getting the most information out of the interviews with Traditional Knowledge Holders. You may want to consult with your community Elders as you develop the methodology;
- Clearly identify the roles and responsibilities of the researchers and community in the review of research, reports, progress reports, newsletters and other research documents. Once this has been identified it should be communicated to the community to decrease any confusion about roles and responsibility. This may be done through a document such as the Terms of Reference for the study and should include appropriate timelines and “milestones” such as reporting or meeting dates;
- Determine a fee structure, honorarium and stipends for elders, community researchers and other participants, prior to any work commencing;
- Outline the expected benefits and research outcomes for the community and researcher, and allocation of any additional benefits;
- Include in the Terms of Reference specific details on what the researcher will provide to the community: reports, data, research notes, videos, tapes, photographs, collections (e.g. medicine plant samples), and other materials;
- Through the written Terms of Reference clearly outline and identify the researcher’s and community’s rights to the final product (reports, discoveries, intellectual property, traditional knowledge), collections and discoveries and the researcher’s and community’s rights to copyrights, licensing and patents;

¹ (Tobias, 2000)



- Determine how the gathered information will be handled, stored and used by the First Nation. This is where the matter of intellectual property rights becomes significant. Perhaps the First Nation may want to strongly consider developing some policies and procedures that clearly define how traditional information is handled, stored, maintained and used once it has been received from community members. A consideration may also want to be made on who will have future access to the information that has been collected. This also includes information about sensitive sites. It is in the best interest of the community to store information in a manner that makes it most useable in the future. For example, traditional information can be used in so many other governance and management issues that the ability to retrieve it quickly and with ease becomes necessary;
- Recognition of ownership of Cultural Heritage Resources and determination of any necessary provisions for access or restriction to privileged and/or sacred knowledge.

Law Making Guide: ***Framework Agreement First*** **Nations**



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INTRODUCTION

The purpose of this workshop is to provide some guidance to First Nations in developing and drafting laws. The power to make laws is limited to governmental authorities and, in general, the overall approach to the development of laws is similar in all forms of democratic government whether First Nation, provincial, federal or municipal.

The workshop is divided in four parts: Part 1 begins with an outline of the legal system in Canada, followed by a discussion in Part 2 of the authority of governments to make laws with particular emphasis on First Nation government law-making authorities. Part 3 discusses the need for laws, alternatives to laws, the factors to be considered in developing laws and the limits to making a law. Finally, Part 4 of the workshop is concerned with some of the technical aspects of organizing and writing laws.

Participants will also develop and draft an outline of a short law during the course of the workshop based on these materials.

What is a Law?

Legislation or statutes are laws made by governments. A law is a rule or rules of conduct which are approved and enforced by governments over a certain territory. Laws are administered by the government and the courts interpret and apply these laws. In addition, courts have developed the “common law”, which consist of rules of conduct based on precedents developed over many centuries by the courts. For example, the law of contracts and negligence are rooted in the common law. Similarly the legal nature of aboriginal and treaty rights is of common law origin.

PART 1: OUTLINE OF THE CANADIAN LEGAL SYSTEM

“If we desire respect for the law, we must first make the law respectable.”

- Louis D. Brandeis

Canada is governed by a constitution which is composed of many documents and laws – the Royal Proclamation of 1763 for example. Generally, the structure and authority of government in Canada is found in the *Constitution Act, 1867*. The *Act* distributes the legislative powers of Canada between the Parliament of Canada and the legislatures of the provinces (Part VI, sections 91 to 95). The legislatures of the territories exercise legislative authority through delegation from the Parliament of Canada.

Canada's system of responsible parliamentary government is based on the rule of law. This means that laws must be made in conformity with the Constitution. The Crown retains very few regulatory powers that are not subject to the legislative or law-making process. For example, regulations governing the issuance of passports or medals and honours are still made under the royal prerogative.

Law-making authority in Canada is subject to a number of constraints. Firstly, Parliament and the provincial legislatures are limited by the constitutional distribution of powers under the *Constitution Act, 1867*. Section 91 of the *Act* identifies specific areas over which the federal government has exclusive legislative power (i.e. criminal law and procedure, trade and commerce, copyrights, and national defence etc.). It also provides for federal responsibility over any other areas not exclusively given to the provinces. Section 92 of the *Act* identifies specific areas over which the provincial governments in Canada have legislative power (i.e. property and civil rights, administration of justice, education, health, and welfare, etc.).

These governments are also constrained in their law-making powers by the existing Aboriginal and treaty rights recognized and affirmed by section 35 of the *Constitution Act, 1982*, and by certain other constitutional provisions. Particularly important to Aboriginal peoples is subsection 91(24) of the *Constitution Act, 1867*, which gave the federal government jurisdiction over "Indians, and Lands reserved for the Indians". The federal government used this authority in the early years of Confederation to conclude a series of numbered treaties in western Canada. This continued the British policy, set out in the Royal Proclamation of 1763, of making treaties with the Indians occupying the land which settlers wished to develop.

Lastly, governmental law making powers can be limited by the *Canadian Charter of Rights and Freedoms* (the Charter). The constitution has been amended several times, most recently by the *Constitution Act, 1982*. Section 25 of the Charter guarantees that its rights and freedoms shall "not be construed so as to abrogate or derogate from any

Aboriginal, treaty or other rights or freedoms that pertain to the Aboriginal peoples of Canada".

The 1982 amendment also included section 35 which recognizes and affirms "existing Aboriginal and treaty rights". The Supreme Court of Canada has interpreted "existing" as meaning "existing in 1982".

A. A law must conform to the Charter & the Bill of Rights and must not be inconsistent with the Principles of Natural Justice

All legislation in Canada, whether federal, provincial or local, and whether statute, regulation or by-law, must conform to the *Canadian Charter of Rights and Freedoms (The Charter)*. In addition, all federal legislation enacted after 1971 must conform to the *Canadian Bill Of Rights (the Bill of Rights)*. Thus, First Nation Council laws must also conform to both the *Charter* and the *Bill of Rights*.

When considering laws, it is useful to be aware of the following rights created by the *Charter* and the *Bill of Rights*.

B. It is unlawful for a law to authorize discriminatory treatment of any individual, particularly on grounds of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability

The *Charter* and the *Bill of Rights* limit the authority of all legislatures, including First Nation Councils, to prescribe special treatment for particular groups unless there is a strong justification for doing so.

Section 15 of the *Charter* provides that every individual is equal before and under the law, and has the right to the equal protection and equal benefit of the law without discrimination. In particular, it states that there must not be discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

A law cannot, on the grounds set out in the *Charter*, or on "analogous" grounds that relate to the "personal characteristics" of an individual, impose a burden, obligation or disadvantage on one individual or group that is not imposed on others. Nor can it withhold from a particular group or individual access to opportunities, benefits or advantages that are available to others.

With respect to infringements of section 15 of the *Charter*, a First Nations Council may enact a law that imposes a limitation of rights so long as it meets certain requirements. A Council may draw distinctions among various situations or groups of people (virtually all laws do), but not where that would amount to "discrimination". Even where discrimination occurs, a Council may sometimes be able to justify it under section 1 of the *Charter* as a reasonable limitation prescribed by law in a free and democratic society. Any such limitation should be set out in the law as clearly as possible and the

Charter right should be limited only as much as is necessary to accomplish the objectives of the law.

For example, a Council may extend broader rights to band members than to visitors or other residents who are not band members to reside, hunt or fish on a reserve. If this were contested in a court, a prosecutor would submit that the different treatment is based on aboriginal or treaty rights; or, based on constitutional and legislative policy rooted firmly in Canadian history to set aside reserves for the benefit of Indian Bands and their members. As such, the prosecutor would argue, it does not "discriminate" or, alternatively, it is reasonably justified under section 1 of the *Charter*.

On the other hand, it is inappropriate in many other instances to draft laws which distinguish between band members and those who are not members. For example, laws made for the observance of law and order or for the prevention of disorderly conduct and nuisances should treat band members and all others on reserve in a similar manner.

The Bill of Rights

The *Bill of Rights* also recognizes the right of an individual to equality before the law and to the protection of the law without discrimination. This legislation provides a more limited equality protection than does the *Charter*; it identifies only the following grounds of prohibited discrimination: race, national origin, colour, religion and sex. Moreover, it applies only to federal legislation made after 1971 - the date the *Bill of Rights* was passed.

C. A law must respect a person's freedom of conscience, religion, thought, belief, opinion, expression, peaceful assembly, and association

These fundamental freedoms are guaranteed by section 2 of the *Charter* and section 1 of the *Bill of Rights*. Courts have clarified the nature of some of these freedoms, while others still require clarification.

As with the equality rights discussed above, these fundamental freedoms are subject to the reasonable limitations of section 1 of the *Charter*.

i. Religion, Thought and Belief

The essence of the concept of freedom of religion is the right for a person:

- to entertain chosen religious beliefs;
- to declare them openly; and

- to demonstrate religious belief by worship and practice or by teaching and dissemination.

If either the purpose or effect of a law is to limit this freedom unreasonably, a court could declare the law null and void.

Laws regulating the sale of wares and merchandise or other commercial activities or prohibiting games or amusements on Sundays could give rise to infringements of the freedom of religion of those who recognize another day as their day of worship.

ii. Expression

Freedom of expression extends to all forms of expression. It includes "political expression", in other words, the right to express one's opinion on public issues. It also includes "commercial expression", such as the right of vendors to advertise their wares.

Restricting access to public institutions, such as band government meetings or administrative hearings, or restricting access to certain gatherings on a reserve, are examples of regulatory action by a First Nation Council in which freedom of expression could become an issue if it were to inhibit comment on the band political process. Laws excluding from the reserve as trespassers, persons who represent a particular point of view on a political issue, or prohibiting as disorderly conduct the making of speeches on political issues, could potentially give rise to infringements of freedom of expression.

Laws controlling how hawkers and peddlers communicate information, or prohibiting certain forms of artistic expression in public games and amusements, may also give rise to infringements of freedom of expression.

Depending on the wording and impact of the provision, courts might consider such laws to unreasonably limit the freedom to communicate thoughts and opinions.

iii. Peaceful Assembly and Association

Freedom of peaceful assembly and freedom of association are related concepts. They permit individuals to join together in a collective purpose, whether it be attendance at a political meeting, or an agreement to belong to and to participate in a political organization or a business or social relationship. Subject to reasonable limits, groups of individuals are free to join together in the pursuit of objectives and activities that any individual may lawfully pursue alone.

First Nation Councils must take these freedoms into consideration when making laws for:

- the observance of law and order;
- preventing disorderly conduct;

- controlling and prohibiting games and public amusements; and
- regulating commercial activities.

Courts could require councils to justify as reasonable any restrictions in their laws that are placed on individuals joining together. Justifications may include public health or safety, public order or some other important public interest.

D. A law must respect people’s rights to life, liberty and security of the person, and their rights to the enjoyment of property, and may only deprive people of these in accordance with the Principles of Fundamental Justice

Both section 7 of the *Charter* and section 1 of the *Bill of Rights* protect the right to life, liberty and security of the person. Only the *Bill of Rights* protects the right to enjoyment of property.

i. Life, Liberty and Security of the Person

The protection in section 7 of the *Charter* goes beyond the protection of liberty and security from physical restraint. It can extend to health or even economic interests, as long as the restriction involves a threat to physical or mental integrity.

For example, an affected individual could challenge a zoning or building restriction that has the effect of preventing individuals from adequately securing their own safety or that of their children. In this regard, one court has struck down the manner in which a municipal by-law regulated the height of fences. Similarly, a court might view a by-law that authorizes the use of a dangerous chemical to control noxious weeds as infringing upon a section 7 right.

ii. Property

Although the *Charter* does not protect property interests, section 1(a) of the *Bill of Rights* does. Therefore, it is suggested that a law giving authority to use, confiscate, detain or destroy private property in order to protect the band from a contagious or infectious disease should contain a provision requiring payment of adequate compensation to an affected person for depriving that person of the enjoyment of the property that he or she was lawfully using at the time.

iii. Natural Justice

Finally, laws cannot abolish the **procedural** protections that the law extends to ensure that any decisions depriving people of life, liberty or security of the person, or of property rights, are made in accordance with fundamental justice. The main rules of natural justice to be followed are:

- to act fairly;

- to act in good faith;
- to act without bias;
- to objectively review all facts and circumstances (to use sound judgment);
- to give all parties opportunities to adequately state their cases;
- right to receive notice;
- right to know case against the party; and
- right to be represented by counsel.

Normally, a law should only give a band official the power to refuse or revoke a commercial licence or destroy or damage someone's property (for example, in order to eradicate disease or noxious weeds) if the person affected is given a reasonable opportunity to object, either orally or in writing, before the decision is carried out.

This principle, sometimes referred to as the right to "fundamental justice", "natural justice", or "due process", also requires that the circumstances of a decision must not give rise to a "reasonable apprehension of bias", such as the appearance of conflict of interest. For example, a law should not authorize a person with a financial stake in the matter, or with a family tie to one of the parties, to decide a zoning application or appeal.

Courts will apply these principles even where a law is silent as to procedure. Nevertheless, First Nation Councils should strive as much as possible to make procedural safeguards explicit in their laws for the guidance of those subject to them as well as those who apply or enforce them.

E. A First Nation Council must respect people's rights to be secure against unreasonable search or seizure

When making laws, First Nation Councils must be cautious about matters such as authorizing searches of premises or vehicles, requiring the mandatory inspection or production of documents and authorizing the seizure or removal of any form of property or documentation. This is because section 8 of the Charter gives everyone "the right to be secure against unreasonable search or seizure."

Generally speaking, an entry onto the private property of an individual in order to conduct a search or seizure requires greater procedural protection than when merely demanding that a person produce business records. A warrant issued by a justice of the peace or judge is almost always required. Only in exceptional circumstances, such as for the urgent protection of health or public safety, would an intrusion into a private home be lawful without a warrant.

A First Nation Council law can, to some extent, regulate search or seizure as an aspect of the process of gathering evidence to be used in a prosecution under the law. Evidence gathering is a procedural matter to which the summary conviction provisions of the *Criminal Code* apply exclusively. Under those provisions, an enforcement officer requires a search warrant. There are a few exceptions to this rule, but before any by-law enforcement officer seizes goods or evidence they should check with the First Nation

legal advisor to determine the legality of their actions and to minimize their personal liability for wrongful seizure or detention.

F. A law must respect people's rights not to be arbitrarily detained or imprisoned

Section 9 of the *Charter* protects individuals from arbitrary detention and imprisonment. Detentions for specific reasons, for example, to check drivers' licences, driver sobriety or the mechanical fitness of a vehicle, are not arbitrary detentions as long as persons are not detained for questioning on unrelated matters.

While courts have decided that random checks of motor vehicles infringe upon section 9 rights, courts have also said that they are justified under section 1 of the *Charter* as reasonable measures to achieve safety on highways.

Importance of these legal principles

Respect for the preceding principles becomes particularly important if a law is challenged in court. A law that does not conform to these rules may be vulnerable to such a challenge and may be struck down. This being the case, First Nation Councils will want to keep in mind all of the principles discussed in this session when drafting laws, the subject of the next session.

PART 2: FIRST NATION LAW-MAKING AUTHORITY

“Common sense often makes good law.”
– William O. Douglas

As previously mentioned, Section 91 of the Constitution Act identifies specific areas over which the federal government has exclusive legislative power. Under its constitutional authority in section 91(24) of the *Constitution Act, 1867*, the federal government enacted the first *Indian Act* in 1876. It has been revised a number of times since then.

A. Indian Act

Today, the *Indian Act* is the main legislation dealing with the federal government's responsibility to, and jurisdiction over, Indians and lands reserved for Indians. It contains many provisions which are specific to Indians, including:

- a scheme for the holding of land on reserves;
- a Band membership system;
- a succession law system (wills and estates);
- an electoral system for Band Councils;
- an outline of the authority of these councils, including the right to make by-laws in certain areas;
- provisions regarding schools for Indians; and
- many other matters.

Regulations

In addition, the Governor in Council (the federal Cabinet) may make regulations concerning a number of subjects. The primary source of authority for these regulations is found in section 73 of the *Indian Act*.

Examples of regulations you may be familiar with are the *Indian Reserve Traffic Regulations*, the *Indian Band Election Regulations*, the *Indian Reserve Waste Disposal Regulations*, the *Indian Band Council Procedure Regulations* and the *Indian Estates Regulations*.

B. Framework Agreement on First Nation Land Management

The *Framework Agreement on First Nation Land Management* was signed by the Minister of Indian Affairs and Northern Development and 13 First Nations on February 12, 1996. The *Framework Agreement* sets out the principal components of this new land management process, but it is not a treaty and does not affect treaty or other constitutional rights of the First Nations. The Agreement has been ratified and

implemented by Canada in the *First Nations Land Management Act*, assented to June 17, 1999.

The *Framework Agreement* provides that First Nations who are listed in the Schedule to the federal Act have the option to manage their reserve lands outside the *Indian Act*. The option to regain control of their land can only be taken with the consent of the community. Federal administration of its reserve lands cease under the *Indian Act* when each of these First Nations takes control of its lands and resources under the Agreement by community approval of a land code.

A First Nation signatory to the *Framework Agreement* exercises its land management option by creating its own Land Code, drafting a community ratification process and entering into a further Individual Transfer Agreement with Canada. The specific steps are set out in the *Framework Agreement* and include the following:

The Land Code

A Land Code, drafted by the community, is the basic land law of the First Nation and replaces the land management provisions of the *Indian Act*. The Minister of Indian Affairs and Northern Development will no longer be involved in the management of the First Nation's reserve lands. The Land Code does not have to be approved by the Minister.

The Land Code is drafted by each First Nation and provides for following matters:

- identifies the reserve lands to be managed by the First Nation (called "First Nation land");
- sets out the general rules and procedures for the use and occupation of these lands by First Nation members and others;
- provides financial accountability for revenues from the lands (except oil and gas revenues, which continue under federal law);
- provides the procedures for making and publishing First Nation land laws,
- provides conflict of interest rules;
- provides a community process to develop rules and procedures applicable to land on the breakdown of a marriage;
- identifies a dispute resolution process;
- sets out procedures by which the First Nation can grant interests in land or acquire lands for community purposes;
- allows the delegation of land management responsibilities; and
- sets out the procedure for amending the Land Code.

The Land Code is the main document that must be referred to before developing and drafting a First Nation land law, as it provides for the authority and procedure to make the law.

Individual Transfer Agreement

An Individual Transfer Agreement between each community and the Minister will be negotiated to deal with such matters as:

- the reserve lands to be managed by the First Nation;
- the specifics of the transfer of the administration of land from Canada to the First Nation; and
- the operational funding to be provided by Canada to the First Nation for land management.

Community Ratification Process

In order for the First Nation to assume control over its lands, the Land Code and the Individual Transfer Agreement must be ratified by the adult members of the First Nation. All members of the First Nation who are at least 18 years of age, whether living off-reserve or on-reserve, have the right to vote on the Land Code and the Individual Transfer Agreement. The procedure for the community ratification process is developed by the community in accordance with the *Framework Agreement*.

A Brief Note on How Provincial Laws May Apply to Reserve Lands

Recall, as well that Section 92 of the *Constitution Act, 1867* identifies specific areas over which the provincial governments in Canada have legislative power. The extent to which provincial laws apply on reserves is also the subject of much legal and judicial debate. The following attempts to summarize the present state of the law, but is not intended to be a complete or conclusive statement.

General Rule

Generally speaking, a provincial law will apply on reserve if the province had the constitutional authority to pass it and if the law is otherwise valid and applicable throughout the province. Examples of provincial constitutional authority are child welfare, labour relations, insurance, contracts, corporations, most aspects of family law and the regulation of professions and trades.

At one time, some judges thought that provincial laws did not apply on reserves. In 1974, the Supreme Court of Canada, in the *Cardinal v. A.G. Alberta* case, changed this view. It declared that, while a province may not legislate on a subject matter given **exclusively** to the federal government, provincial legislation enacted under a heading of section 92 of the *Constitution Act, 1867* does not become invalid just because it affects something which is subject to federal legislation.

In 1986, the Supreme Court of Canada, in the case *Dick v. R.*, stated that provincial laws of general application apply to Indians if they do not affect or touch on their "Indianness". Traffic and family laws are examples of provincial laws which do not touch on "Indianness" in their application.

Extension of the General Rule – Section 88

Even where a provincial law may single out Indians, affect their status or capacity as Indians, or directly affect matters that are "inherently Indian" or "closely related to the Indian way of life", that law may apply on reserve. *Dick v. R.* held that such provincial laws may apply because of section 88 of the *Indian Act*.

Section 88 provides that these provincial laws apply except to the extent that they are inconsistent with the *Indian Act* or any order, rule, regulation or Band by-law made under the authority of the Act and subject to the terms of any treaty and any other Act of Parliament.

Exceptions to the General Rule and its Extensions

(a) Indian Lands:

While *Dick v. R.* held that provincial laws may apply to **Indians on reserves**, it confirmed that they cannot apply to "**lands reserved for Indians**". Thus, courts will not recognize a provincial law which directly affects Aboriginal title, or the use, disposition or manner of holding Indian lands.

Examples of provincial laws of general application that do not touch on Indianness, but that affect reserve lands are landlord and tenant laws, laws regarding the registration of lands and provisions of family laws relating to the possession or sale of the matrimonial home. These laws do not apply on reserve.

(b) S. 35(1) of the *Constitution Act, 1982*:

A provincial (or federal) law may, through the operation of section 35(1) of the *Constitution Act, 1982*, be of no force and effect to the extent that it interferes, without justification, with an existing Aboriginal or treaty right.

The scope of this constitutional protection is still being defined by the courts.

Overlap of Provincial and Federal Jurisdiction

Because many provincial laws apply on reserve, there will be situations where both federal and provincial laws might apply to the same set of circumstances. These laws are said to "co-exist". A good example of this type of overlap is in the regulation of highway traffic.

PART 3: DECIDING IF A LAW IS REQUIRED

“In law, nothing is certain but the expense.”
– Samuel Butler

Making a new law is just one of several ways of achieving governmental policy objectives. Alternatives include agreements and guidelines, policies and directives or, more generally, programs for providing services, benefits, or information. In addition, a law may include many different kinds of provisions, ranging from simple prohibitions through a wide variety of regulatory requirements such as licensing or compliance monitoring. Law should be used only when it is the most appropriate. It is up to the First Nation to show that this principle has been met, and there are no other ways to achieve the policy objectives effectively.

The decision to address a matter through a bill or regulation is made by the First Nation Council on the basis of information usually developed by First Nation officials. The information must be accurate, timely and complete. As a beginning point to determine if a law is required or if another option is available and appropriate, it is important to:

- analyze the matter and its alternative solutions;
- analyze the land code to determine the authorities and processes which permit the First nation to make the law;
- engage in consultation with those who have an interest in the matter, including other First Nation departments, programs or services that may be affected by the proposed solution;
- analyze the impact of the proposed solution; and
- analyze the resources, both human and financial, that the proposed solution would require, including those needed to implement or enforce it.

Related Matters should be in One Bill

When a legislative initiative is being considered, and where it is appropriate and consistent with legislative drafting principles, related matters should be combined in one bill, rather than being divided among several bills on similar subjects. A single bill allows legislators to make the most effective and efficient use of their time for discussion and study by the Council, a First Nation Land Committee and community members and other stakeholders.

Review and Expiration Clauses

Finally, caution should be taken when considering whether to include a "sunset" or expiration provision in a law, or a provision for mandatory review of the Law within a particular time or by a particular committee such as the Lands Committee or Board.

Alternatives to these provisions should be fully explored before proposing to include them in a bill.

Choose the Right Tools to Meet the Policy Objectives

Law should be used only when it is most appropriate. When a legislative proposal is made, it is up to the sponsor – be it Council, a Land Committee or Board, a member or stakeholder, to show that this principle has been met, and there are no other ways to achieve the policy objectives effectively.

This discussion provides guidance on meeting this requirement by providing an analytical framework that covers:

- the range of instruments (techniques) available for accomplishing policy objectives;
- how to determine which ones are the most appropriate; and
- how to decide whether a First Nation land law is required.

First Nations are encouraged to adopt a comprehensive approach to developing proposals to accomplish policy objectives. They should focus on achieving a desired outcome, rather than assuming that a particular instrument, particularly a Law or regulation, will be effective. In this discussion some of the factors to consider in law development are reviewed.

Overview

- Instrument-choice should be considered early in the policy development process.
- First Nation governments cannot deal with every situation. Its involvement must be assessed in light of its responsibilities, its resources and the likely effectiveness of its involvement relative to the involvement of other governments or the private sector.
- The range of possible instruments available to accomplish policy objectives is very broad, allowing the First Nation to choose the type and degree of its intervention, if any.
- A law should only be chosen after assessing the full range of possible instruments.
- Instrument-choice has wide-ranging effects and is an important element of many governmental activities.
- Consultation on instrument-choice, both within and outside the First Nation, is essential to making good choices.

Assessment

If a situation may require the First Nation's attention, it should be assessed to determine what, if anything, should be done to address it. This involves determining the

objectives in addressing it and how these objectives can best be accomplished. This determination should be done as early as possible in the policy development process.

The following questions may help you do this:

- What is the situation?
- What are the objectives in addressing the situation and what particular results are desired?
- Is there a role for the First Nation or Council?
- What instruments are available to accomplish the desired results?
- What is involved in putting the instruments in place?
- What effect would the instruments have?
- How will their success be measured?
- Which (if any) instrument(s) should be chosen?

The assessment process does not necessarily follow the order of these questions. Answers reached at one point in the process may have to be re-evaluated in light of answers to other questions.

In order to obtain sound answers, it is also important to conduct appropriate consultations with those affected.

A. Examine the Situation

This step involves defining the key features of a situation that may require the First Nation Council's attention. A situation may present itself in the form of a problem, in which case you should try to get to its source and not define it in terms of its symptoms.

The situation may also be an opportunity for the First Nation Council to do something creative or positive, for example celebrating a First Nation event – Aboriginal Day or a treaty, as opposed to responding to a problem.

A description of the situation is often framed in terms of how people are behaving or how they may behave in future. Their behaviour may be active (doing something) or passive (not doing something). A behavioural approach involves identifying the following elements:

- the behaviour that is, or may be, creating or contributing to the situation;
- who is engaging in the behaviour;
- who is affected by the behaviour and what these effects are;
- whether some behaviour, or behaviour by some persons, is more serious than others;
- what external factors are influencing the behaviour;
- what behavioural changes are desired to address the situation.

B. What Are the Objectives and Desired Results?

This question is intended to help define the objectives as concretely as possible in terms of particular results to be achieved. Objectives and the desired results go hand in hand, but they are not quite the same.

For example, an objective might be to make a particular activity safer – build fences around swimming pools to protect children from drowning in backyard swimming pools, while the desired result might be a 30 percent reduction in the rate of drowning.

Another example is an objective of reducing graffiti on public buildings in the First Nation by the prohibition of the defacing of First Nation public buildings, here again the desired result might be 25 percent reduction in graffiti.

C. The Role of the First Nation

Consider whether the First Nation can or should do something. The *Constitution*, the *Framework Agreement* and the First Nation Land Code limit the authority of the Council through:

- the legislative powers of the First Nation
- limits on the exercise of legislative powers, for example the Canadian Charter of Rights and Freedoms;
- obligations relating to such things as the provision of services to all residents, not only members; or to all members whether resident on or off First Nation lands.

Practical considerations should be addressed as well. Governments have limited resources and they can't deal with every situation: perhaps others are better placed to achieve a desired outcome.

Finally, if the First Nation does become involved, what role should it play? Possible roles include taking the lead, acting in partnership with others or stimulating or facilitating action.

D. Instruments Available to Accomplish the Desired Result

This question looks at the full range of available policy instruments, which can be grouped into five categories:

- information;
- capacity building;
- economic instruments, including taxes, fees and public expenditure;
- rules; and
- organizational structure.

i. Information

Information can be a powerful tool. People act on the basis of the information available to them. By giving them specific information, it may be possible to influence their behaviour. Some examples are:

- consumer information about the quality or safety of products;
- occupational health and safety information;
- anti-drinking and driving advertising and education campaigns;
- "buy-Canadian" promotional campaigns;
- environmental awareness programs (e.g. littering; hazardous substances);
- information about how programs are operated or about administrative practices;
- symbolic gestures (e.g. an apology).

ii. Capacity Building

Capacity-building increases the ability of people or organizations to do things that advance policy objectives. It goes beyond providing information to include transferring to them the means for developing their ability. Some examples are:

- employment skills training programs;
- programs to support scientific research and public education about the results of the research;
- information gathering through consultation or monitoring; and
- working with industry or business to help them develop voluntary codes governing their practices.

iii. Economic Instruments

Many instruments have a mainly economic focus. They affect how people behave in the marketplace or in other economic transactions. These instruments include taxes, fees and First Nation expenditure, which are considered separately below. They also include the creation of exclusive or limited rights, such as marketable permits, licences or marketing quotas that acquire value because they can be bought and sold. Insurance requirements are another example of economic instruments because they can, for example, force businesses to assess and reduce risks and ensure that their products are priced to cover the costs of insurance or preventive measures.

a) Taxes and Fees

The basic purpose of taxes and fees is to raise revenue. However, they are also capable of influencing how people make choices about the activities to which the taxes or fees apply. In this sense, they can be powerful tools for accomplishing policy objectives. Examples include:

- taxes on income, property or sales;
- fees or charges for licences or services; and
- tax exemptions, reductions, credits or remissions.

b) First Nation Expenditure

The First Nation can act by transferring or spending money in a particular area in order to accomplish policy objectives involving those who receive the money. This makes it a potentially effective instrument for encouraging particular activities that support the policy objectives. Some examples of public expenditure are:

- monetary benefits, grants or subsidies;
- loans or loan guarantees;
- vouchers redeemable for goods or services;
- transfers to other governments or agencies for education or health programs.

iv. Rules

Rules, in the broadest sense, guide behaviour by telling people how things are to be done. However, there are many different types of rules. For example, they differ in terms of how they influence behaviour:

- laws, regulations or directives tend to apply to groups of people and have legal force in that they can be enforced by the courts;
- contracts or agreements also have legal force, but they generally apply only to those who are parties to them; and
- guidelines, voluntary codes or standards and self-imposed rules usually apply to groups of people, but they do not have legal force, relying instead on their persuasive or moral value.

Rules having legal force are generally cast in terms of requirements, prohibitions or rights. A combination of these elements can be seen in rules that create:

- rights that entitle people to do things on an equal footing, such as obtaining goods, services or employment, and corresponding requirements to provide these things to those entitled to them; and
- prohibitions against doing something without a licence that confers a right to do it, for example, exclusive or limited rights, such as marketable permits, licences or marketing quotas that acquire value because they can be bought and sold.

Rules may also be formulated in different levels of detail, for example:

- as precise requirements that tell people exactly what to do; or
- as performance standards that set objectives that people are responsible for meeting.

Incorporation by Reference

Finally, it is worth noting the drafting technique of incorporation by reference. Rules of one type (for example, Laws or regulations) can sometimes be drafted so that they incorporate rules of the same or another type (for example, other Laws or regulations as well as industry codes or standards) simply by referring to them, rather than restating them. This avoids duplication of the incorporated rules and can be a way of harmonizing the laws of several jurisdictions if they each incorporate the same set of rules.

v. Organizational Structure

Organizational structure is often critical in accomplishing policy objectives. It generally supports the use of other instruments by providing for their administration. Examples of organizational instruments include:

- First Nation structures to deliver programs;
- framework agreements and partnerships with other governments or organizations;
- privatization or commercialization of First Nation government services (e.g. garbage collection); and
- First Nation investment in private enterprises.

vi. Combination and Timing of Instruments

These instruments are not necessarily stand-alone alternatives to one another. In fact, many of them are mutually supportive or otherwise interrelated. For example, information enables organizations to work effectively and organizations are often needed to administer legal rules, such as Laws or regulations, which may, in turn, be needed to support the creation of organizations.

Another important dimension of the range of available instruments is timing. Some instruments are better used in the initial stages of policy implementation while others may only be needed later if circumstances warrant. For example, information campaigns often precede the imposition of legal rules and, if they are effective enough, they may avoid the need for such rules.

E. Putting the Instruments in Place

This question involves the legal, procedural and organizational implications of using each instrument as well as the process requirements for making them operational. It also involves considering in greater detail the role that the First Nation council may play, whether acting alone or as a partner with other levels of government or the private sector.

You should assess:

- whether the use of the instrument is within the general mandate or authority of the First Nation;
- whether some specific legal authority is needed, for example, authority to impose taxes or penal sanctions, and, if so,
 - whether it requires new Laws to be made,
 - whether there is legal authority for the First Nation to make the new laws

It is particularly important to consult legal advisers when considering this legal aspect of the question.

- what the short- and long-term operational requirements, both organizational and financial, of the instruments are, including:
 - organizations and personnel needed to administer the instruments, for example, officials needed to assess benefit claims or conduct inspections,
 - additional resources for court costs;
- who should be consulted before the instruments are put in place (other First Nation departments, other governments, stakeholders);
- what processes are required to put the instruments in place, including processes required for any new laws (e.g. do guides and forms for the process to register documents in the First Nation Law Register need to be developed?);
- what, if any, monitoring or enforcement measures will be needed, such as penalties, inspections and court action (this is closely connected to the next question of what effect the instruments would have).

F. What Effect Would the Law Have?

This question involves assessing how the Law (or other instrument) would work, including:

- whether the Law will bring about the desired results, including whether people will voluntarily do what the instruments encourage or require, or whether some are likely to try to avoid compliance or find loopholes;
- whether the Law will cause any unintended results or impose costs or additional constraints on those affected by them;
- what the scope and nature of any likely environmental effects will be, particularly any adverse environmental effects and how they can be reduced or eliminated;
- what effect the instruments may have on inter-governmental relations, particularly in light of the First Nations' obligations under provincial or federal agreements;
- how the general public will react to the Law and, in particular, whether it will be perceived as being enough (or too much) to deal with the situation.

When deciding whether to choose Laws, you should also keep in mind their strengths and weaknesses. They can often be used to overcome resistance in achieving the desired results because they are binding and enforceable in the courts. However, they may also give rise to confrontational, rights-based attitudes or stifle innovative approaches to accomplishing the policy objectives. It should not be assumed that a legal prohibition or requirement will, by itself, stop people from doing something or make them do it.

G. Measuring the Effectiveness of the Law or Other Instrument?

It is not enough to choose various instruments and use them. Clear and measurable objectives must also be established as well as a means for monitoring and assessing whether they are being achieved. This assessment should be ongoing and include looking at how other governments are addressing the same situation. This is necessary both for determining whether the chosen instruments should continue to be used as well as for providing a better basis on which to make instrument-choice decisions in future.

H. Is a Law the Only Choice?

The final step is to choose the instruments that would be most effective in achieving the policy objective. It is important to realize that a single Law is seldom enough. Usually a combination of instruments is required, often in stages with different combinations at each stage. They should be chosen through a comparative analysis of their costs and benefits, taking into account the answers to the preceding questions.

This is also a good time to consider again whether there is a role for the First Nation Council. It may be that none of the instruments should be chosen if:

- the situation does not justify the First Nation's attention, for example, because there is no problem or the situation is beyond the First Nation's jurisdiction or is not a priority for it;
- the situation will take care of itself or will be addressed by others;
- the First Nation does not have the resources to address the situation;
- the First Nation becoming involved in the situation would lead to unmanageable demands to become involved in similar situations.

Sources of First Nation Legislative Proposals

There are basically five sources of legislative policy:

- the members;
- the Chief and Council;
- First Nation administration or Land Committee;
- courts and administrative agencies; and

- federal legislation (e.g. membership and election codes; matrimonial real property).

I. Guidelines / Checklists for Policy Development of Law (or other Instrument)

These Guidelines or checklists are a set of analytical criteria for use in the assessment and development of policy to propose a law. While the focus of this discussion is on making a law, a similar analysis or approach can be used to develop other instrument such as guidelines, policies, programs etc. These guidelines were originally developed as part of a broader exercise designed to improve policy-making in the federal government and to improve the quality of policy discussions in Departments and Cabinet Committees. The Guidelines have been modified for use by First Nations.

POLICY BASICS TEST

- ✓ Has the problem been adequately identified and are the goals and objectives clearly defined?
- ✓ Are there horizontal considerations and interdependencies with other priorities or issues (e.g. environment, etc.)?
- ✓ Are they in member-focused terms?
- ✓ Does this initiative build on and fill gaps in existing policy and programs (federal, provincial)?
- ✓ Does the proposal replace or overlap any existing program?
- ✓ Will this initiative be sustainable (social, economic, environmental) in the longer term?
- ✓ Have a range of options for the achievement of goals/objectives been considered? The full range and choice of instruments (e.g. legislative, regulatory, expenditures)?
- ✓ Has a feedback mechanism been incorporated into policy and program design to allow for evaluation, fine-tuning, and updating?
- ✓ Is the policy based on sound science advice?

PUBLIC OR COMMUNITY INTEREST TEST

- ✓ How would the proposal meet the needs of community members and other stakeholders?
- ✓ How do the overall societal benefits compare to its costs? Have the full range of risks been assessed?
- ✓ Does the proposal respect the rights of community members and other stakeholders and take into account their diverse needs (e.g. non-member, off reserve members, etc.)?
- ✓ Have community members and other stakeholders been given an opportunity for meaningful input?

FIRST NATION INVOLVEMENT TEST

- ✓ What is the rationale for First Nation involvement in this area (e.g. constitutional, legal, scope of issue)?
- ✓ Have the particular First Nation interests been adequately identified?

QUESTION OF ACCOUNTABILITY TEST

- ✓ Has an adequate accountability framework been developed? (in particular for multi-stakeholder arrangements)
- ✓ Have mechanisms been established for ongoing monitoring, measuring, and reporting to members on outcomes and performance?
- ✓ Have eligibility criteria and First Nation administration commitments been made publicly available?

URGING PARTNERSHIPS

- ✓ Can this initiative benefit from joint planning and collaboration?
- ✓ Has it been designed in a way that complements existing programming and services provided by the First Nation or another level of government?
- ✓ Are the relative roles and contributions of partners clear? How will they be publicly recognized?
- ✓ Have opportunities for partnerships with communities, voluntary sector and private sector been considered?
- ✓ Have mechanisms been established to consult with other governments?

EFFICIENCY AND AFFORDABILITY TEST

- ✓ Will the proposed option be cost-effective?
- ✓ Does the proposal assess non-spending options?
- ✓ Does it consider reallocation options?
- ✓ Would a partnership based effort result in a more efficient or effective program or service?
- ✓ What are the longer term funding issues associated with this proposal - for the First Nation, and for its partners?
- ✓ Are there program integrity issues related to this initiative (e.g. non-discretionary/legal commitments, risks, strategic investments)?
- ✓ Has the initiative considered downstream litigation risks?

PART 4: DRAFTING LAW

*“The best way to get a bad law repealed is to enforce it strictly.”
- Abraham Lincoln*

When drafting laws, First Nation Councils should be aware that laws enacted under the authority of the Framework Agreement on First Nation Land Management and the Land Code ratified by the First Nation will apply only upon the territory over which the Council has jurisdiction, that being the actual reserve or First Nation land territory.

First Nation Councils must also bear in mind the fact that laws are a type of legislation, and, as such can come under the scrutiny of the courts. Accordingly, it is highly recommended that Councils retain the services of a lawyer to be of substantial assistance in the law development process.

When drafting a law it is critical to be logical and organized. A good suggestion for a guideline is to write the law in as simple and straight-forward a manner as the subject area allows.

For organizational purposes the law should be arranged in such a manner that the subject area of the law is divided into major groupings (i.e. administrative setup, administrative procedures, offences and penalties, appeal procedures...), or into whatever groupings are required to be addressed in the law. Then, within each general grouping there is a breakdown of related information pertaining to that specific grouping. Each piece of information that is included should be described separately. What results is a system of parts, sections, subsections and other subdivisions similar to the organization of federal and provincial laws. This will ensure readability and facilitate interpretation. Any law that is vague or ambiguous could be held invalid by a court.

Whether the First Nation Council drafts the law itself or takes the matter to a lawyer, certain basic drafting requirements must be met. There is a structure to every law and each part is important for different reasons.

A law consists of the following parts:

- title and numbering;
- recital;
- enacting clause;
- definition section (optional but strongly suggested);
- main body of the law;
- land code law procedural requirements; and
- schedules and appendices (optional).

A. Title and Numbering

A law should have a title which sufficiently describes its purpose. If the title is lengthy, the law may designate a "short title" for common usage. Using a short title is optional but quite common, and is used for easier reference purposes - for written or oral description.

It is critical to accurately identify laws. Any logical, clear, consistent system to identify laws may be used, however, it is suggested that a consecutive numerical system be used when numbering laws. For example, the year of enactment can form part of the number, i.e. " XX First Nation Law No. 1996.15" would mean the fifteenth law enacted in 1996. For each new year, the numbers would start again at number 1. The identification system is to ensure that when the law is being cited or used by the courts, First Nation Council, or any affected person there will be no reference to, or confusion with anything other than that particular law.

B. Recitals

A recital is not necessary, but may be important because a recital allows the Council to describe the reasons why the law is required. The recital gives the context in which the law can be interpreted. Courts, when interpreting laws may use the recital section to understand the context of the law and this may assist the courts in determining the reasonableness of the provisions.

The recitals to the law are a brief statement of its purpose and reasons why the law is required, and a listing of the authorities in the Land Code upon which the law is based. [Re Caldwell and Galt (1899) 30 O.R. 378]

C. Enacting Clause

An enacting clause is a formality that states that the First Nation Council has enacted the law, and that the law is in fact a law and not simply a Band Council resolution.

D. Definition Section

There is a particular purpose to every law. As laws are a method of addressing your community's needs it is extremely important for the law to be clearly written and understandable, yet precise enough that the law does what you intend it to do, when interpreted by a court.

One of the methods that may be used to ensure that a law is interpreted in a fashion you want it to be interpreted is to use a definition section wherein you define the key words in the law. If this is done then the courts, if they review your law, will use the definition you have assigned to the word and not some other definition which may or may not reflect what you want the law to do.

There are different sources of definitions for key words or concepts;

1. Definitions should be used to define words in a law which might require interpretation in the context of the law. Many words and phrases are defined in the Interpretation Act, R.S.C. 1985, c. I-2, and this Act should be referred to when developing a law.
2. Words used in a law, if defined in the First Nation Land Management Act (FNLMA), have the meaning given to them in the FNLMA unless a contrary intention appears in the law (see: sections 3 and 16, Interpretation Act, R.S.C. 1985, c. I-21). Although it may be possible in some circumstances to define a word in a law more broadly than it is defined in the FNLMA, in most cases to do so could affect the legality of the law. It is especially important not to expand in a law the meaning of any word used in the FNLMA, if that word is defined in there. Although it is usually permissible to define a word in a law more narrowly than it is defined in the FNLMA, the legality of this may also be questioned in some instances.
3. If the words or phrases are not defined in the law, or in other legislation, the courts will look to the generally accepted or established meanings of the words or phrases (i.e. dictionary meaning).

Accordingly, as a matter of practice it is advisable not to define words and phrases differently than they are defined in the FNLMA, unless it is absolutely necessary. If such a situation occurs it is suggested that the First Nation Council seek legal advice on the question.

Once the word, or phrase, is defined then the same word or phrase should be used in the body of the law to ensure the proper interpretation. For example, if one term is defined in the definition section but another term is used in the body the courts may assign a definition to the used word that is different from the word defined in the law.

When you are defining words and phrases, there are some general rules of construction which may be of assistance;

The definition of a word may be introduced by the verb "means" if it is intended to restrict the meaning of the word to the definition that is given. If, however, the intention is to expand the normal meaning of the word to other meanings that the word might not ordinarily bear, or to give examples of the intended meaning, it should be introduced by the verb "includes". For example, "boat" means a motor boat, or "boat" includes a motor boat - the first example using "means" indicates that only a motor boat is considered when the term "boat" is used, whereas in the second example any type of boat (i.e. sail boat, row boat, canoe, sailboard and any other device used to transport persons by water) also includes motor boats.

Words to be defined should be listed in alphabetical order and may be numbered or lettered. If the law is enacted in two or more languages then the words or phrases

should not be numbered or lettered because the alphabetical order would be different between the different languages.

E. Main Body of Law

The main body of a law will include substantive rules of procedure or conduct as well as measures for administering and enforcing the law.

Any format that is clear and understandable is satisfactory, but it is generally accepted that administrative provisions precede the operative or substantive rules.

It is also generally understood that the section or part pertaining to offenses and penalties come towards the end of the law. Offenses and penalties should include the following;

- the law should include a general provision that a person who violates any provision of the law, or a specified provision of the law, commits an offence. A specific offence may be cited wherein a specific penalty for that section may be used, however any penalty must comply with those set out below; and
- the penalties for violation of a First Nation law cannot differ in nature from those set out in Section 22 of the FNLMA. The law may also limit the fines to less than \$5,000.00.

F. Law Making Procedures

It is very important to adhere to the procedural requirements of laws pursuant to the Land Code because laws can be successfully challenged in broad general ways in one, or a combination of the following ways, which could result in the law being ruled invalid;

- factually; examples such as "I was not the person who committed the offence" or "the facts as alleged by the law enforcement officer are not correct, and the real facts do not disclose an offence", (losing a case on factual grounds does not mean the law is invalid)
- on substantive or jurisdictional grounds; examples such as "the subject area in the law is beyond the jurisdiction of the First Nation Council to enact under Clause 18 of the Framework Agreement on First Nation Land Management", or "the law infringes the Charter of Rights and Freedoms", and/or,
- procedural deficiencies; examples such as "not holding a special meeting of the band for purposes of considering the law under the Land Code, but enacting the law anyway".

It is essential to comply with the provisions of the Land Code regarding enactment.

A statement to the effect that a law was made by a Council or community at a duly convened meeting on a particular date must be included. As well, the signatures of the

members of the First Nation Council who voted in favour of the law should appear at the end of the law with a statement informing the reader what constitutes a quorum of the band and the number of members of the Council present at the meeting.

G. Schedules and Appendices

There may be attached to the law schedules and appendices that are referred to in the law. These attachments to the law would be used for required forms necessary for application of the law (i.e. application forms to be used when applying to the band, i.e. residency, licenses), or schedules outlining the categories pertaining to the law (i.e. different zones described, or qualifying lists established in zoning laws; traffic zone designations, traffic offence fines, signing...). Reference to the schedules or appendices must be included within the body of the law as being part of the law.

Power to Make Certain Laws

Laws are enacted pursuant to the First Nation's Land Code. The Land Code outlines the power of First Nations to make land laws. The Framework Agreement, section 18.1 provides that:

The council of a First Nation with a land code in effect will have the power to make laws, in accordance with its land code respecting the development, conservation, protection, management, use and possession of First Nation land and interests or land rights and licences in relation to that land. This includes laws on any matter necessary or ancillary to the making of laws in relation to First Nation land.

To be valid, the subject-matter of the enacted laws must fall within the scope of the areas indicated in the Land Code. If the enacted laws do not fall within the scope of the authority given by the section of the Code then a reviewing court will overturn the laws, or delete from the law the improper portions, as they would be in excess of jurisdiction given to the Bands under the Framework Agreement.

Enforcement of First Nation Laws

First Nation Councils enact laws to encourage or require members/residents/visitors of the community to conduct themselves in particular ways or to avoid certain types of prohibited conduct.

Often the mere existence of a law with a small penalty is enough of a deterrent to stop or prevent undesirable behavior or practices. An example of this is a garbage law where a warning to someone to clean up garbage usually achieves the desired result.

Many people obey laws because they represent the community's collective view of how one should conduct oneself. Others obey laws to avoid the penalties which follow

failures to comply. Nevertheless, some laws may require significant penalties and strict enforcement to bring about the desired conditions in a community.

As First Nations laws are primarily a band's concern, in order to be effective there has to be a penalty and a method of enforcement. It is the obligation of band councils to enforce their own laws. The Department of Indian Affairs does not take responsibility for doing so.

The discussion in this session mainly concerns the enforcement options available to First Nations and the procedures involved in enforcing laws.

Identifying Offenses and Setting Penalties in the Law

Defining what conduct constitutes offenses under the law and setting the maximum amount of penalties for them is a matter of policy for the Council to determine. Above, we discussed the legal principles affecting penalties and the factors a Council might consider in setting maximum penalties, we also discussed the drafting requirements related to penalties and enforcement.

The key points to keep in mind in this session are:

- the by-law must set maximum penalties within the maximums set in the Framework Agreement;
- the law cannot establish minimum penalties; and
- the judge determines the actual sentence, based on input from the prosecutor (who may also include band council or community views or wishes) and from the offender

The Main Methods of Enforcing Laws

There are two main methods of enforcing laws:

- verbal and written warnings or discussions are often sufficient to convince people to modify their behavior to conform to the law requirements; and
- formal charges bringing offenders before the provincial courts may be required in other situations

Some communities have also developed Alternative Justice Mechanisms. These are discussed at the end of this session.

Two Kinds of First Nation Laws

There are generally two kinds of laws:

- those that are **administrative** in nature, such as building code or a zoning law; and

- those that are **quasi-criminal** in nature (dealing with law and order), such as traffic and environmental infractions.

SUMMARY - CHECKLIST FOR PREPARING BILL-DRAFTING INSTRUCTIONS

Getting Started

- Main objectives of the proposal
- Time needed to prepare drafting instructions
- Public commitments

General Legal and Policy Matters

- Legal context
- Policy context
- Resources
- Legal instruments for accomplishing policy objectives

Legal Structure of the Proposal

- Combining matters in a single bill
- Types of legal instruments
- Provisions that should be in the Law
- Provisions that should be in regulations
- Incorporation by reference
- Administrative instruments
- Recipients of powers

Drafting and Organization of a Law

- Titles
- Preambles and purpose clauses
- General application provisions
- Application to the Crown
- Financial provisions
- Information provisions
- Monitoring compliance
- Sanctions for noncompliance
- Enforcement powers
- Appeals and review mechanisms
- Dispute resolution mechanisms
- Extraordinary provisions

Technical legislative matters

- Sunset and review provisions
- Repeals
- Consequential and conditional amendments
- Transitional provisions
- Coming into force

GETTING STARTED

MAIN OBJECTIVES OF THE PROPOSAL

- ✓ What are the main objectives of the proposal?

It is essential to clearly articulate the precise purpose of proposed legislation, so that decision makers and the drafters properly understand what the legislation is supposed to achieve.

For amending bills that are intended to accomplish a number of different purposes, the instructions should explain these purposes separately in relation to the provisions that are to be amended. They should also include a general instruction to make consequential amendments to other provisions.

TIME NEEDED TO PREPARE DRAFTING INSTRUCTIONS

- ✓ Is there enough time to prepare the drafting instructions?

Thinking through the detail of drafting instructions will raise policy issues that were not identified when ideas were expressed in general terms in the policy development stage. Time will be needed to address and resolve these issues. The First Nation must be prepared to spend the time necessary to produce a coherent set of provisions to implement the proposal. Unresolved issues haunt a legislative project until they are resolved and it is wiser and more efficient in the long run to resolve as much as possible before the actual drafting begins.

The time spent in thinking through drafting instructions is well worth it. Good drafting instructions will avoid:

- delays in drafting the bill because of unresolved policy questions;
- having to go back to Council or the community to clarify policy issues that were not adequately resolved in the original proposal;
- having to propose amendments once the draft law has been prepared because the policy was still in flux after the draft law was introduced;
- being left without the necessary legal authority after the Law is passed to draft the regulations required to complete the legislative scheme.

Before establishing the time frames for the proposed law make sure that the legislative drafter has been consulted. The time needed to prepare the draft may be much greater than the expected.

PUBLIC COMMITMENTS

- ✓ Has the Chief and Council made any public commitments, either generally or about the specific legislative proposal, that will affect its contents or timing?
These public commitments could affect the timing of the Law or require it to be framed in a certain way

Stakeholders or other governments are sometimes consulted on the draft proposals. When the aim of consultations is a negotiated agreement on wording that is to be proposed in the legislation, drafters should be consulted before specific wording is agreed on

GENERAL LEGAL AND POLICY MATTERS

LEGAL CONTEXT

- ✓ What legal considerations affect the proposal?

This portion of the drafting instructions should be completed by the legal adviser. It involves an assessment of the law related to the proposal in order to ensure that the resulting legislation will operate effectively.

Some areas of particular concern are:

- Does the First Nation have constitutional authority to make the Law?
- Will it affect matters within provincial or federal jurisdiction?
- Is it consistent with the Canadian Charter of Rights and Freedoms, the Canadian Bill of Rights?
- Does the proposal distinguish between members and non-members; on-reserve members and off-reserve members?
- Does the proposal raise any gender or other equality issues?
- Is it consistent with the Framework Agreement, the land code and other First Nation Laws?
- Any conflicting legislation should be specifically identified and the conflict should not be resolved by a general "notwithstanding" provision.
- Does the proposal respond effectively to any court decisions or legal opinions that gave rise to the legislation or any of its elements?
- Are there any agreements which the First Nation has signed that relate to the proposal?
- Does the proposal rely on provincial private law (for example, contracts or property) to supplement it? (e.g. Quebec civil law or common law.

POLICY CONTEXT

- ✓ Do any First Nation policies affect the proposal?

RESOURCES

- ✓ Who will incur costs as a result of the new Law?

If the First Nation will incur costs as a result of the legislation, a strategy must be identified for managing their reaction or obtaining their support.

- ✓ Will the proposed law require additional First Nation staff and / or staff training; new facilities or equipment?

If there are new First Nation costs associated with implementing or complying with the proposed legislation, a source of funding will be needed before approval.

LEGAL INSTRUMENTS FOR ACCOMPLISHING POLICY OBJECTIVES

- ✓ How will the policy objectives of the proposal be accomplished?

There are many legal mechanisms available for implementing policy objectives. These include:

- the creation of public bodies and offices;
- the conferral of powers and duties on public officials;
- rules that regulate, prohibit, require or authorize particular activities;
- the creation of sanctions for non-compliance with the rules.

Some particular mechanisms that are often adopted include:

- licensing schemes directed toward controlling particular activities;
- monitoring and enforcement provisions.

As far as possible, the drafting instructions should provide a picture of how the legislation will actually work, describing the type of machinery envisaged and the necessary powers and duties, including how the legislation will be enforced.

LEGAL STRUCTURE OF THE PROPOSAL

COMBINING MATTERS IN A SINGLE BILL

- ✓ What should be included in a single bill?

Related matters should be combined in one bill, rather than being divided among several bills on similar subjects. A single bill allows the Council to make the most effective and efficient use of their time for debate and study. However, matters should only be combined if it is appropriate and consistent with legislative drafting principles. Titles to Laws are among the most important tools people use to find the law. If very different matters are combined in one Law, it becomes more difficult for people to find the law relating to the matters that concern them.

TYPES OF LEGAL INSTRUMENTS

- ✓ What types of legal instruments should be used?

There are many legal instruments and other related documents available to implement policy. They fall into three categories:

- Laws
- Regulations
- Administrative documents (for example, contracts, internal directives, bulletins, decision documents).

Both Laws and regulations are forms of law, with the same legal effect. Administrative documents do not necessarily have legal effect.

Additional differences among these categories involve the procedures used to make them. First Nation Land Codes provide the process for making Laws. There are no general legislative requirements for other subordinate documents, although they are sometimes subject to particular requirements such as those relating to natural justice.

The provisions of any Law must fit together in a coherent scheme with the administrative documents that it authorizes. This means that the authority to make administrative documents must be established by the Law, either expressly or impliedly.

PROVISIONS THAT SHOULD BE IN THE LAW

- ✓ What should be in the Law?

Generally speaking, the Law contains the fundamental policy or underlying principles of legislation that are unlikely to change. The following additional matters are usually dealt with in the Law:

- provisions that might substantially affect personal rights (search and seizure powers, penalties for serious offences, expropriation);
- provisions establishing the structure of public bodies or providing for appointments;
- controversial matters that should be addressed by the Council;
- amendments to Laws, including the definition of terms used in Laws.

PROVISIONS THAT SHOULD BE IN REGULATIONS

- ✓ What should be in regulations or administrative documents?

Regulations should deal with matters of an administrative (as opposed to legislative) nature that are subordinate to the main principles stated in the Law. As an alternative to regulations, consider delegating authority to Council to pass a resolution(s) to deal with:

- procedural matters, for example, how to apply for a licence;
- matters that are likely to need adjusting often, for example, prescribing interest rates, setting annual fishing quotas;
- technical matters involving scientific or other expertise;
- rules that can only be made after the department gains some experience in administering the new Law, for example, prescribing the time within which certain steps should be taken;
- fees to be paid for services or programs established in a Law.

OTHER MATTERS

The drafting instructions should specifically provide authority to do any of the following things and provide reasons for requesting this authority:

- substantially affect personal rights and liberties;
- determine important matters of policy or principle;
- amend or add to the enabling Law or other Laws;
- exclude the ordinary jurisdiction of the Courts;
- apply retroactively;
- sub-delegate decision-making authority from the First Nation Council;
- impose a charge on public revenue or a tax on the public;

- set the penalties for offences

INCORPORATION BY REFERENCE

- ✓ Should some matters be dealt with through documents or laws incorporated by reference?

Legislation does not have to spell out all the details of what it requires or provides. It can instead refer to other laws or documents and incorporate their contents without reproducing them. If this is to be done, consideration should be given to whether particular authorizing provisions are needed. Incorporation by reference is also subject to the law-making limits of the First Nation and as well as requirements relating to the accessibility and comprehension of incorporated documents. Legal advisers can provide guidance on these questions.

ADMINISTRATIVE INSTRUMENTS

- ✓ What should be dealt with through administrative instruments?

Many of the elements of a regulatory scheme should be dealt with in administrative instruments, such as permits, licenses, directives or contracts. These include:

- legal requirements that are to be imposed individually on a case-by-case basis;
- fees non-binding guidelines;
- internal directives on administrative matters.

RECIPIENTS OF POWERS

- ✓ Who should decision-making powers be given to?

- Chief and Council
- First Nation manager or program head
- Land Committee
- Other?

Judicial and quasi-judicial powers

- Judicial and quasi-judicial powers must be exercised with impartiality and the delegates who exercise them should have the qualifications and security of tenure to ensure their impartiality (dispute resolution rules).

Administrative powers

- Most administrative powers are given to Chief and Council who, in turn, have implied authority to authorize officials in the First Nation administration to exercise them.
- Law registries or other public registries can be given to specific officials – a Registrar
- Inspection and enforcement powers are usually given to classes of officials created to exercise these powers.

DRAFTING AND ORGANIZATION OF A LAW

TITLES

- ✓ What will be the title of the Law?

Each bill has a long title, which sets out the scope of the bill and gives a brief description of its purpose. The wording of this title should be left to the bill-drafting stage.

A bill to enact a new Law also has a short title, which is used to identify the Law when discussing it or referring to it in other legislation. A short title is also sometimes included in an amending Law that is likely to be referred to in other Laws. A short title should succinctly indicate the Law's subject matter. The following are examples of the long and short titles of an Law:

- An Law to provide for the regulation of traffic and vehicles on roads on First Nation lands;
- The Road Traffic Law.

Finalizing the short title should also be left to the bill-drafting stage. However, a working title is needed from an early stage and care should be taken to establish an appropriate title since it often becomes more difficult to change as the proposal moves forward.

Try to avoid words such as "First Nation", "Canadian," "National," "Federal" and "Government" because they make it harder to find the Law by its subject matter in a table of statutes.

PREAMBLES AND PURPOSE CLAUSES

- ✓ Should there be a preamble or purpose clause?

Preambles and purpose clauses should not be included in a Law without carefully thinking about what they would add to the Law and what they would contain. They should not be used to make political statements. They can have a significant impact on how the legislation is interpreted by the courts.

Preambles and purpose clauses perform different, but overlapping functions.

Preambles:

- often provide important background information needed for a clear understanding of the Law, or to explain matters that support its constitutionality;

- are placed at the front of the Law;
- should be drafted sparingly to avoid creating confusion about the meaning of the legislation.

Purpose clauses:

- indicate what the intended results of the legislation are;
- should highlight only the principal purposes;
- are included in the body of the legislation; and
- generally have a greater effect on the interpretation of legislation than preambles.

When a bill amends an existing Law, only the amendments themselves are added to the text of the Law when it is reprinted in a consolidated form. The preamble is not included. In order to ensure public awareness of, and access to, background information for an amending bill, a purpose clause may be considered as an alternative because it can be integrated into the consolidated legislation. Both preambles and purpose clauses must be carefully reviewed by legal advisors for appropriate language and content.

GENERAL APPLICATION PROVISIONS

- ✓ Should the application of the Law be confined or expanded in any way?

You should consider whether the Law should be applied to the First Nation itself, taking into account the following:

- binding the First Nation may entail additional legal liability for government activities;
- not binding the First Nation may render the legislation less effective if it governs an activity that the First Nation carries on to a significant degree;
- agents of the First Nation (for example, First Nation corporations) generally benefit from First Nation immunity, which may give them an advantage over private sector competitors.

An example is a building law. Does the First Nation have to comply with its own Building Law – obtain a permit, abide by building restrictions, zoning etc.?

FINANCIAL PROVISIONS

- ✓ Will there be provisions involving the collection or disposition of First Nation money?

A law may require that the First Nation pay from its own funds money to support a program or service. Once the money is allocated by Law, the First Nation has a legal obligation to spend that money and must amend the law to avoid non-compliance.

INFORMATION PROVISIONS

- ✓ Will the legislation restrict or require the disclosure of information?

The disclosure of information is affected by legal concepts of confidentiality and privilege. Provisions affecting the disclosure of information should be reviewed in light of these requirements and discussed with legal advisors.

The laws of other governments may also restrict the release or disclosure of personal or confidential information such as a Social Insurance Numbers.

SANCTIONS FOR NON-COMPLIANCE

- ✓ Will penalties or other sanctions be needed to ensure compliance with the legislation?

Most legislation is enforced by the imposition of sanctions for non-compliance. They range from penal sanctions, such as fines and imprisonment, to administrative sanctions, such as licence suspensions or disqualifications.

There are three basic methods of imposing sanctions:

- through the prosecution of offences in the courts;
- through offence ticketing schemes, such as the Contraventions Act;
- through the imposition of administrative monetary penalties or other administrative sanctions.

Provisions for the imposition of penal sanctions should reflect the principles set out in (sections 718 to 718.2 of) the Criminal Code. They should be reviewed to ensure that:

- they will be effective in obtaining compliance;
- there will be effective enforcement mechanisms, such as powers to conduct inspections or searches;
- the sanctions are appropriate for the seriousness of the noncompliant behaviour;
- the sanctions are variable enough to reflect the circumstances of the accused person in order to ensure that they receive equal treatment under the Law.

If administrative sanctions are to be imposed, a mechanism will be needed for their imposition. The creation of this mechanism raises many legal and policy choices to be considered, including choices about

- strict or absolute liability;
- the processes by which liability for and the amount of a sanction will be determined;

- the relationship of the administrative sanctions to criminal prosecution;
- the institutional structure of required impartial review.

It is essential that legal advisors be consulted in the development of sanctions and penalties to make certain the Law can be adequately enforced.

ENFORCEMENT POWERS

- ✓ Should the Law authorize searches, seizures and other action to support the prosecution of offences?

The Criminal Code provides a basic set of powers for the enforcement of legislation, including powers to make arrests, conduct searches and seize things. However, these powers may not be sufficient or they may have to be supplemented.

APPEALS AND REVIEW MECHANISMS

- ✓ Should there be procedures for appealing or reviewing decisions of administrative bodies created or authorized to make decisions under the Law?

Judicial Review

The Federal Court Act provides that the Federal Court may review the decisions of any "federal board, commission or tribunal." A First Nation decision can be reviewed as a result of this definition. This review concerns the legality of the decisions, as opposed to their merits. In most cases, applications for review are heard by the Trial Division of the Court. However, section 28 of that Act specifies bodies whose decisions are reviewed by the Court of Appeal.

Appeals

Appeals generally concern the merits as well as the legality of decisions. A right of appeal (or judicial review) exists only if it is granted expressly by the Act. Appeals may be taken to the courts (usually the Federal Court) or to an administrative tribunal created by the Act. A decision is not generally subject to judicial review if it is subject to appeal.

Review

It may also be appropriate to create other review mechanisms (in addition to judicial review and appeal). A decision-making body may be authorized to review its own decisions. Another body may be created to review the decision or an existing body (for example, the Chief and Council) may be authorized to review them.

DISPUTE RESOLUTION MECHANISMS

- ✓ Should there be mechanisms for the resolution of disputes arising under the legislation?

Consideration should be given to including provisions for the resolution of disputes instead of relying on the courts, whose procedures are usually costly and involved. Some examples of dispute resolution mechanisms are negotiation, mediation and neutral evaluation.

Alternative Dispute Resolution is provided for under the Framework Agreement.

EXTRAORDINARY PROVISIONS

- ✓ Does the proposal include any extraordinary provisions requiring specific Council attention and consideration?

Certain types of provisions should be specifically identified because they may be controversial. These sorts of provisions involve:

- the retroactive application of legislation;
- broad powers to grant exemptions from the legislation;
- power to sub delegate regulation-making powers;
- excluding the jurisdiction of the courts;
- expropriation of property;
- emergency powers;
- substantial restrictions on fundamental rights or freedoms; and
- regulation-making powers dealing with matters that are usually provided for in Laws

These matters are technical in nature and require that legal counsel provide opinions on the use of any of these matters having regard to the object of the proposed Law and compliance with laws of general application. For example, criminal legislation cannot be made retroactive.

TECHNICAL LEGISLATIVE MATTERS

SUNSET AND REVIEW PROVISIONS

- ✓ Should provisions be included for the expiry or review of the Law?

Caution should be taken when considering whether to include a "sunset" or expiration provision in a bill, since these provisions may result in a gap of legal authority if the new legislative regime cannot be brought into force in time. Similarly caution should be taken when considering inclusion of a provision for mandatory review of the Law within a particular time or by a particular committee given that this limits flexibility. Alternatives to these provisions should be fully explored before proposing to include them.

REPEAL

- ✓ Are there any Laws or regulations that have to be repealed as a result of the legislation?

If a new Law is proposed to replace an existing Law, the existing Law will have to be repealed. It may also be necessary to repeal particular provisions of related Laws as well as regulations.

CONSEQUENTIAL AND COORDINATING AMENDMENTS

- ✓ Are there any Laws or regulations that will have to be amended as the result of the legislation?

New legislation often affects provisions in other Laws. One of the most common examples of this occurs when the name of an Law is changed. References to the Law in other legislation must be amended to reflect the change.

You should also determine whether any other legislation amends the same provisions. If so, amendments will be needed to co-ordinate the amendments so that one does not undo the other.

TRANSITIONAL PROVISIONS

- ✓ Will any transitional provisions be needed to deal with matters arising before the Law comes into force?

Whenever changes are made to the law, consideration should be given to matters that arose under the previous law, but which are still ongoing after the new law comes into force. These matters include:

- regulations made under the previous law;
- rights or benefits granted under the previous law;
- appointments to offices;
- offences committed under the previous law; and
- judicial or administrative proceedings involving the application of the previous law.

COMING INTO FORCE

- ✓ When should the Law come into force?

When a Law comes into force, it begins to operate as law. A First Nation Law must include a provision concerning when it comes into force. There are a number of options. It may come into force:

- on a specified day;
- on a day dependent on a specific event (for example, the coming-into-force of another Law).

A Law may also provide that different provisions may come into force on different days.

CONCLUSION

Over the course of this workshop we have covered numerous law-making principles and practices. Through our brief dissemination of the Canadian Legal System, First Nation Law-Making Authorities, and the new abilities granted to First Nations under the *Framework Agreement on First Nation Land Management*, as well as our discussions on the need for, and drafting of, laws on reserve land, it is our hope that we have helped in that first step towards the creation of your individual laws.

Please note that at the end of this Law Making Guide, we have provided a summary of important points that you may want to consider when contemplating the creation of a new law. This summary includes a list of general legal and policy concerns, the process of drafting and organizing a proposed law, and technical points to consider prior to a law coming in to force. It reiterates that a law is not always the only instrument at your disposal. There are other legal instruments that you may find work better in varying situations, with the same legal effect.

It is important to remember that you are not alone when going through the process of developing new laws. The First Nations Land Management Resource Centre is available to help if you have any questions or concerns. We are here to assist you. Please feel free to contact us at:

First Nations Land Management Resource Centre

Address:
350 Terry Fox Drive, Suite 106
Kanata, Ontario
K2K 2W5

Telephone: (613) 591-6649
Facsimile: (613) 591-8373
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LAWS, REGULATIONS AND POLICIES

Laws, regulations and policies are critical components of our society and government. They establish public priorities, help maintain order and safety, and play an important role in shaping the political and social fabric of communities at every level - from towns and cities to provinces and the nation.

LAWS

Laws are enacted by government bodies (First Nation, federal, provincial and municipal). Laws are a set of rules or norms of conduct, in other words, they describe what can or cannot be done and they must be obeyed by everyone including private citizens, groups and companies. Laws have a specific enactment procedure and are administered and enforceable through our system of courts. Laws are not easily changed or amended.

LAWS BY FIRST NATION COUNCILS

Framework Agreement on First Nation Land Management – Pursuant to the *Framework Agreement* First Nations Councils may enact laws respecting the development, conservation, protection, management, use and possession of First Nation reserve land and interests or land rights and licences in relation to those reserve lands. This includes any matter necessary or ancillary to the making of laws in relation to First Nation land.

For example, a First Nation may enact laws respecting zoning, land use, subdivision control and land development, environmental assessment and protection, the provision of local services, provision of services for the resolution of disputes in relation to land decisions. The *Framework Agreement* specifies laws that can be enacted by the Chief and Council acting alone but it also specifies laws that require community support (i.e. matrimonial real property, land use planning).

Indian Act – Even if a First Nation has a land code in effect, a First Nation may choose to enact bylaws under section 81 of the *Indian Act*. Pursuant to that section, a Council may make by-laws in a number of areas including traffic, observance of law and order, prevention of disorderly conduct and nuisances, removal and punishment of persons trespassing upon the reserve, etc.

The laws are enacted by the Chief and Council but must be approved by the Minister of Indian Affairs, even where the First Nation has a land code in effect. An intoxicant by-law can also be passed by Council pursuant to section 85.1 of the *Indian Act*; these laws do not require Ministerial approval but rather need community approval. Lastly, Councils may also pass a taxation by-law, with the consent of the Minister, pursuant to section 83 of the *Indian Act*.



REGULATIONS

Regulations – are a form of law or rule that are authorized under a law and subordinate to that law. Departments and administrators generally write regulations to implement and support the requirements of the law. Regulations deal with the details or technical matters that are not found in a law. Regulations can be easier to change and amend. Regulations are made by federal or provincial Departments of government and approved by Cabinet.

For example there are Regulations under the *Indian Act* concerning Band Council elections, timber, referendums. There are many Regulations under the *Fisheries Act* which set quotas and seasons for different species of fish and which are different in each of the provinces and territories. The *Canada Environmental Protection Act* also has many regulations concerning pollutants, emissions from various industries and similar subjects. Lastly, the First Nations Land Registry Regulations were established pursuant to the *First Nations Land Management Act*.

POLICIES

Policies – are a less stringent set of rules or strategies set in place by a government to improve standards. They are set in place to achieve certain objectives that are within the law or that need to comply with the law. Policies are easier to change and amend.



SLIAMMON FIRST NATION

AMENDED LAND CODE

dated for reference December 2011

APPROVED



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SLIAMMON FIRST NATION AMENDED LAND CODE

DECLARATION OF THE SLIAMMON FIRST NATION

We are known collectively as the Sliammon First Nation and through this Land Code, we declare our sovereignty and jurisdiction. We speak our Sliammon language and are part of the larger grouping of the Coast Salish peoples.

Since the beginning of time, our people have lived on the lands that the Creator provided for our Ancestors. They lived by our traditional system of governance that sustained us and our lands and resources for thousands of years. Our society governed all forms of environmental, social and political relations through a sophisticated system of traditional laws, as is our traditional way.

It is from this proud history that Sliammon derives our inherent right of self-government. With jurisdiction and responsible leadership, we will create economic and employment opportunities to sustain and improve the quality of life for present and future generations.

PREAMBLE

WHEREAS the Sliammon First Nation, as it has always done, continues to occupy its lands and based on its traditional teachings, it will empower its Members to be healthy, self-governing stewards of its lands and resources, today and always;

AND WHEREAS the Sliammon First Nation honours its connection to the land, resources and elements of the natural world that provide for its physical and spiritual needs;

AND WHEREAS the Sliammon First Nation recognizes its responsibility to protect the land and its resources for future generations and to protect the rights of the Sliammon First Nation and its Members;

AND WHEREAS the Members of the Sliammon First Nation are a proud, united people whose purpose is to promote a healthy and prosperous future that ensures the continued existence of the Sliammon First Nation as a strong political, social and cultural community that aspires to move ahead as an organized, highly-motivated, determined and self-reliant nation;

AND WHEREAS the Sliammon First Nation values the need to respect, protect and promote its heritage, culture and traditions as the driving force of its success and destiny while understanding that these practices may change and require contemporary expression;



AND WHEREAS Sliammon First Nation wished to manage its land and resources under First Nation Land Management by entering into the Framework Agreement and Individual Agreement with Canada;

AND WHEREAS the Framework Agreement, Individual Agreement and *Sliammon First Nation Land Code* were ratified by Sliammon First Nation on March 20, 2004;

AND WHEREAS the *Sliammon First Nation Land Code* came into force on September 30, 2004;

AND WHEREAS the *Sliammon First Nation Land Code* provides for its amendment with the approval of Members at a Meeting of Members;

NOW THEREFORE, THE SLIAMMON FIRST NATION LAND CODE IS HEREBY AMENDED.

PART 1 PRELIMINARY MATTERS

1. Amendment and New Title

Amendment

1.1 The *Sliammon First Nation Land Code* is hereby repealed and replaced with this law.

New Title

1.2 This law may be cited as the *Sliammon First Nation Amended Land Code*.

2. Interpretation

Definitions

2.1 The following definitions apply in this Land Code:

“Act” means the *First Nations Land Management Act*, S.C. 1999, c. 24;

“Adjudicator” means the person appointed by Council to the Office of the Adjudicator;

“Canada” means Her Majesty the Queen in Right of Canada;

“Chief” means the lawfully elected Chief of Sliammon First Nation;



“Common-law Marriage” means two persons not married to each other that have lived together as Spouses for a period of not less than one year;

“Community Lands” means any Sliammon Lands in which all Members have a common interest;

“Community Land Code Meeting” means a Community Land Code Meeting convened in accordance with sections 11.2 or 11.3 of Part 3;

“Council” means the lawfully elected government of the Sliammon First Nation and includes the Chief;

“Cultural Resource” means an object, site or location of a traditional or cultural practice that is of historical, cultural or archaeological significance to the Sliammon First Nation;

“Eligible Voter” means a Member who has attained the age of 18 years on or before the day of the vote;

“Extended Family”, in relation to a person, means the person’s Immediate Family, grandparent, uncle, aunt, cousin or grandchild;

“First Nation Land Register” means the First Nation Land Register established by the Minister under subsection 25(1) of the Act;

“Framework Agreement” means the *Framework Agreement on First Nation Land Management* entered into between Canada and fourteen First Nations on February 12, 1996, and includes any amendments to the agreement;

“Immediate Family”, in relation to a person, means the person’s parent, sister, brother, child or Spouse;

“Indian Act” means the *Indian Act*, RSC 1985, c.I-5;

“Individual Agreement” means the agreement, dated July 30th, 2004, entered into between the Sliammon First Nation and Canada in accordance with clause 6.1 of the Framework Agreement and subsection 6(3) of the Act;

“Land Code” means this *Sliammon First Nation Amended Land Code*;

“Lands Authority” means the Lands Authority established under the *Sliammon First Nation Land Code*;



“Lands Committee” means the Lands Committee established under section 28.1;

“Lands Manager” means the person appointed by Council to manage the Sliammon Lands Office;

“Law” means a law enacted under this Land Code but does not include a Resolution;

“Majority” means fifty percent plus one (50% + 1);

“Meeting of Members” means a Meeting of Members convened in accordance with sections 13.5 and 13.6 of Part 3;

“Member” means a person registered on the Membership List;

“Membership List” means the list of names of Members maintained by Sliammon First Nation;

“Minister” means the Minister of Aboriginal Affairs and Northern Development;

“Office of the Adjudicator” is the Office of Adjudicator established under section 40.1 of Part 8;

“Ratification Vote” means a Ratification Vote convened in accordance with section 14.3 of Part 3;

“Resolution” means a formal motion moved by a Council member, seconded by another Council member and passed by a quorum of Council at a duly convened meeting;

“Sliammon First Nation” means the Sliammon First Nation band within the meaning of the *Indian Act* for whose use and benefit in common the Sliammon Lands has been set apart by Canada;

“Sliammon Lands” means the lands described in section 5.1;

“Sliammon Lands Office” means the office established by Council to assist in the management and administration of Sliammon Lands;

“Sliammon Lands Register” means the register of Sliammon Lands maintained by the Sliammon Lands Office;

“Spouse” means a person who is married to another, whether by a traditional, religious or civil ceremony, and includes a spouse by Common-law Marriage; and



“Verifier” means a verifier appointed in accordance with clause 8.1 of the Framework Agreement.

Paramountcy

- 2.2 If there is an inconsistency or conflict between this Land Code and any other enactment of the Sliammon First Nation, this Land Code shall prevail to the extent of the inconsistency or conflict.
- 2.3 If there is an inconsistency or conflict between this Land Code and the Framework Agreement, the Framework Agreement shall prevail to the extent of the inconsistency or conflict.

Culture and Traditions

- 2.4 The structures, organizations, laws and procedures established by or under this Land Code shall be interpreted in accordance with the culture, traditions and customs of the Sliammon First Nation, unless otherwise provided.

Non-abrogation

- 2.5 This Land Code is not intended to abrogate or derogate from any aboriginal, treaty or other right or freedom that pertains now or in the future to the Sliammon First Nation or its Members.
- 2.6 This Land Code is not intended to affect the eligibility of the Sliammon First Nation or any Member to receive services or participate in such public or aboriginal programs as may be established from time to time to the extent that the Sliammon First Nation has not assumed responsibility for such services or programs.

Interpretation

- 2.7 This Land Code shall be interpreted in a fair, large and liberal manner.
- 2.8 The principles set out in the Preamble to this Land Code may be used to interpret this Land Code.
- 2.9 In this Land Code:
- (a) the use of the word “shall” denotes an obligation that, unless this Land Code provides to the contrary, shall be carried out as soon as practicable after this Land Code comes into effect or the event that gives rise to the obligation;



- (b) unless it is otherwise clear from the context, the use of the word “including” means “including, but not limited to”, and the use of the word “includes” means “includes, but is not limited to”;
- (c) headings and subheadings are for convenience only, do not form a part of this Land Code and in no way define, limit, alter or enlarge the scope or meaning of any provision of this Land Code;
- (d) a reference to a statute includes every amendment to it, every regulation made under it and any law enacted in substitution for it or in replacement of it;
- (e) unless it is otherwise clear from the context, the use of the singular includes the plural, and the use of the plural includes the singular; and
- (f) unless it is otherwise clear from the context, the use of the masculine includes the feminine, and the use of the feminine includes the masculine.

Fiduciary Relationships

- 2.10 This Land Code is not intended to abrogate the fiduciary relationships between Canada, the Sliammon First Nation and its Members.

Land and Interests Affected

- 2.11 A reference to “land” in this Land Code is, unless the context otherwise requires, a reference to Sliammon Lands and all rights and resources in and of such land, including:
- (a) the water, beds underlying water, riparian rights, minerals and subsurface resources and all other renewable and non-renewable natural resources in and of that land, to the extent that these are under the jurisdiction of Canada or the Sliammon First Nation; and
 - (b) all the interests and licences granted to the Sliammon First Nation by Canada listed in the Individual Agreement.

3. Authority to Govern

Origin of Authority

- 3.1 By enacting this Land Code the Sliammon First Nation is giving effect to its aboriginal title to that portion of its territories comprised of Sliammon Lands.



Flow of Authority

- 3.2 The authority of the Sliammon First Nation to govern its land and resources flows from its aboriginal title and inherent right of self-government.
- 3.3 Through this Land Code, the Sliammon First Nation will exercise its inherent right of self-government and provide for governance that is accessible, stable, effective, accountable and transparent.

4. Purpose

Purpose

- 4.1 The purpose of this Land Code is to set out the principles and legislative and administrative structures that apply to Sliammon Lands and by which the Sliammon First Nation shall exercise authority over that land.

5. Description of Sliammon Lands

Sliammon Lands

- 5.1 The Sliammon Lands that is subject to this Land Code has the same meaning as “first nation land” in the Act and more specifically means the lands described under section 2 of the Individual Agreement as follows:
 - (a) Tee shoh sum, Sliammon Indian Reserve No. 1, being those lands within the Province of British Columbia, Canada, as described in the following documents which either set aside lands as reserve for the benefit of the Sliammon First Nation, or alternatively remove these lands from reserve status:
 - (i) the lands described in Provincial Order in Council No. 1036, dated July 29, 1938 and recorded in the Indian Lands Registry as number 8042;
 - (ii) the lands described in the Order in Council of the Privy Council No. 2632, dated November 30, 1932 and recorded in the Indian Lands Registry as number 9381-316;
 - (iii) the lands described in Order in Council of the Privy Council No. 1404, dated July 13, 1933 and recorded in the Indian Lands Registry as number 9382-316; and



- (iv) the lands described in Order in Council of the Privy Council No. 1968-1213, dated June 28, 1968 and recorded in the Indian Lands Registry as number 253606.
- (b) Ah gyk son, Harwood Island Indian Reserve No. 2, being those lands within the Province of British Columbia, Canada, as described in the following document which sets aside lands as reserve for the benefit of the Sliammon First Nation:
 - (i) the lands described in Order in Council of the Privy Council No. 1973-3159 dated October 16, 1973, and recorded in the Indian Lands Registry as number X18885.
- (c) Pah Kee ahjim, Paukeanum Indian Reserve No. 3, being those lands within the Province of British Columbia, Canada, as described in the following document which sets aside lands as reserve for the benefit of the Sliammon First Nation:
 - (i) the lands described in Provincial Order in Council No. 1036, dated July 29, 1938 and recorded in the Indian Lands Registry as number 8042.
- (d) Toh Kwon_non, Toquana Indian Reserve No. 4, being those lands within the Province of British Columbia, Canada, as described in the following document which sets aside lands as reserve for the benefit of the Sliammon First Nation:
 - (i) the lands described in Provincial Order in Council No. 1036, dated July 29, 1938 and recorded in the Indian Lands Registry as number 8042.
- (e) Tohk_natch, Tokenatch Indian Reserve No. 5, being those lands within the Province of British Columbia, Canada, as described in the following document which sets aside lands as reserve for the benefit of the Sliammon First Nation:
 - (i) the lands described in Provincial Order in Council No. 1036, dated July 29, 1938 and recorded in the Indian Lands Registry as number 8042.
- (f) Kah kee ky, Kahkaykay Indian Reserve No. 6, being those lands within the Province of British Columbia, Canada, as described in the following document which sets aside lands as reserve for the benefit of the Sliammon First Nation:
 - (i) the lands described in Provincial Order in Council No. 1036, dated July 29, 1938, and recorded in the Indian Lands Registry as number 8042.



Additional Land

- 5.2 The following lands may be made subject to this Land Code if they are, or become, reserve land and the following conditions are met:
- (a) any land owned jointly by the Sliammon First Nation and one or more other First Nations, when the First Nations agree upon a joint management scheme for that land; and
 - (b) any land or interest acquired by the Sliammon First Nation after this Land Code comes into force, whether by land claim, purchase or other process, when an environmental audit declares it free of environmental hazard and safe for Sliammon First Nation use.

Land Exchange

- 5.3 For greater certainty, section 5.2 does not apply to land acquired by voluntary land exchange in accordance with section 17.

Inclusion of Land or Interest

- 5.4 If the relevant conditions in section 5.2 are met, Council shall call a Community Land Code Meeting in accordance with sections 11.3 and 11.14 and, after receiving input from Members, Council may, by Resolution, declare the land or interest to be subject to this Land Code.

**PART 2
SLIAMMON FIRST NATION LEGISLATION**

6. Law-Making Powers

General

- 6.1 Council shall develop laws consistent with this Land Code regarding the management, administration, use and protection of Sliammon Lands.

Council May Make Laws

- 6.2 Without limiting the generality of section 6.1, Council may make laws in relation to:
- (a) development, conservation, protection, management, use and possession of Sliammon Lands;



- (b) interests in and licences to use Sliammon Lands;
- (c) any matter necessary to give effect to this Land Code; and
- (d) any matter necessary or ancillary to a law in relation to Sliammon Lands.

6.3 Council may make regulations authorized to be made under a law.

Examples of Laws

6.4 For greater certainty, Council may make laws in relation to Sliammon Lands including:

- (a) zoning and land use planning;
- (b) regulation, control, authorization and prohibition of the occupation and development of land;
- (c) creation, regulation and prohibition of interests and licences;
- (d) environmental assessment and environmental protection;
- (e) archaeological assessment and protection of archaeological and Cultural Resources;
- (f) provision of local services and imposition of user charges;
- (g) enforcement of laws;
- (h) provision of services for the resolution, outside the courts, of disputes;
- (i) setting aside and regulation of parks, parklands and recreational lands;
- (j) setting aside and regulation of heritage lands;
- (k) rules and procedures for the receipt, management, expenditure, investment and borrowing of moneys, including the establishment of administrative structures to manage such moneys;
- (l) creation of management and administrative bodies or agencies;
- (m) removal and punishment of persons trespassing upon Sliammon Lands or



frequenting Sliammon Lands for prohibited purposes;

- (n) public nuisance and private nuisance;
- (o) regulation of sanitary conditions and the provision of sanitary services in private premises and public places;
- (p) construction and maintenance of boundary and internal fences;
- (q) construction, maintenance and management of roads, water courses, water diversions, storm drains, bridges, ditches and other local and public works; and
- (r) regulation of traffic and transportation.

6.5 Council shall perform all the duties and functions, and exercise all the powers, of the Sliammon First Nation that are not specifically assigned to an individual or body established under this Land Code.

6.6 Notwithstanding section 6.5, Council may, by Resolution, delegate administrative authority to an individual or body established or authorized under this Land Code.

7. Law-Making Procedure

General

7.1 Council shall enact laws under this Land Code in accordance with this part.

Development of Laws

7.2 The development of a draft law shall be initiated by:

- (a) a Resolution, setting out the specific subject matter of the proposed law; or
- (b) a petition presented to Council signed by at least forty (40) Eligible Voters, setting out the request for development of a law and setting out the specific subject matter of the proposed law.

First Reading: Draft Law

7.3 Upon completion of the draft law, Council shall table it at a regular meeting of Council for consideration.



Decision on Draft Law

- 7.4 After considering the draft law, Council shall, by Resolution:
- (a) accept the draft law in principle;
 - (b) reject the draft law; or
 - (c) direct further work on the draft law and specify a return date to re-table the draft law at a future Council meeting.

Explanation for Rejection

- 7.5 Upon the request of any Eligible Voter, Council shall explain the reasons for rejecting a draft law.

Second Reading: Community Land Code Meeting on Draft Law

- 7.6 If Council has accepted the draft law in principle, Council shall schedule a Community Land Code Meeting in accordance with sections 11.3 and 11.14 for the purpose of consulting with Members on the draft law.

Written Notice of Meeting

- 7.7 The notice of the Community Land Code Meeting shall include:
- (a) a summary of the draft law;
 - (b) notification that a full copy of the draft law may be obtained by Members at the Sliammon First Nation administration building;
 - (c) an invitation for Members to provide written comments to Council on the draft law; and
 - (d) the return date by which Members must provide written comments to Council, which date shall be at least twenty (20) days from the date of the Meeting of Members.

Conduct of Meeting

- 7.8 Copies of the draft law shall be made available to Members attending the Community Land Code Meeting.



7.9 At the Community Land Code Meeting, Council or its delegate shall explain the purpose and provisions of the draft law, and invite questions and comments by Members.

Council Shall Consider Comments

7.10 After the expiry of the time specified under subsection 7.7(d) for written comments from Members, Council shall consider any comments received, the needs of the community and any other relevant matters, and shall prepare or cause to be prepared a final draft law.

Third Reading: Final Draft Law

7.11 Upon completion of the final draft law, Council shall table it at a regular meeting of Council for consideration.

Decision on Final Draft

7.12 Subject to section 12.1 (*Matters Requiring Approval at Meeting of Members*) and section 14.1 (*Matters Requiring Approval by Ratification Vote*), after considering the final draft law Council shall, by Resolution:

- (a) enact the final draft law;
- (b) make changes to the final draft law;
- (c) reject the final draft law;
- (d) schedule a Community Land Code Meeting in accordance with sections 7.6 and 7.7 for consideration of the final draft law by Members; or
- (e) refer the final draft law for approval by Eligible Voters at a Meeting of Members or in a Ratification Vote.

Written Notice of Approval Meeting

7.13 If a Meeting of Members or a Ratification Vote is called under subsection 7.12(e), section 12.1 or section 14.1 to approve the final draft law, the notice of the meeting or vote shall include:

- (a) a summary of the final draft law; and
- (b) notification that a full copy of the final draft law may be obtained by Members at the Sliammon First Nation administration building.



Enactment of Law by Council

7.14 A law is enacted on the date that it is approved and adopted by Resolution of Council.

Enactment of Law by Eligible Voters

7.15 If a law is approved by Eligible Voters at a Meeting of Members or in a Ratification Vote, the law shall be deemed to be enacted on the date of its approval and it shall have the same force and effect as a law enacted by Resolution of Council.

Enactment of Law on Urgent Matters

7.16 Council may enact a law without calling a Community Land Code Meeting, Meeting of Members or a Ratification Vote if Council is reasonably of the opinion that the law is required urgently to protect Sliammon Lands or Members.

7.17 A law enacted under section 7.16 shall be deemed to have been repealed and to have no force and effect as of twenty-eight (28) days after its enactment, but it may be re-enacted in accordance with this part.

Amendments

7.18 A law may be repealed or amended by following the procedure specified in the law.

7.19 If a law does not specify a procedure for its repeal or amendment, the law may be repealed or amended by the same procedure that was followed to enact it.

Commencement Date

7.20 If the date of commencement is not specified in a law, the law shall come into force on the date of its enactment.

8. Regulation-Making Procedure

8.1 Council may initiate the development of a regulation by Resolution.

8.2 Council may, at any time and in any manner Council considers advisable, consult with Members regarding a proposed regulation.

8.3 A regulation is enacted on the date that it is approved and adopted by Resolution.



9. Publication of Laws and Regulations

Publication

9.1 All laws and regulations enacted by Resolution shall be published in the minutes of Council meeting.

Posting Laws

- 9.2 Within seven (7) days after a law or regulation has been enacted, Council shall:
- (a) post a copy of the law or regulation in a public area of the Sliammon First Nation administration offices; and
 - (b) deposit an original copy of the law or regulation in the register of laws referred to in section 9.3.

Register of Laws

- 9.3 Council shall cause to be kept, at the Sliammon First Nation administration offices, a register of laws containing the original copy of all laws and regulations, including any that have been repealed or that are no longer in force.
- 9.4 Any person may have, during regular business hours at the Sliammon First Nation administration offices, reasonable access to the register of laws.

Copies for Any Person

- 9.5 Any person may obtain a copy of a law or regulation upon payment of such reasonable fee as may be set by Council.
- 9.6 Section 9.5 does not preclude Council from making copies of a law or regulation available to Members without a fee.

**PART 3
MEMBER INPUT AND APPROVALS**

10. Rights of Eligible Voters

Rights of Eligible Voters

10.1 Every Eligible Voter may vote at a Meeting of Members and in a Ratification Vote.



11. Community Land Code Meetings

Community Consultations

- 11.1 The Council, Lands Manager and Lands Committee may hold Community Land Code Meetings to consult with Members on matters relating to Sliammon Lands.
- 11.2 If a Community Land Code Meeting is called under section 11.1, notice shall be given to Members by any method that the Council, Lands Manager or Lands Committee may consider appropriate in the circumstances.

Written Notice of Community Land Code Meeting

- 11.3 If a Community Land Code Meeting is required to be held under this Land Code, written notice of the meeting shall be provided to Eligible Voters at least ten (10) business days before the date of the meeting by:
- (a) a notice delivered or mailed to Eligible Voters at their last known address; or
 - (b) publication of a notice in the Sliammon First Nation newsletter delivered or mailed to Eligible Voters at their last known address; and
 - (c) posting of a notice in a public area of the Sliammon First Nation administration offices.
- 11.4 The written notice of a Community Land Code Meeting shall:
- (a) specify the date, time and place of the meeting; and
 - (b) include a summary of the matter to be discussed at the meeting.

Who May Attend a Community Land Code Meeting

- 11.5 Any Member may attend a Community Land Code Meeting.

12. Meeting of Members

Matters Requiring Approval by Members

- 12.1 Approval at a Meeting of Members shall be obtained for:
- (a) subject to section 16, any land use plan or amendment to a land use plan;
 - (b) a conflict of interest under section 20.10;



- (c) a law enacted under section 38;
 - (d) an amendment to this Land Code; and
 - (e) any law or class of law that Council, by Resolution, declares to be subject to this section.
- 12.2 Subject to section 12.3, any matter requiring approval at a Meeting of Members must receive a Majority vote in favour of the matter in accordance with section 13.3.
- 12.3 Council may, by Resolution, provide that any matter that requires approval at a Meeting of Members may instead be decided by:
- (a) mail-in ballots in accordance with the same standards of quorum and approval that apply under section 13.3; or
 - (b) a Ratification Vote.

13. Procedure at a Meeting of Members

Quorum for a Meeting of Members

- 13.1 The quorum for a Meeting of Members is twenty-five percent (25%) of Eligible Voters.

Voting at a Meeting of Members

- 13.2 Voting at a Meeting of Members shall be conducted by a combination of ballots cast in person at the meeting and mail-in ballots.

Requirements for Approval at a Meeting of Members

- 13.3 A matter shall be considered to be approved at a Meeting of Members if:
- (a) at least 25% of Eligible Voters cast a ballot either in person at the meeting or by mail-in ballot; and
 - (b) the Majority of Eligible Voters who cast a ballot vote in favour of the matter.
- 13.4 Voting in person at a Meeting of Members shall be by secret ballot.



Written Notice of a Meeting of Members

- 13.5 Written notice of a Meeting of Members shall be given to Eligible Voters at least ten (10) business days before the meeting by:
- (a) a notice delivered or mailed to Eligible Voters at their last known address; or
 - (b) publication of a notice in the Sliammon First Nation newsletter delivered or mailed to Eligible Voters at their last known address; and
 - (c) posting of a notice in a public area of the Sliammon First Nation administration offices.
- 13.6 The written notice of a Meeting of Members shall:
- (a) specify the date, time and place of the meeting; and
 - (b) include a summary of the matter to be discussed and decided at the meeting.

Who May Attend a Meeting of Members

- 13.7 Any Member may attend a Meeting of Members.
- 13.8 Council may, by Resolution, declare a Meeting of Members to be a closed meeting that only Members and any other persons identified in the Resolution may attend.

Council May Schedule More Meetings

- 13.9 Council may schedule more than one Meeting of Members to discuss and decide a matter that requires approval at a Meeting of Members.

14. Ratification Votes

Matters Requiring Approval by Ratification Vote

- 14.1 Approval by a Ratification Vote shall be obtained for:
- (a) development on a heritage site designated in a land use plan;
 - (b) voluntary exchange of Sliammon Lands;
 - (c) expropriation of a Member's interest;



- (d) amendment to the Individual Agreement that reduces the amount of funding provided by Canada; and
- (e) any law or class of law that Council, by Resolution, declares to be subject to this section.

Individual Agreement

- 14.2 For greater certainty, an amendment to, or renewal of, the Individual Agreement shall not require approval by a Ratification Vote unless the amendment or renewal reduces the amount of funding provided by Canada.

Ratification Vote Process

- 14.3 Subject to section 14.4, a Ratification Vote under this Land Code shall be conducted in substantially the same manner as that set out in the *Sliammon First Nation Community Ratification Process* that was used to ratify the *Sliammon First Nation Land Code*.

No Verifier Required

- 14.4 A Verifier is not required for a Ratification Vote under this Land Code.

Requirements for Approval by Ratification Vote

- 14.5 A matter shall be considered approved by a Ratification Vote if:
- (a) at least the Majority of Eligible Voters participate in the vote; and
 - (b) the Majority of those participating in the vote cast a vote in favour of the matter.

PART 4 EXPROPRIATION AND LAND EXCHANGE

15. Expropriation by Sliammon First Nation

Rights and Interests That May be Expropriated

- 15.1 An interest or licence in Sliammon Lands or in any building or other structure on such land may only be expropriated by the Sliammon First Nation in accordance with the Framework Agreement and a law enacted in accordance with section 15.3.



Community Purposes

- 15.2 The Sliammon First Nation may expropriate only for a necessary community purpose or works of the Sliammon First Nation, including a fire hall, sewage or water treatment facility, community center, public work, road, school, day-care facility, hospital, health-care facility or retirement home.

Expropriation Laws

- 15.3 Council shall enact a law setting out the rights and procedures for expropriation, including provisions in relation to:
- (a) taking possession of the interest or licence;
 - (b) transfer of the interest or licence;
 - (c) notice of expropriation;
 - (d) service of a notice of expropriation;
 - (e) entitlement to compensation;
 - (f) determination of the amount of compensation; and
 - (g) the method of payment of compensation.

Public Report

- 15.4 Before the Sliammon First Nation may expropriate an interest or licence, Council shall:
- (a) prepare a report on the reasons for the expropriation; and
 - (b) post a copy of the report in the Sliammon First Nation administration offices.

Rights that May Not be Expropriated

- 15.5 An interest of Canada, or an interest previously expropriated under section 35 of the *Indian Act*, is not subject to expropriation by the Sliammon First Nation.

Mutual Agreement

- 15.6 Sliammon First Nation may expropriate only after a good faith effort to acquire, by mutual agreement, the interest or licence in Sliammon Lands.



Limitation

- 15.7 The law enacted under section 15.3 shall include provisions having the following effect:
- (a) an expropriation shall be made only for the smallest interest necessary and for the shortest time necessary; and
 - (b) where less than a full interest is expropriated, a person whose interest is expropriated may continue to use and occupy the land for purposes that are not inconsistent with the expropriation.

Notice and Compensation

- 15.8 The Sliammon First Nation shall, in accordance with a law enacted under section 15.3 and the Framework Agreement:
- (a) serve reasonable notice of the expropriation on each affected holder of the interest or licence to be expropriated; and
 - (b) pay fair and reasonable compensation to the holder of the interest or licence being expropriated.

Compensation Calculation

- 15.9 The total value of compensation under subsection 15.8(b) shall be based on:
- (a) the fair market value of the interest or licence being expropriated;
 - (b) the replacement value of any improvement to the land being expropriated;
 - (c) the damages attributable to any disturbance; and
 - (d) damages for any reduction in the value of a remaining interest.

Market Value

- 15.10 The fair market value of an expropriated interest or licence is equal to the amount that would have been paid for the interest or licence if it had been sold on Sliammon Lands by a willing seller to a willing buyer.

Dispute Resolution

- 15.11 Subject to section 15.13, the resolution of disputes concerning the right of the Sliammon



First Nation to expropriate shall be determined by neutral evaluation in the same manner as provided in Part IX of the Framework Agreement.

- 15.12 The 60 day period referred to in clause 32.6 of the Framework Agreement shall be applied, as appropriate in the circumstances, by the neutral evaluator.
- 15.13 The resolution of the following disputes shall be determined by arbitration in the same manner as provided in Part IX of the Framework Agreement:
- (a) a dispute concerning the right of the holder of an expropriated interest or licence to compensation; and
 - (b) a dispute concerning the amount of compensation.

16. Heritage Sites

Approval of Amendments

- 16.1 No amendment may be made to a land use plan to develop or delete from the land use plan a heritage site designated under that plan unless the amendment receives prior approval by a Ratification Vote.

17. Voluntary Land Exchange

Conditions for a Land Exchange

- 17.1 The Sliammon First Nation may agree with another party to exchange Sliammon Lands for land from that other party in accordance with this Land Code and the Framework Agreement.

No Effect

- 17.2 A land exchange is of no effect unless it approved by a Ratification Vote.

Land to be Received

- 17.3 A land exchange may proceed to a Ratification Vote only if the land to be received by the Sliammon First Nation:
- (a) is of equal or greater area than the Sliammon Lands to be exchanged;
 - (b) is of a value comparable to the appraised value of the Sliammon Lands to be exchanged; and



- (c) is eligible to become a reserve under the *Indian Act* and Sliammon Lands subject to this Land Code.

Negotiators

- 17.4 A person who negotiates a land exchange on behalf of the Sliammon First Nation shall be designated by Resolution.

Additional Land

- 17.5 The Sliammon First Nation may receive additional compensation, including money or other land in addition to the land referred to in section 17.3.
- 17.6 Such other land may be held by the Sliammon First Nation in fee simple or other manner.

Federal Consent

- 17.7 Before the Sliammon First Nation concludes a land exchange agreement, it shall receive a written statement from Canada stating that Canada:
- (a) consents to set aside as a reserve the land to be received in the land exchange under section 17.3, as of the date of the land exchange or such later date as Council may specify by Resolution; and
 - (b) consents to the manner and form of the exchange as set out in the land exchange agreement.

Community Notice

- 17.8 At such time as negotiation of a land exchange agreement is concluded, and at least twenty-one (21) days before the Ratification Vote provided for in section 17.2, Council shall provide the following information to the Members:
- (a) a description of the Sliammon Lands to be exchanged;
 - (b) a description of the land to be received by the Sliammon First Nation;
 - (c) a description of any other compensation to be received;
 - (d) a report of a certified land appraiser stating that the conditions in subsections 17.3(a) and (b) have been met;
 - (e) a copy of the land exchange agreement; and



- (f) a copy of the statement from Canada referred to in section 17.7.

Process of Land Exchange

17.9 A land exchange agreement shall provide that:

- (a) the other party to the exchange shall transfer to Canada the title to the land that is to be set aside as a reserve;
- (b) Council shall pass a Resolution authorizing Canada to transfer title to the Sliammon Lands being exchanged, in accordance with the land exchange agreement; and
- (c) a copy of the instruments transferring title to the relevant parcels of land shall be registered in the Sliammon Lands Register and the First Nation Land Register.

**PART 5
ACCOUNTABILITY**

18. Application

18.1 This part applies only to conflicts of interest and financial matters in relation to the management and administration of Sliammon Lands under this Land Code.

19. Conflict of Interest

General Duties and Definitions

- 19.1 No member of Council shall be involved in any transaction or matter where they are in a conflict of interest or appear to be in a conflict of interest.
- 19.2 A conflict of interest exists where a member of Council or a member of their Immediate Family has a personal or business interest in a transaction or matter under consideration by Council which competes, or appears to compete with the interests of the Sliammon First Nation or the objective exercise of the Council members' powers, duties, functions or responsibilities.
- 19.3 No conflict of interest or appearance of a conflict of interest exists where:
- (a) the member of Council or a member of their Immediate Family holds an interest



in the same manner and under the same conditions as other Members;

- (b) Council enacts a law or develops a policy providing members of Council with reasonable remuneration, vacation, sick leave or other benefits for services as elected officials of the Sliammon First Nation; or
- (c) the interests are so remote or insignificant that they could not be reasonably regarded as likely to influence the individual Council member in the exercise of a power or performance of a duty or a function.

20. Procedure for a Conflict of Interest or Appearance of a Conflict of Interest

- 20.1 A member of Council who has, or believes that they have, a conflict of interest shall disclose the nature and extent of the conflict of interest at the first Council meeting after the conflict becomes known to the member of Council, whether or not the transaction or matter giving rise to the conflict has been concluded.
- 20.2 Where the interest of a member of Council has not been disclosed as required by section 20.1 by reason of the member of Council's absence from the meeting at which the matter was first raised, the member of Council shall disclose the interest and comply with this Part at the next meeting of Council.
- 20.3 A member of Council may request a decision of Council on whether there is a conflict of interest.
- 20.4 After declaring the conflict of interest, the member of Council shall:
- (a) leave the meeting during consideration of the matter in question;
 - (b) not be counted in the quorum; and
 - (c) not participate in the discussion or vote on the matter in question.
- 20.5 A member of Council who is in a conflict of interest shall not attempt in any way or at any time to influence the discussion or vote on the matter in question.
- 20.6 Every declaration of a conflict of interest and the details thereof shall be recorded in the minutes of the Council meeting.
- 20.7 Notwithstanding section 19.1, Council may approve a transaction or matter by Resolution where:



- (a) the member of Council has complied with subsections 20.1 through 20.5; and
 - (b) Council determines the transaction or matter is fair and reasonable.
- 20.8 Where a member of Council is shown to have withheld material information or to have provided false or misleading information for consideration in a Resolution approving a transaction or matter under section 20.7, the Resolution shall be without force and effect.
- 20.9 A Resolution authorizing a transaction or matter may be made conditional upon the member of Council taking such steps as Council may prescribe to protect the interests of Council or the Sliammon First Nation or to maintain trust in the conduct of Council's activities.
- 20.10 Where as a result of a conflict of interest a quorum of Council cannot be met, the matter shall be decided at a Meeting of Members.
- 20.11 Notice of a Meeting of Members under section 20.10 shall be provided in accordance with sections 13.5 and 13.6 and shall further include:
- (a) notification that a report on the matter may be obtained at the Sliammon First Nation administration offices; and
 - (b) a statement that a determination of the matter shall be made by a vote of the Eligible Voters in accordance with section 13.3.
- 20.12 At the Meeting of Members Council shall present the report on the matter and invite questions and comments by the Members.
- 20.13 The Eligible Voters present at the Meeting of Members shall vote on whether to approve or reject the transaction or matter, with or without conditions, or make such other decision as may be appropriate in the circumstances.
- 20.14 The decision of the Eligible Voters present at the Meeting of Members shall be recorded in the minutes and, where required, shall have the same effect as a Resolution under section 20.7.

21. Competition with Sliammon First Nation Businesses

- 21.1 No Member of Council shall, during their term of office, engage as a partner, officer, director, shareholder, advisor, employee, or in any other capacity, in any business that is in competition with a business carried on by the Sliammon First Nation, without first complying with the provisions of section 20.7.



22. Financial Management

Financial Management and Policy

- 22.1 Council shall continue or implement a system of financial planning and financial administration for the management of Sliammon First Nation moneys through which Council, Sliammon First Nation employees and other persons who manage moneys in relation to Sliammon Lands are accountable to the Members within the meaning of clause 5.2(d) of the Framework Agreement.
- 22.2 Council may, in accordance with this Land Code, adopt a financial policy to further manage moneys in relation to Sliammon Lands.

Establishment of Bank Accounts

- 22.3 Council shall maintain one or more financial accounts in a financial institution and shall deposit in those accounts:
- (a) transfer payments received from Canada for the management and administration of Sliammon Lands;
 - (b) moneys received by the Sliammon First Nation from the grant or disposition of interests or licences in Sliammon Lands;
 - (c) all fees, fines, charges and levies collected under a law or Resolution;
 - (d) all capital and revenue moneys received from Canada from the grant or disposition of interests and licences in Sliammon Lands; and
 - (e) any other land revenue received by the Sliammon First Nation.

Signing Officers

- 22.4 Council shall authorize the signing officers of the Sliammon First Nation to sign cheques and other bills of exchange or transfer drawn on a financial account maintained under section 22.3.

Fiscal Year

- 22.5 The fiscal year of the Sliammon First Nation shall begin on April 1 of each year and end on March 31 of the following year.



Adoption of Budget

- 22.6 Council shall, by Resolution prior to the beginning of each fiscal year, adopt a land management budget for that fiscal year and may, if Council deems it necessary in the course of the fiscal year, adopt one or more supplementary budgets for that fiscal year.
- 22.7 Prior to adopting a budget referred to in section 22.6, Council shall consult with the Lands Manager.

Procedure

- 22.8 After adopting a land management budget or supplementary budget, Council shall, as soon as practicable, make a copy of the budget or supplementary budget available at the Sliammon First Nation administration offices for inspection by Members.

Expenditures

- 22.9 Council may not expend moneys in relation to Sliammon Lands or commit itself, by contract or otherwise, to expend moneys in relation to Sliammon Lands unless the expenditure is authorized by a Sliammon Law or an adopted budget.

Other Laws and Policies

- 22.10 Council shall establish a process for determining:
 - (a) fees and rents for interests and licences in Sliammon Lands; and
 - (b) fees for services provided in relation to Sliammon Lands and compliance with this Land Code.

23. Financial Records

Financial Records

- 23.1 The Sliammon First Nation shall keep financial records in accordance with generally accepted accounting principles.

Offences

- 23.2 A person who has control of the financial records of the Sliammon First Nation and who impedes or obstructs anyone from exercising a right to inspect those records is guilty of an offence.



Preparation of Financial Statement

- 23.3 Within 90 days after the end of each fiscal year, Council shall prepare a financial statement in comparative form, containing:
- (a) a balance sheet;
 - (b) a statement of revenues and expenditures and a comparison of these with the amounts stated in the land management budget and any supplementary budget; and
 - (c) any other information necessary for a fair presentation of the financial position of Sliammon First Nation in relation to Sliammon Lands.

Consolidated Accounts

- 23.4 The accounting, auditing and reporting requirements of this Land Code may be consolidated with other accounts, audits and reports of the Sliammon First Nation.

24. Audit

Appointment of Auditor

- 24.1 For each fiscal year, Council shall appoint a duly accredited auditor to audit the financial records of the Sliammon First Nation in relation to Sliammon Lands.

Vacancy in Office

- 24.2 If a vacancy occurs during the term of an auditor, Council shall forthwith appoint a new auditor for the remainder of the former auditor's term.

Remuneration

- 24.3 An appointment under section 24.1 shall contain a statement approving the remuneration to be paid to the auditor.

Duty of Auditor

- 24.4 The auditor shall, within 120 days after the end of the Sliammon First Nation's fiscal year, prepare and submit to Council an audit report on the Sliammon First Nation's financial statement stating whether, in the opinion of the auditor, the financial statement presents fairly and accurately the financial position of the Sliammon First Nation in accordance with generally accepted accounting principles applied on a basis consistent



with that applied in the previous fiscal year.

Access to Records

24.5 The auditor may at any reasonable time inspect any financial records of the Sliammon First Nation and the financial records of any person or body authorized to administer money in relation to Sliammon Lands.

Presentation of Audit Report

24.6 Council shall present the audit report at a Meeting of Members.

25. Annual Report

Publish Annual Report

25.1 Council shall ensure, within thirty (30) days of receiving an audit report under section 24.4, that an annual report on Sliammon Lands management is prepared.

25.2 The annual report prepared under section 25.1 shall include:

- (a) an annual review of land management activities;
- (b) a copy and explanation of the audit report as it applies to Sliammon Lands; and
- (c) such other matters as may be directed by Council or reasonably requested by the Lands Manager.

26. Access to Financial Information

Access Law

26.1 Council shall, in consultation with the Lands Manager, develop policies and procedures setting out the rights and procedures by which Members and other persons may exercise access to Sliammon First Nation financial information.

26.2 The policies and procedures developed under section 26.1 shall:

- (a) take protection of privacy into account; and
- (b) provide that a Member may, during normal business hours at the Sliammon First Nation administration offices, inspect a copy of the audit report, the annual report on Sliammon Lands management, the budget or the supplementary budget.



PART 6
ADMINISTRATION OF SLIAMMON LANDS

27. Sliammon Lands Office

27.1 The Sliammon Lands Office shall carry out duties and responsibilities delegated or assigned to it under this Land Code and any other applicable law.

27.2 Without limiting the generality of section 27.1, the Sliammon Lands Office shall:

- (a) administer Sliammon Lands in accordance with this Land Code and any other applicable law or regulation;
- (b) develop forms of written instruments for use in registering or recording interests or licences in the Sliammon Lands in the Sliammon Lands Register if it is deemed necessary and advisable by the Sliammon Lands Office;
- (c) process applications for the registration or recording of written instruments and documents in the Sliammon Lands Register in relation to interests or licences in Sliammon Lands;
- (d) provide electronic copies of applications for the registration and recording of written instruments and documents in the Sliammon Lands Register in relation to interests or licences in Sliammon Lands to the First Nation Land Register;
- (e) arrange for the execution of written instruments and documents on behalf of Sliammon First Nation;
- (f) maintain and protect records in relation to Sliammon Lands; and
- (g) perform such other duties and functions consistent with this Land Code as Council may direct.

Lands Manager

27.3 The Lands Manager shall manage the Sliammon Lands Office and perform such duties and responsibilities delegated or assigned to the Lands Manager under this Land Code or any other applicable law.

27.4 In consultation with Council, the Lands Manager may develop policies and procedures required for the proper administration and management of the Sliammon Lands Office and the Sliammon Lands Register.



- 27.5 Without limiting the generality of sections 27.1, 27.3 and 27.4, the Lands Manager shall:
- (a) oversee the day-to-day operations of the Sliammon Lands Office;
 - (b) advise the Lands Committee and Council on matters in relation to Sliammon Lands;
 - (c) make recommendations to the Lands Committee and Council on the development of laws, policies and procedures in relation to Sliammon Lands;
 - (d) subject to Part 8 (Dispute Resolution), hold regular and special meetings with Members to discuss issues related to Sliammon Lands, and make recommendations to the Lands Committee and Council on the resolution of such issues;
 - (e) assist in the exchange of information between Members and Council regarding Sliammon Lands issues;
 - (f) oversee community consultations under this Land Code;
 - (g) schedule and oversee Land Committee elections;
 - (h) monitor community approvals under this Land Code; and
 - (i) perform such other duties and functions consistent with this Land Code as Council may direct.

28. Lands Committee

Lands Committee Established

28.1 The Lands Authority is hereby dissolved and the Lands Committee is established.

28.2 The Lands Committee shall:

- (a) assist the Lands Manager with administrative decisions in relation to Sliammon Lands;
- (b) review draft laws and provide comments to Council;
- (c) recommend to Council laws, policies and procedures in relation to Sliammon



Lands;

- (d) consult with Members on land issues; and
- (e) perform such other duties and functions as Council or the Lands Manager may direct.

Composition

28.3 The Lands Committee shall be composed of:

- (a) the Lands Manager;
- (b) one member of Council appointed by Council; and
- (c) four (4) members elected at a Community Land Code Meeting.

Eligibility for Election to Lands Committee

28.4 Any Eligible Voter, whether or not resident on Sliammon Lands, shall be eligible for election to the Lands Committee, except for the following:

- (a) a person convicted of an offence by way of indictment or felony conviction within five (5) years prior to the date of the election; and
- (b) any person convicted of a corrupt practice in connection with an election, including accepting a bribe, dishonesty or wrongful conduct.

Staggered Terms of Office

28.5 Subject to section 28.8, Lands Committee members shall hold the following terms of office:

- (a) Council shall appoint a member of Council as soon as practicable following Council elections and that member shall sit on the committee until the next Council election;
- (b) the Lands Manager shall sit on the committee for as long as he or she holds the position of Lands Manager;
- (c) elected members shall sit on the committee for a maximum of four (4) years, but they are not precluded from being elected for further terms; and



- (d) an election for two (2) elected positions on the committee shall be held every two years to ensure that elected members serve staggered terms.

Elections

28.6 Elections for Land Committee members shall be held at a Community Land Code Meeting called by the Lands Manager in accordance with sections 11.3 and 11.4.

Voting at Elections

28.7 Every Eligible Voter may vote at a Lands Committee election.

Vacancies

28.8 The office of a Lands Committee member shall become vacant if that member:

- (a) resigns;
- (b) is convicted of an offence under the *Criminal Code*;
- (c) is no longer the Lands Manager;
- (d) is an elected member who ceases to be an Eligible Voter;
- (e) is an appointed member who ceases to be a member of Council;
- (f) dies or becomes mentally incapacitated.; or
- (g) is terminated under section 28.9.

Terminations

28.9 The Council may, by Resolution, terminate the remaining term of a Lands Committee member if:

- (a) the member is absent from three (3) consecutive Lands Committee meetings for a reason other than illness or incapacity without being authorized to be absent by the chairperson; or
- (b) the member fails to perform any of his or her duties in good faith and in accordance with the terms of this Land Code.

Council Fills Vacancies



- 28.10 Council may appoint a new member to the Lands Committee to fill a vacancy under section 28.8.
- 28.11 The member appointed under section 28.10 shall serve out the balance of the term of the member whose office was vacated.
- 28.12 The Council may develop policies regarding the eligibility criteria for appointments to the Lands Committee

Chairperson of Lands Committee

- 28.13 The Lands Manager shall be the chairperson of the Lands Committee.
- 28.14 The Lands Committee shall select an alternate chairperson to perform the functions of the chairperson if the Lands Manager is unavailable.

Rules and Procedures of Lands Committee

- 28.15 In consultation with Council, the Lands Manager shall establish rules and procedures governing Lands Committee elections.
- 28.16 In consultation with Council and the Lands Committee, the Lands Manager may establish policies, rules and procedures governing committee meetings and the administration of the general affairs of the committee.

29. Officers, Employees and Contractors

General

- 29.1 Council shall provide for the appointment of officers and the hiring of other employees to administer this Land Code in an effective and fiscally responsible manner in accordance with this Land Code and any other applicable law.

Appointment of Lands Manager

- 29.2 Council shall, by Resolution, appoint a Lands Manager and an alternate to act in the place of the Lands Manager when he or she is absent.

Standards and Qualifications of Employees

- 29.3 The Lands Manager may, subject to the approval of Council, establish a process for determining standards and qualifications for employees and contractors hired for purposes of implementing and administering this Land Code.



30. Registration of Interests and Licences

Sliammon Lands Register

30.1 The Sliammon Lands Office shall maintain the Sliammon Lands Register in substantially the same form and with the same content as the First Nation Land Register.

Enforcement of Interests and Licences

30.2 An interest or licence in Sliammon Lands created or granted after September 30, 2004, is not enforceable unless it is registered or recorded in the Sliammon Lands Register.

Duty to Deposit

30.3 The Sliammon Lands Office shall ensure that an original copy of the following instruments received is registered or recorded in the Sliammon Lands Register and the First Nation Land Register:

- (a) an interest or licence in Sliammon Lands granted by Sliammon First Nation;
- (b) an interest in Sliammon Lands transferred or assigned by Sliammon First Nation; and
- (c) this Land Code and any amendment to this Land Code.

30.4 Every person who receives an interest or licence in Sliammon Lands shall register or record an original copy of the relevant instrument in the Sliammon Lands Register.

30.5 The deposit of an instrument in the Sliammon Lands Register and the First Nation Lands Register does not imply that the instrument is validly made or that it has been registered as opposed to having been recorded.

Registration of Consent or Approval

30.6 No instrument that requires the consent of Council, approval of the Sliammon Lands Office, or approval of Members at a Meeting of Members or in a Ratification Vote may be registered or recorded in the Sliammon Lands Register unless a certified copy of the document that records the consent or approval is attached to the instrument.

30.7 Notwithstanding section 30.1, nothing in this Land Code precludes Council from enacting a law providing for the maintenance of the Sliammon Lands Register in such other land registry system or facility as may meet the requirements of the Sliammon First Nation.

Registration Fees



- 30.8 The Sliammon Lands Office may establish and charge reasonable fees for services provided to the public including processing applications for the registration or recording of instruments in the Sliammon Lands Register.
- 30.9 Section 30.8 does not preclude the Sliammon Lands Office from providing services to Members without a fee.

PART 7 INTERESTS AND LICENCES IN SLIAMMON LANDS

31. Interests and Licences

General

- 31.1 The occupation, use and development of Sliammon Lands is subject to this Land Code and any other applicable law.

No Interest or Licence Created

- 31.2 No person may acquire an interest or licence in Sliammon Lands by use, occupation or by any other means that is not authorized under this Land Code or a law enacted under it.

All Dispositions in Writing

- 31.3 An interest or licence in Sliammon Lands may only be created, granted, disposed of, assigned or transferred by a written instrument issued in accordance with this Land Code.

Non-Members

- 31.4 A person who is not a Member may hold a lease, licence, easement, mortgage or permit in Sliammon Lands.

Grants to Non-Members

- 31.5 The written consent of Council shall be obtained for the original grant of a lease, licence, easement or permit in Sliammon Lands to a person who is not a Member.
- 31.6 Notwithstanding section 31.5, if Council has consented to the original grant of a lease in Sliammon Lands to a person who is not a Member, that leasehold interest may be subsequently mortgaged, transferred or assigned without the consent of Council or approval of Members.



32. Existing Interests

Continuation of Existing Interests

- 32.1 An interest or licence in Sliammon Lands, whether held by a Member or a person other than a Member, that is in effect on September 30, 2004 shall, subject to this Land Code, continue in force in accordance with the terms and conditions of that interest or licence.
- 32.2 Council may, subject to an applicable ruling under Part 8 or by a court of competent jurisdiction:
- (a) cancel or correct any interest or licence in Sliammon Lands issued or allotted in error, by mistake or by fraud; and
 - (b) issue a replacement instrument if required.

33. New Interests and Licences

Authority to Make Grants

- 33.1 Subject to this Land Code, Council may grant:
- (a) interests in Community Lands; and
 - (b) licences and permits to take resources from Community Lands.

Conditional Grant

- 33.2 The grant of an interest, licence or permit in Community Lands may be made subject to conditions.

Role of Lands Manager

- 33.3 The Lands Manager may advise Council on the granting of interests, licences and permits in Community Lands and may be authorized to act as a delegate of Council under this part.

34. Permanent Interests of Members

Nature of Interest

- 34.1 Council may enact laws providing for an interest in Sliammon Lands that entitles a Member holding that interest to:



- (a) permanent possession of the land;
- (b) benefit from the resources in and of the land;
- (c) grant subsidiary interests, licences and permits in the land;
- (d) transfer, devise or otherwise dispose of the land to another Member; and
- (e) any other rights, consistent with this Land Code, that are attached to Certificates of Possession under the *Indian Act*.

34.2 For greater certainty, no interest under section 34.1 may be granted to or held by a person who is not a Member.

Transfer and Assignment of Interests

34.3 Members may transfer or assign their interest in Sliammon Lands to the Sliammon First Nation or a Member without the consent of Council or approval of Members.

34.4 For greater certainty, Members may transfer their interest to themselves.

35. Limits on Mortgages and Seizures

Protections

35.1 In accordance with the Framework Agreement and the Act, sections 29, 87, 89(1) and 89(2) of the *Indian Act* continue to apply to Sliammon Lands.

35.2 The Sliammon Lands Office and the Lands Manager shall not be responsible or liable for ensuring that a lease in Sliammon Lands permits the leasehold interest to be mortgaged or charged, that the lease is in good standing or that the leaseholder is in compliance with the terms of the lease.

35.3 Disputes in relation to mortgages of leases shall be determined as follows:

- (a) the parties to the dispute may agree that the dispute may be determined by mediation, arbitration or other dispute resolution mechanism agreed to by the parties; or
- (b) if the parties to the dispute do not agree on a dispute resolution mechanism, the dispute shall be determined by a court of competent jurisdiction.



Mortgage of a Leasehold Interest in Sliammon Lands Held by a Person Who is Not a Member

- 35.4 A leasehold interest in Sliammon Lands held by a person who is not a Member is subject to charge, pledge, mortgage, attachment, levy, seizure, distress and execution without the consent of Council or approval of Members.

Mortgage of Leasehold Interests in Community Lands or in Sliammon Lands Held by a Member

- 35.5 The interest of a Member in Sliammon Lands which is not a leasehold interest may be subject to a mortgage or charge only to the Sliammon First Nation or a Member.
- 35.6 An Indian, as that term is defined in the *Indian Act*, including a Member, may grant a lease to him or herself in the same manner as to another person.
- 35.7 The leasehold interest in Sliammon Lands of an Indian, as that term is defined in the *Indian Act*, including a Member, may be subject to charge, pledge, mortgage, attachment, levy, seizure, distress and execution without the consent of Council or approval of Members, and the mortgagee has the same legal and equitable rights it would have if the leasehold interest was held by a non-Indian.
- 35.8 A leasehold interest in Community Lands is subject to charge, pledge, mortgage, attachment, levy, seizure, distress and execution by the mortgagee.

Default in Mortgage

- 35.9 In the event of default in the terms of a mortgage or charge of a leasehold interest in Sliammon Lands, the leasehold interest is not subject to possession by the mortgagee or chargee, foreclosure, power of sale or any other form of execution or seizure, unless:
- (a) the mortgage or charge was registered in the Sliammon Lands Register; and
 - (b) reasonable notice of the foreclosure was provided to Council.

Power of Redemption

- 35.10 If Council exercises an option to redeem with respect to a leasehold interest under subsection 35.8(b), the Sliammon First Nation becomes the lessee of the leasehold lands and, with the consent of the lender, takes the position of the mortgagor or chargor for all purposes after the date of redemption.

36. Residency and Access Rights



Right of Residence

36.1 The following persons may reside on Sliammon Lands:

- (a) a Member;
- (b) a Member who has been allocated a residential lot by Council;
- (c) a Spouse and child of a Member referred to in subsection (b);
- (d) a Member with a registered interest in Sliammon Lands;
- (e) an invitee of a Member referred to in subsection (b) or (c); and
- (f) a lessee or permittee, in accordance with the provisions of the instrument granting the lease or permit.

36.2 A right of residence under section 36.1 does not imply any financial obligation on the part of the Sliammon First Nation.

Right of Access

36.3 The following persons have a right of access to Sliammon Lands:

- (a) a lessee or mortgagee of Sliammon Lands;
- (b) an invitee of a lessee of Sliammon Lands;
- (c) a permittee and any person who is granted a right of access under the permit;
- (d) a Member;
- (e) a Member's Spouse and children;
- (f) a person who is authorized by a government body or any other public body, established by or under an enactment of the Sliammon First Nation, Canada or British Columbia to establish, operate or administer a public service, to construct or operate a public institution or to conduct a technical survey;
- (g) a person authorized in writing by Council or the Lands Manager; or
- (h) a person authorized by any applicable law.



Public Access

- 36.4 A person may have access to Sliammon Lands for social or business purposes if that person:
- (a) does not trespass on occupied land;
 - (b) does not interfere with an interest or licence in land;
 - (c) complies with all applicable laws; and
 - (d) no Resolution has been enacted prohibiting that person from having access to Sliammon Lands.

Trespass

- 36.5 Any person who resides on, enters or remains on Sliammon Lands other than in accordance with a right of residence or access under this Land Code is guilty of an offence.

Civil Remedies

- 36.6 Subject to any law enacted under this Land Code, all civil remedies for trespass are preserved.

37. Transfers on Death or Mental Incompetence

- 37.1 A Member who receives an interest in Sliammon Lands by testamentary disposition, succession or through a declaration of mental incompetence is entitled to have that interest registered in the Sliammon Lands Register provided that the written instrument transferring the interest is duly executed by the person duly appointed under the *Indian Act* as the personal representative of the estate of the deceased or the mentally incompetent Member.
- 37.2 A Member who purchases an interest in Sliammon Lands under subsection 50(2) of the *Indian Act* is entitled to have that interest registered in the Sliammon Lands Register provided that:
- (1) the written instrument transferring the interest is duly executed by the person duly authorized under the *Indian Act* to transfer the interest; and



- (2) Council has, by Resolution, consented to the written instrument transferring the interest to the purchasing Member.

37.3 Council may, by Resolution, authorize the Lands Manager to act as a delegate of Council under section 37.2.

37.4 An interest in Sliammon Lands that reverts to Sliammon First Nation under subsection 50(3) of the *Indian Act* shall become Community Lands on the date of reversion or on such other date that the Minister or the Minister's duly authorized delegate may specify.

38. Spousal Property Law

Development of Rules and Procedures

38.1 Council shall enact a spousal property law providing rules and procedures applicable on the breakdown of a marriage of a Member to:

- (a) the use, occupancy and possession of an interest in Sliammon Lands held by the Member; and
- (b) the division of that interest in land.

Enactment of Rules and Procedures

38.2 The rules and procedures contained in the spousal property law shall be developed by the Lands Manager in consultation with Members.

General Principles

38.3 The rules and procedures developed under section 38.2 shall take into account the following general principles:

- (a) the children of the Spouses, if any, should have a right to reside in the matrimonial home until the age of majority or until other arrangements have been made in the best interests of the children;
- (b) each Spouse should have an equal right to possession of the matrimonial home;
- (c) each Spouse should be entitled to an undivided half interest in the matrimonial home as a tenant in common;



- (d) the rules and procedures shall not discriminate on the basis of sex;
- (e) a mortgage of lease of spousal property shall not be set aside if the mortgagee acquired it for value and acted in good faith; and
- (f) only Members are entitled to hold a permanent interest in Sliammon Lands or a charge against a permanent interest in Sliammon Lands.

PART 8 DISPUTE RESOLUTION

39. Informal Resolution of Disputes

Intent

- 39.1 The Sliammon First Nation intends that whenever possible, a dispute in relation to Sliammon Lands shall be resolved through informal discussion by the parties to the dispute and nothing in this part shall be construed to limit the ability of the parties to a dispute to settle a dispute without recourse to this part.

40. Adjudicator Established

Office of the Adjudicator

- 40.1 The Office of the Adjudicator is hereby established to hear and resolve disputes in relation to Sliammon Lands in accordance with this Land Code and any other applicable laws and policies.
- 40.2 The Adjudicator shall be a Barrister and Solicitor and a member of the Law Society of British Columbia who is independent of the parties to a dispute and to other interests in the dispute.

41. Application Procedure

Reference to Adjudicator

- 41.1 The following persons may notify the Lands Manager that they wish to refer the dispute to the Adjudicator for resolution under this part:
- (a) a Member who claims an interest in Sliammon Lands based on a registered interest;
 - (b) a person who has a dispute with another person or with the Sliammon First Nation



- in relation to the possession, use or occupation of Sliammon Lands;
- (c) the Sliammon First Nation when asserting an interest in Sliammon Lands; and
- (d) the Sliammon First Nation when disputing the possession, use or occupation of Sliammon Lands.

Dispute Resolution Not Available

- 41.2 Dispute resolution processes under this Land Code are not available under this part for disputes in relation to:
- (a) mortgages of lease;
 - (b) decisions relating to housing allocation; or
 - (c) decisions of Council to grant or refuse to grant an interest or licence in Sliammon Lands.

Disputes Originating Prior to Land Code

- 41.3 Disputes that originated before September 30, 2004 may be decided under this part.

Demonstration of Reasonable Effort to Resolve

- 41.4 Persons applying for adjudication under section 41.1 shall demonstrate that they have made reasonable efforts to resolve the dispute.

Limitation Period

- 41.5 Parties may request a referral to the Adjudicator no later than:
- (a) 60 days after the day the decision, act or omission that is the subject of the dispute occurred; or
 - (b) 30 days after an attempt to resolve the dispute informally, in accordance with section 41.4, has failed.

42. Referral to Adjudicator

Lands Manager Shall Establish Procedures

- 42.1 In consultation with the Lands Committee and Council, the Lands Manager shall establish procedures for referring disputes to an Adjudicator.
- 42.2 Subject to section 42.3, the Lands Manager shall, in a timely manner as required to settle



the dispute, appoint the Adjudicator in accordance with the procedures established by Council.

Agreement to be Bound

- 42.3 The Lands Manager shall not refer a dispute to the Adjudicator unless all parties to the dispute agree to be bound by the decision of the Adjudicator, in a form prescribed by Council in consultation with the Lands Manager.

43. Duties and Powers of the Adjudicator

Duty to Act Impartially

- 43.1 The Adjudicator shall act impartially and without bias or favour to any party in a dispute.
Offense
- 43.2 It is an offense for a person to act, or attempt to act, in an improper way to influence the decision of the Adjudicator.

Rejection of Application

- 43.3 In addition to any other penalty provided for an offence under section 43.2, the Adjudicator may refuse to hear or decide an application if, regardless of whether a person has been found to have committed an offence under section 43.2, the Adjudicator reasonably concludes that the applicant acted, or attempted to act, in a way to improperly influence the Adjudicator's decision.

Rules of Adjudicator

- 43.4 The Adjudicator may, consistent with this Land Code, establish rules for procedure at hearings and for the general conduct of proceedings.

Professional Services

- 43.5 Prior to retaining the services of any professionals to assist in fulfilling his or her functions, the Adjudicator shall notify the parties to the dispute of the proposed professionals and their estimated services and costs.
- 43.6 Upon agreement of the parties, the Adjudicator may retain the services of professionals to assist in fulfilling his or her functions, in which case they shall make best efforts to use professional services available in the community who do not have a conflict of interest.
- 43.7 The Adjudicator may refuse to hear or decide an application if one or more of the parties refuse to accept the Adjudicator's proposal to retain professionals who are, in the reasonable opinion of the Adjudicator, required to resolve the dispute.



43.8 The Adjudicator may, after hearing a dispute:

- (a) confirm or reverse the decision in dispute, in whole or in part;
- (b) substitute the Adjudicator's own decision for the decision in dispute;
- (c) direct that an action be taken or ceased;
- (d) refer the matter or dispute for reconsideration by the decision-maker; or
- (e) refer the matter to a court of competent jurisdiction or other forum.

Decisions

43.9 The Adjudicator shall give written reasons for a decision and shall sign the written reasons.

43.10 Subject to section 45.1(Appeal of Decision) a decision of the Adjudicator is binding.

43.11 An order from an Adjudicator may be entered into court and enforced through the court of competent jurisdiction.

44. Costs

Costs

44.1 Unless otherwise ordered by the Adjudicator under section 44.2 or by an appellate court, the parties to a dispute shall bear their own costs and an equal share of the costs of the adjudication process.

44.2 The Adjudicator has the authority to order one, both or all of the parties to pay some or all of the costs of the adjudication process, including but not limited to the costs of the Adjudicator and any professionals retained, taking into account:

- (a) the reasonableness of the parties in their positions;
- (b) the conduct of the parties;
- (c) the result of the adjudication;
- (d) the use of professional services; and



- (e) any other relevant factor.

Sliammon First Nation Liability

44.3 For greater certainty, the Sliammon First Nation shall not be liable or responsible for the costs of adjudication under this part, or of any dispute resolution process, where the Sliammon First Nation is not a party.

45. Appeals and Alternate Forums

Appeal of Decision

45.1 Subject to any exception established by a law, a decision of the Adjudicator may be appealed to a court of competent jurisdiction.

Alternate Forums

45.2 Nothing in this part precludes Council from establishing additional processes or laws for resolving disputes, which processes may include facilitated discussion, mediation, administrative appeals, or referral to another forum.

PART 9 OTHER MATTERS

46. Liability

Liability Coverage

46.1 Council shall arrange for, maintain and pay insurance coverage for:

- (a) liability of the Sliammon First Nation in relation to Sliammon Lands; and
- (b) personal liability of the Sliammon First Nation's officers and employees for acts done or omitted to be done in good faith while engaged in carrying out duties in relation to Sliammon Lands.

Extent of Coverage

46.2 Council shall determine the extent of insurance coverage under section 46.1.



47. Offences

Application of Criminal Code

47.1 Unless otherwise provided by a Law, the summary conviction procedures of Part XXVII of the *Criminal Code* apply to offences under this Land Code and offences under a Law.

Justices of the Peace

47.2 Council may enact Laws in relation to appointment of justices of the peace for the enforcement of this Land Code and Laws.

Provincial Courts

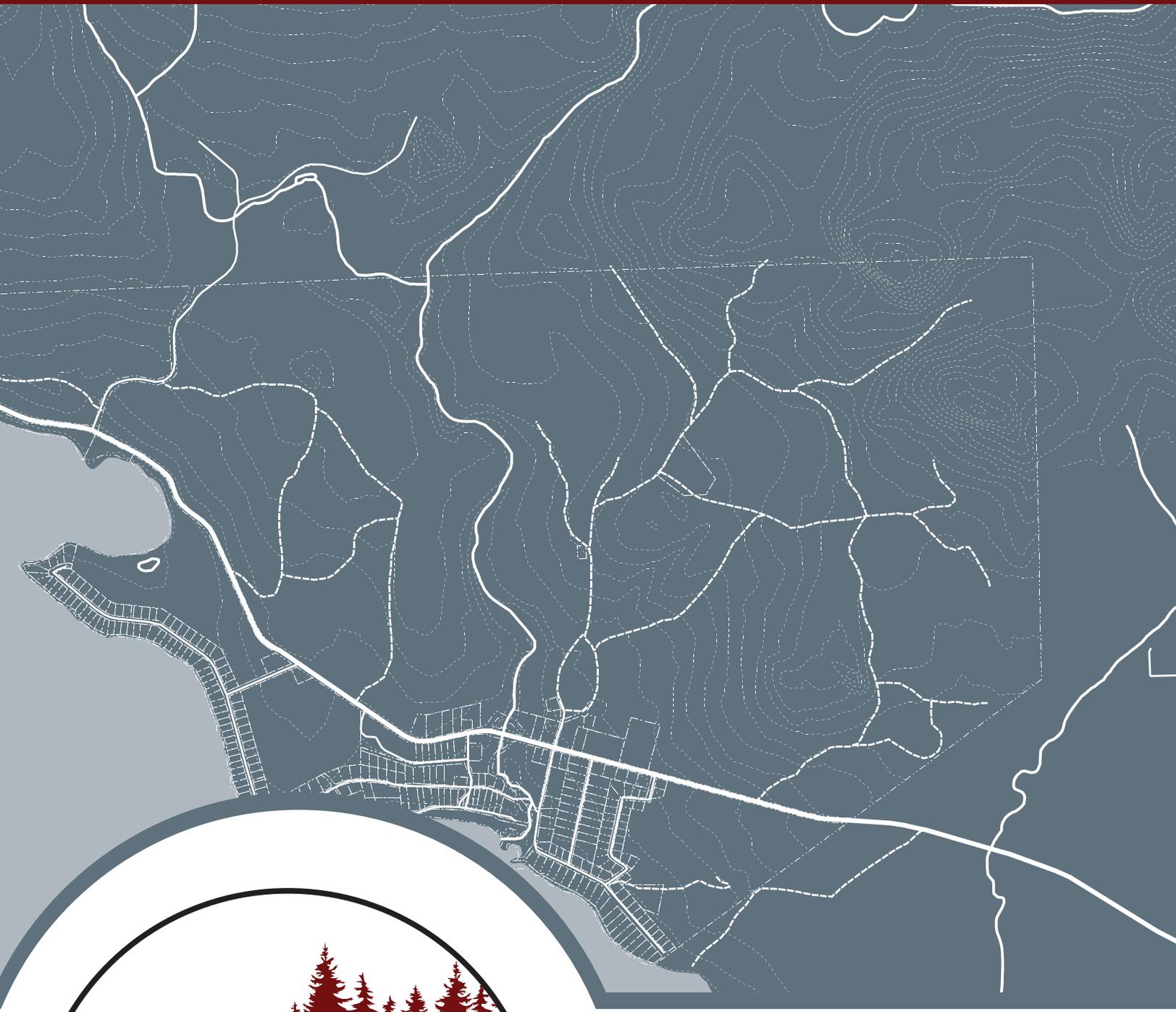
47.3 If no justice of the peace is appointed, this Land Code and Laws shall be enforced in the Provincial Court of British Columbia or British Columbia Supreme Court or any court of competent jurisdiction as the case may require.

48. Amendments to Land Code

48.1 Amendments to this Land Code shall be approved at a Meeting of Members.

49. Commencement

49.1 This Land Code shall come into force on the date that it is approved at a Meeting of Members.



TLA'AMIN

LAND USE PLAN

MARCH 2010



A note about names

This Land Use Plan uses spellings from our official phonetic place names list. Tla'amin is also used instead of the mispronunciation, Sliammon. Older project reports referenced in this Land Use Plan go by their original titles and use English place names that were given after contact. Tla'amin people were not consulted in their own territory and these place names legally went into effect. Please see the Glossary for more information.



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1.0 INTRODUCTION

1.1 SUMMARY

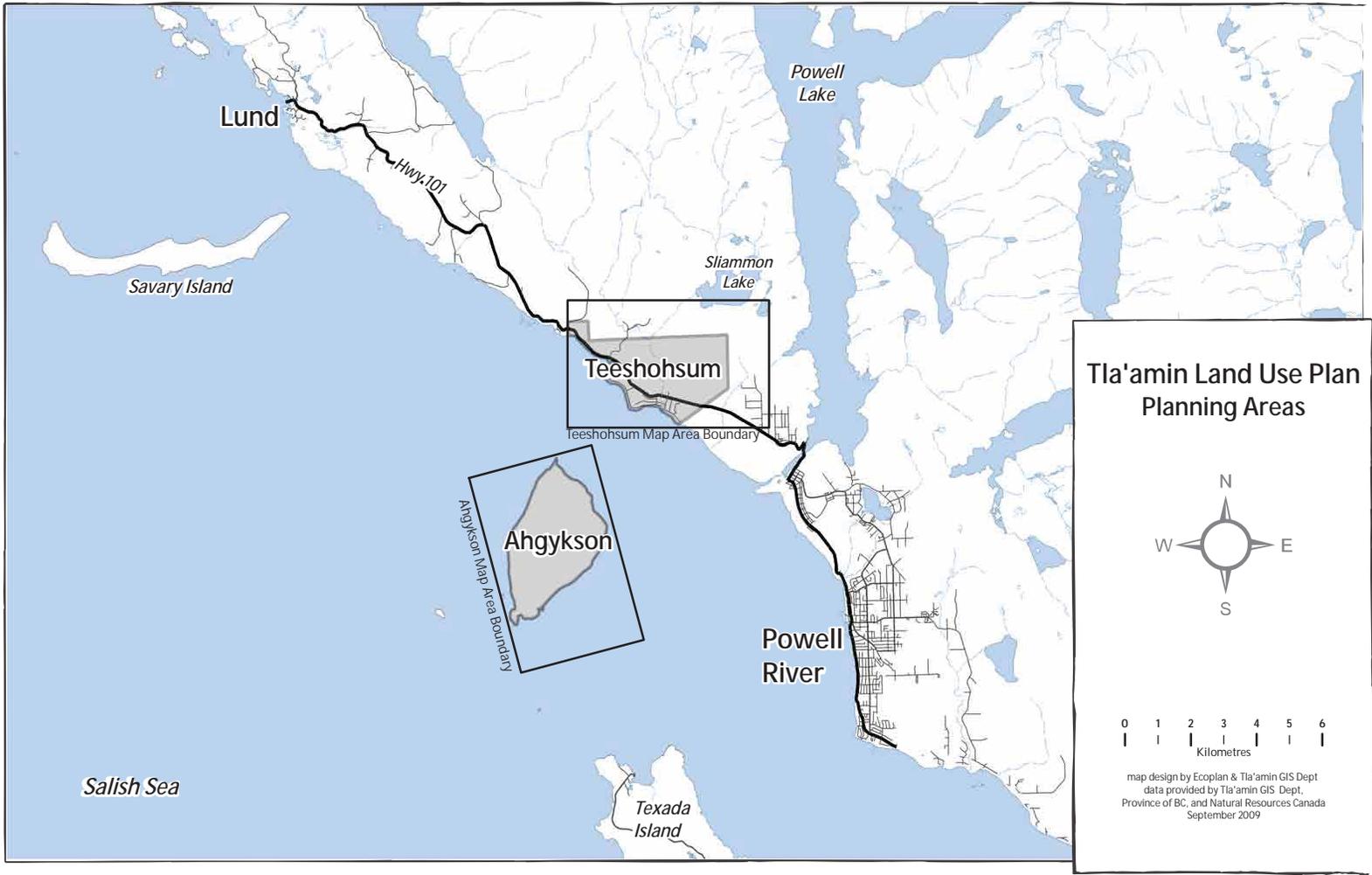
Our Land Use Plan directs **land use and development** on Teeshohsum (Sliammon IR 1) and Ahgykson (Harwood Island IR 2). It establishes direction by describing our vision and broad concepts for how we use and develop these lands. It also describes **how, where and when** people will be allowed use and develop **specific areas** within these lands.

This plan includes a **framework** for **land use decisions** that are to be made for all of our lands and properties, and **guidelines** on **how new development will be reviewed**, by whom, and when. It provides certainty around development in Teeshohsum and on Ahgykson and is a tool for **fair, transparent and consistent decision-making** by staff and leadership. This plan will help us move forward with important capital projects and upgrades (e.g., new water and sewer services, roads, new community facilities, etc.). It also supports our ongoing economic development planning and implementation.

Our Land Use Plan includes:

- General **land use designations** for our lands with a list of potential uses for each designation;
- **Zoning designations and regulations** for our main population centre, Teeshohsum;
- **Guidelines** to protect **environmentally** and **culturally sensitive areas**; and,
- A **development review process** that provides a **clear, transparent and strategic** framework for future land-use decision-making.

The objectives, principles and policies of this Land Use Plan are enacted under our Land Code through the **Tla'amin Land Use and Development Law**. All members, staff and leadership are bound to this law, as are any third-party development partners we may work with in the future.





1.2 PLANNING APPROACH

This Land Use Plan incorporates the same Tla'amin teachings that have guided our past planning work. The following teachings are particularly important to our land use decisions and policies:

- **Accountability (Yeeqotltlet)** – Regular and relevant reporting will be made throughout the process to elected leaders and community members with responsibility at the forefront of planning.
- **Communication (Qwakwistowtl)** – Work diligently to ensure two way consultation process is in place to provide clear and accurate information from the many perspectives of our people.
- **Fairness (Thahthxwen)** – Make every effort to ensure that everyone is given equal opportunity to witness and be included in the process through consensus decision-making.
- **Honesty (Ganuxwet)** – Be truthful, sincere and practical in the information provided to our people. Transparency and openness will resolve peoples concerns.
- **Respect (Teestahm)** – Honor our ancestors, our connection to the land and a sustainable future for our children by keeping them at the forefront of all processes.

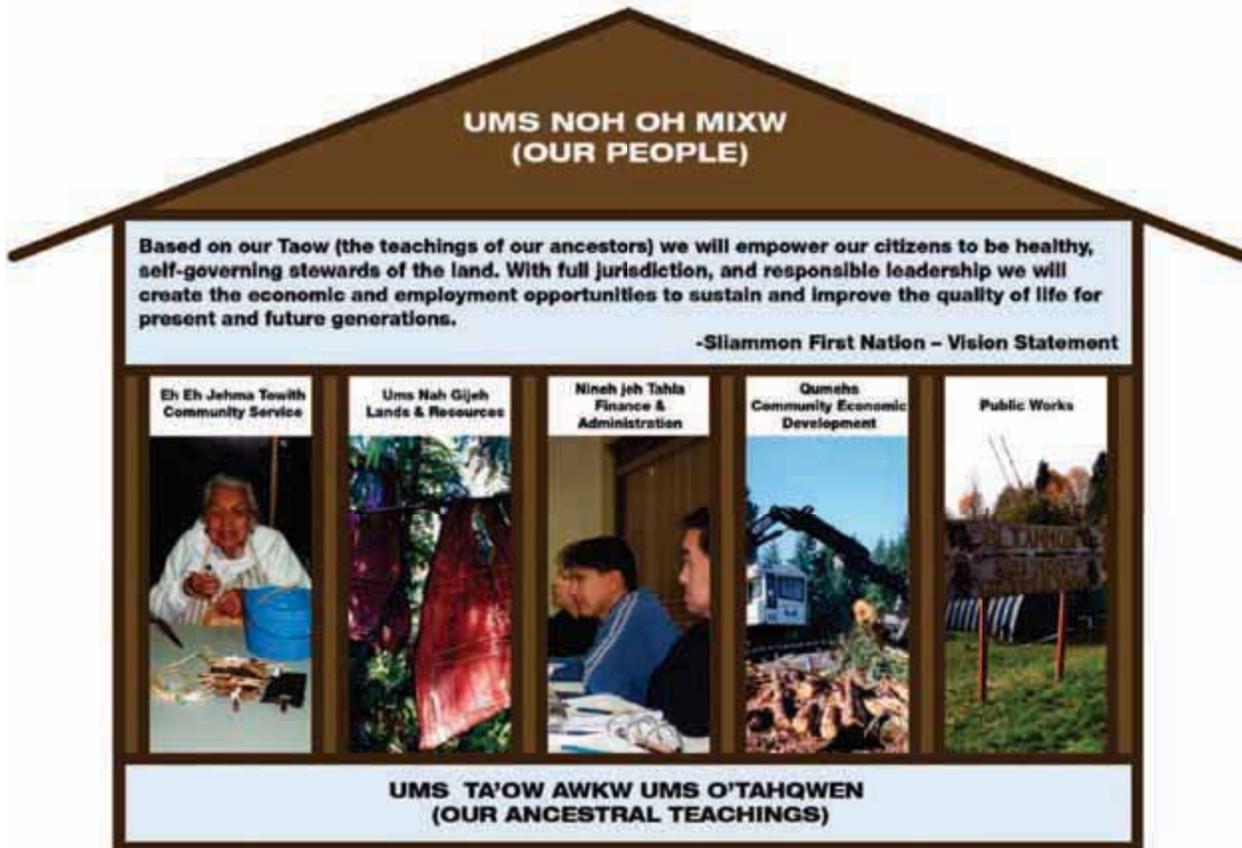
Over the past two decades, we have carried out a considerable amount of land use planning work. These projects generated a number of relevant and important land use policies and preliminary land use designations which informed and guided our final Land Use Plan.

Our past planning work is extremely important not only for the policies they created, but because of the **extensive member engagement** that was part of them, including the active involvement of many Elders who are no longer with us. These initiatives also required **considerable staff time and leadership input**. Our Land Use Plan carefully **built upon, confirmed and incorporated** this community feedback

The House of Governance model illustrated on the facing page was first developed for the 2004 *Reflecting on Traditional Governance* report and refined in 2007 for our *Comprehensive Community Plan*. Presented in the form of a longhouse, the Land Use Plan incorporated the model and was led by its Vision Statement. The components of the longhouse include:

- **Outer House Structure** – represents the Nation and all of the things that encompass the Governing of the Nation.
- **Foundation** – is comprised of Ums t'aow awkw ums O'tahqwen (our ancestral teachings) and signifies our inherent rights through the respect that Tla'amin have for the teachings and the land they left us, and the guidance they still provide.
- **Rafters** – the Tla'amin people are at the top in the rafters as a reminder that we are here for our people above all else.

- **Support Beam** – our vision statement is shown as the support beam across the top that connects everything in the house.
- **House Posts** – the organizational level is made up of house posts for each area of the Nation. Finance & Administration is shown as the central house post to signify the central role it plays in relation to the other house posts.







2.0 WHERE HAVE WE BEEN?

This section begins the story of our Land Use Plan. It provides a brief overview of our history and the two small reserves this Land Use Plan applies to. It also provides details on the planning process we used and summarizes the work we did with our community in developing the plan.

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2.1 PEOPLE AND HISTORY

Since the beginning of time, our people have lived on the lands that the Creator provided for our ancestors. Our creation stories speak of how the Creator put Tla'amin people on this land. We have a deep connection to it, established at the time of our birth when our umbilical cord was buried into the ground.

This connection is nourished by our teachings, which show how we are bound to the forests and waters of our territory. Our people have depended on this land for their survival since time immemorial. Archaeologists date some of the known archaeological sites to over 8,000 years ago.

Our teachings tell us about a vast traditional territory that once belonged to Tla'amin people. This traditional territory stretched along the northern Sunshine Coast, extending along both sides of the Straight of Georgia. The entire territory occupied an area about 400 square kilometers, and consisted of numerous temporary and permanent settlements within the region.

It is from our proud and long history that we derive our inherent right to self-government. With jurisdiction and responsible leadership, we will create economic and employment opportunities to sustain and improve the quality of life for present and future generations.

TEESHOSUM COMMEMORATIVE MAP

The map on the next page was started in 2004 when Elders were working on several Governance and Language project initiatives that kept coming back to discussions about where people lived and worked, life changing events and the people that passed on years before. There was very valuable information in the conversations, so we decided to get a blank map and start identifying Elders' earliest memories to the best of their recollection of where the main residences were on I.R.#1 prior to 1945. The Elders wanted to commemorate the memory of many of the early Teeshohsum residents. Prior to this families that held vast tracts of lands throughout the traditional territory.

Catastrophic disease, the church and residential schools, and the great fires (including the 1918 fire) were just some of the reasons Elders talked about people centralizing at Teeshohsum. Reserves were issued in 1879 and provincial laws followed about being on reserve from dusk till dawn. In 1900, Christian names were issued to simplify status and band membership and some people were automatically transferred out of their nation when they married. Some people were able to maintain fishing, hunting and trapping cabins located throughout the territory and continued to move according to seasonal gathering patterns. More recently, the commercial fishing and forestry sector took many people from the community for extended periods each year and many were forced to sign away status (enfranchise) so they could work off reserve.

The first lot surveys were carried out on Teeshohsum by the Department of Indian Affairs in 1958 which started a decades long battle over traditional properties versus Department of Indian Affairs certificates of possession which are registered legal interests.

The commemorative map celebrates our collective past at Teeshohsum and those Elders who lived and worked there in the early part of last century.

2.2 PAST PLANS

This Land Use Plan **builds on previous planning** and capacity building projects and initiatives. Over the past two decades, we have carried out a considerable amount of land use planning work for our reserves, Treaty Settlement Lands and with neighbouring local governments and other First Nations. These projects generated a number of **important and relevant land use policies**, many of which are carried over into this plan.

- •  **1) Physical Development Plan Update for Sliammon Indian Reserve No. 1 (1996)**
This plan established long term development goals, land use goals and a capital plan. While out dated, it is the only current plan that addresses infrastructure planning and engineering for Teeshohsum.
- •  **2) Highest & Best Use Analysis of Treaty Settlement and Reserve Land (2003)**
This analysis addresses characteristics of the land, the market for a variety of uses, the constraints and opportunities, and ultimately the highest and best use Tla'amin lands.
- •  **3) Land and Resource Management Plan for Sliammon Reserve Lands (2003)**
This plan established a community vision for reserve lands, general land use designations and management objectives. The plan's designations provided the foundation of the new Land Use Plan.
- •  **4) Land and Water Use Plan for Tla'amin Traditional Territory (2005)**
An expression of Tla'amin interests across the traditional territory and a guide for land use allocation and resource management decision-making.
- •  **5) Sliammon Comprehensive Community Plan (2007)**
This plan established a community vision for community development, updated zoning for reserve lands and technical background report with population projections.
- •  **6) Sliammon First Nation Environmental Management Framework (2007)**
This agreement established a strategy for managing environmental issues on reserve lands.
- •  **7) Sliammon- Powell River Regional District Harmonization Project (2008)**
This project made recommendations for harmonized land use planning in buffer zones between Sliammon lands and Powell River Regional District lands.
- •  **8) Sliammon Reserve Land Interest Verification Project - Phases 1 & 2 (2008)**
This project made recommendations for resolving outstanding land disputes on Teeshohsum.
- •  **9) Sliammon - SFU Archaeology and Heritage Stewardship Project (2008 - 2012)**
This project is expanding the inventory of archaeological sites and making recommendations on heritage stewardship.
- •  **10) Sliammon Woodlot License Plan (2009)**
This plan outlines a tree harvest and replanting program for Sliammon's community woodlot that covers a large portion of Teeshohsum, north of the main village area.



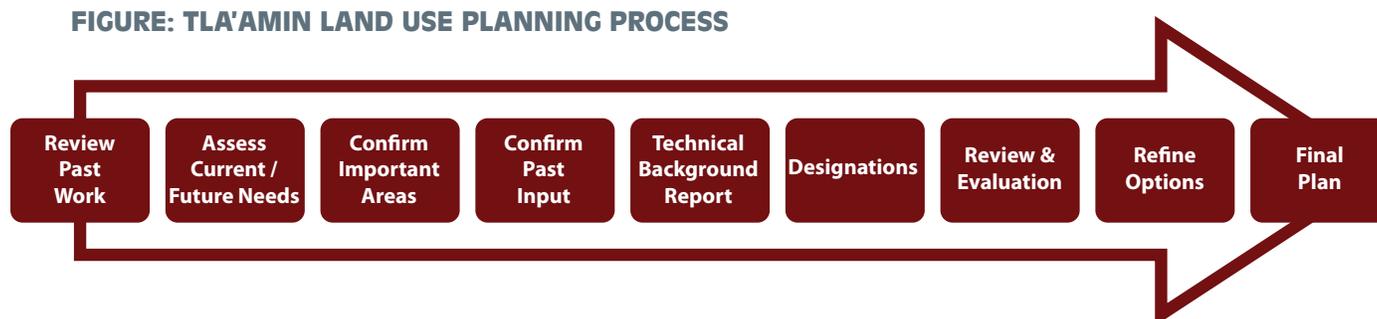
HOW IT ALL FITS TOGETHER

This graphic illustrates where the Land Use Plan fits in relation to our major laws and policies. It shows how this Land Use Plan fits under our Land Code and will be implemented through two laws, the Tla'amin Land Use and Development Law and the Tla'amin Building Law.

2.3 PLANNING PROCESS

Our Land Use Plan project started in August 2009. It included community input at each step and review by Tla'amin leadership at key junctures. The key steps in our process are illustrated in the graphic below.

FIGURE: TLA'AMIN LAND USE PLANNING PROCESS



1. Review past planning work and identify planning gaps and information needs;
2. Assess current and future needs for housing and community facilities;
3. Confirm culturally and environmentally sensitive areas and other land development constraints;
4. Confirm community-identified values and preferences from past plans;
5. *Technical Background Report* summarizing first four steps;
6. Generate land use designations based on past planning work, modified where necessary and appropriate;
7. Review options with community and leadership to determine critical choices and preferences, as well as decisions/opportunities that require further information (e.g., new administration building location, new sewage treatment facility, potential in-vessel composting system, etc.);
8. Refine preferred options to develop 'best' option; and,
9. Develop Final Land Use plan that directs Tla'amin towards the preferred option.

2.4 WORKING WITH OUR COMMUNITY

As already highlighted in Section 1.2, the development of this plan was **community-based and member-driven**. It involved on- and off-reserve members, Elders, youth and staff, leadership and committees.

Our approach recognized the fact that there were many other important initiatives underway in our community. Our **Constitution, Treaty**, and ongoing **Land Code** work have all required extensive and ongoing community engagement and input. This plan respects those efforts by including the community input from those processes.

Some of our Land Use Plan engagement activities are summarized below.

- **Project Support Team:** A core project team of senior staff (including one Councilor) met regularly to help guide the project and to work with our consultant team.
- **Steering Committee:** An advisory group made up of additional senior staff was established and met at key project junctures.
- **Chief and Council:** Our leadership kept up-to-date on the project through three presentations and working sessions, and provided direction on critical decisions. A Council representative was also a member of the Project Support Team.
- **Project web site:** We set up a project website (www.sliammon-lup.ca) where we posted all project information. Visitors could download copies of project materials or provide information through on-line surveys and questionnaires.
- **Community survey:** About 20% of our adult, on-reserve population (a very high response rate!) completed a questionnaire. The survey confirmed Land Use Plan directions and themes.
- **Community posters:** We developed a series of Community Information Posters that we displayed at community venues around Teeshohsum and at community events.
- **Neh Motl articles:** We produced regular monthly articles for Neh Motl to keep community members up-to-date on the project.
- **Elders' presentation:** A summary of the project was provided to 20 Elders at a luncheon and they completed questionnaires.
- **Community open houses:** We organized two open houses to gather input and feedback. Almost 40 people attended our first open house in December 2009, while 17 attended an open house in February 2010.
- **Chief and Council AGMs:** The Project Support Team attended an AGM in Teeshohsum and in Vancouver to gather input on components of the land use plan.





3.0 WHERE ARE WE NOW?

This section provides an overview of our lands within Teeshohsum and Ahgykson. It summarizes how we are currently using these lands and talks about what opportunities, needs, and constraints we considered while developing our Land Use Plan.

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3.1 OUR LANDS

TEESHOSUM

Located 130 km northwest from Vancouver on the northern Sunshine Coast and just outside the City of Powell River, Teeshohsum has been an important settlement area for our people throughout our history and is our main village site today.

Teeshohsum is currently our only populated reserve. Given the infrastructure and services already in place there, and the existing population, our Land Use Plan recommends that Teeshohsum remain the main area for residential and commercial development well into the future. This recommendation has been made previously by the Highest & Best Use Analysis of Treaty Settlement and Reserve Land (2003).

AHGYKSON

Located in the Salish Sea (Georgia Strait) about two kilometres south west of Teeshohsum, Ahgykson is our largest reserve at 848 hectares (2,095 acres). It is entirely undeveloped and a popular hunting, traditional gathering and camping destination for our members. There are also many important archaeological sites on the island. Ahgykson is the largest uninhabited island of all the Gulf Islands.

Ahgykson is abundant with natural resources. It is lined with sandy beaches, has several aquifers providing fresh water and has significant wildlife habitat value. Silica deposits have also been identified. Unfortunately, beaches on the south-east coast of the island have been contaminated by pulp mill effluent from Powell River and there have been shellfish closures there.

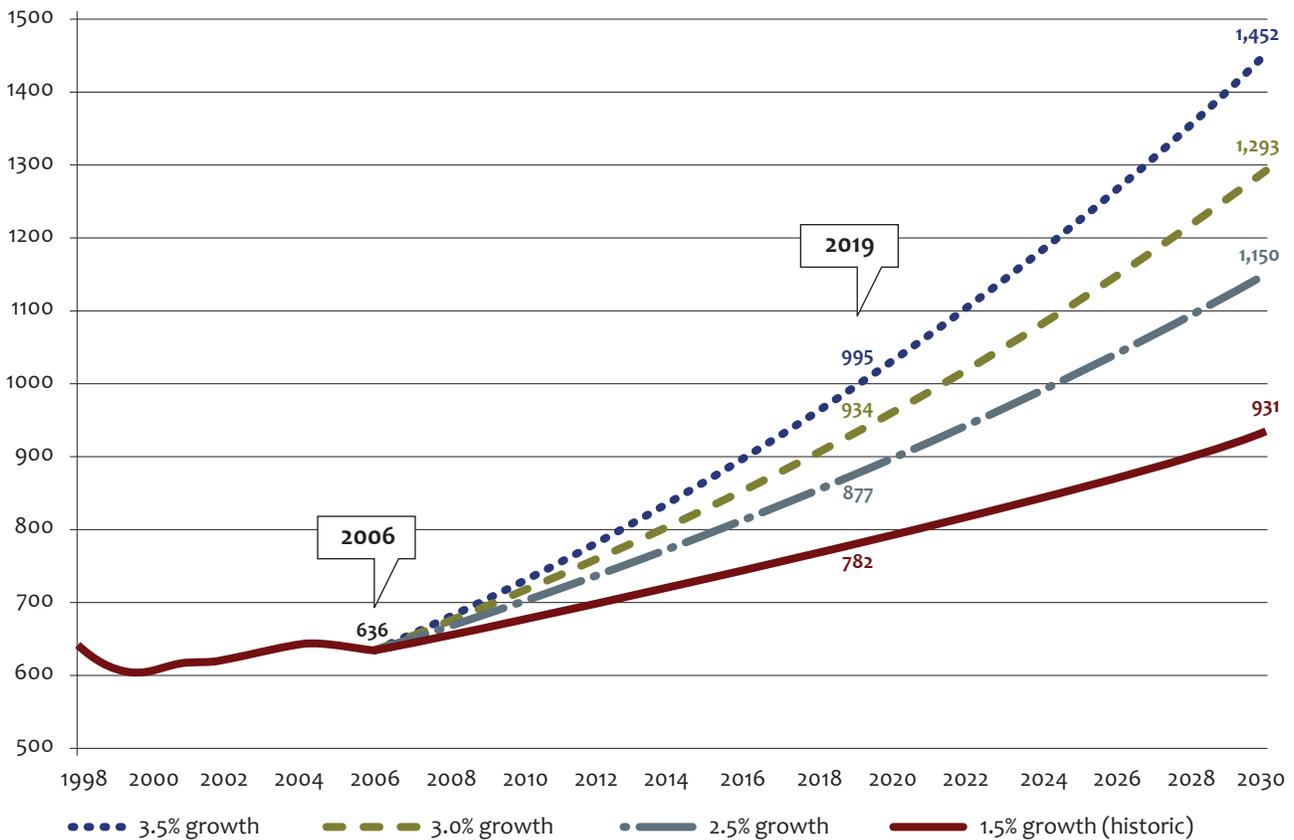
Extensive past community engagement has clearly shown that most community members have significant concerns around protecting the natural and cultural resources of Ahgykson and would like to see the island left as natural as possible.

3.2 OUR PEOPLE

In 2009, our total membership was estimated at about 1,000 people. Of these, almost 700 lived in Teeshohsum¹, or almost 70% of our population. Based on past population trends, it is expected that between 782 and 995 members could be living in Teeshohsum in 10-years time. Of course, our future on-reserve population will depend on a number of factors, including the diversity of housing available to members (i.e., homes for families, single people, Elders, etc.), the regional economy, and general living conditions in Teeshohsum. If current growth trends continue, Teeshohsum could conservatively be home to between 930 and 1,150 people by 2030.

1 Sliammon Comprehensive Community Plan – Community profile (2007).

FIGURE: TLA'AMIN ON- RESERVE POPULATION FORECAST, 2009 TO 2030



3.3 OUR COMMUNITY NEEDS

To help us determine what kinds of land uses should be permitted, we first had to determine **what our community's needs** were and then find out how much land we would need to meet them. Some of the questions we asked included:

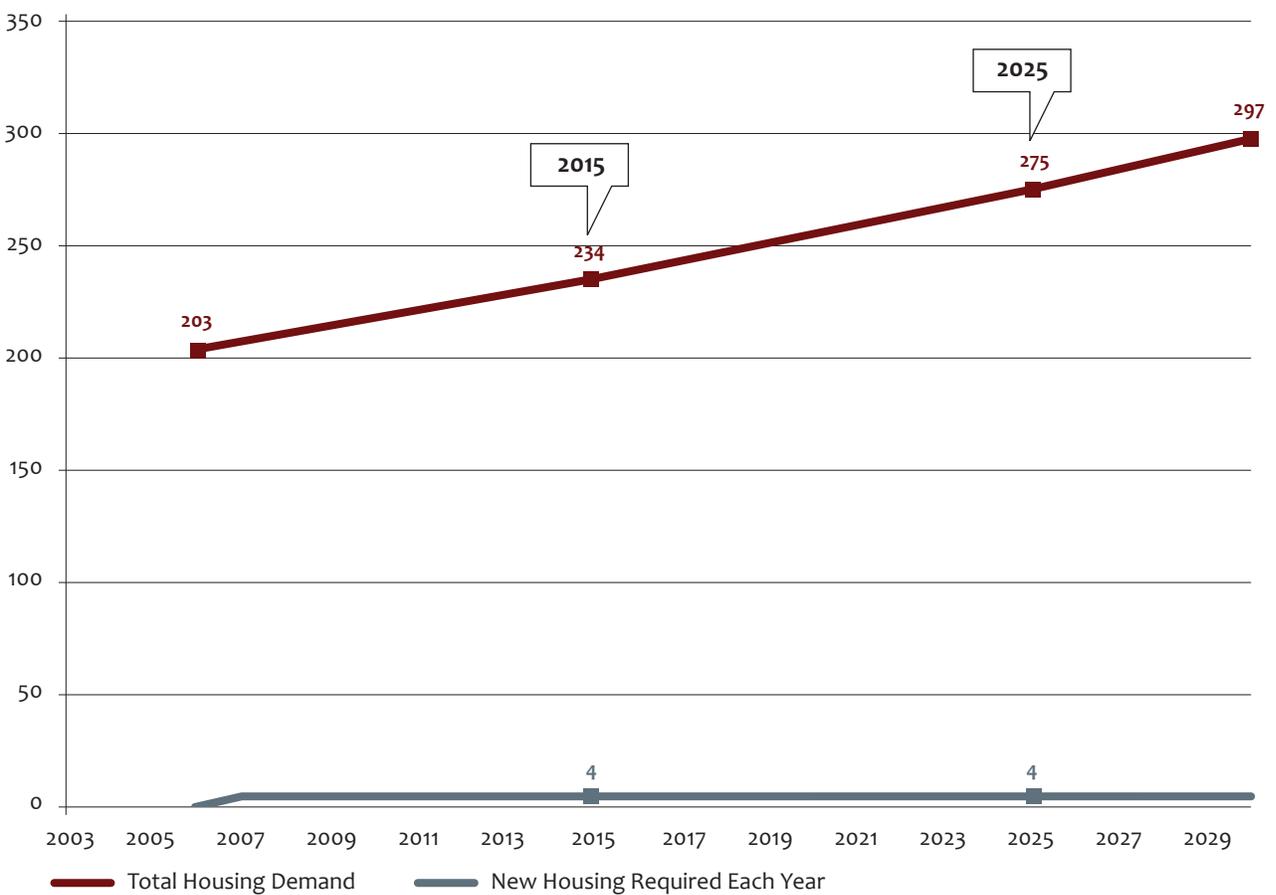
- What are our members' housing needs? How much housing is needed? What kind of housing is needed (e.g., single family, multi-family, social housing, Section 10 housing, etc.) and how will this need change over time?
- What kinds of new facilities are needed and why?
- How can we use our lands to generate revenue for the Band and to generate economic opportunities for our members?

3.3.1 Housing

Despite having no real housing wait list, **member housing** is still a key community concern. In particular, variety and choice of housing types was highlighted as an important need. Currently, our housing stock is mostly limited to detached single-family homes that do not meet the needs of all our members.

As illustrated in the chart, our housing needs are projected to grow over the next 20-years. The housing projections are based on our on-reserve population and demographic projections. They use the current rate of 3.13 people per dwelling unit. This shows that we will need approximately **95 new homes over the next 20-years** if our historic growth rate of about 1.6% continues into the future. If a higher growth rate was experienced (i.e., 3.5%), we would require almost 240 new homes over the next 20-years.

FIGURE: TEESHOSUM HOUSING PROJECTIONS, 2009 TO 2030



Currently, we are still working on the development of a new, 54-lot subdivision between our Health Centre and the Klahanie lease-hold lands that would address our short term needs (i.e., 10-years). From 2020 to 2030, following the completion of our new subdivision, we would need to build an average of **5 new housing units per year**.

TABLE: TEESHOHSUM MEMBER HOUSING OPPORTUNITIES AND CAPACITY

| Housing Opportunities | Quantity or Land Area | Unit Capacity | Population Capacity |
|--|---|---|--------------------------|
| Vacant, serviced Lots | 1 lot | 4 residences, plus suites or duplexes | 12 to 16 people |
| New subdivision west of Health Centre | 9.8 hectares (24.2 acres) | 54 residences, plus suites or duplexes | 169 to 180 people |
| Addition of suites to existing member housing | 203 current housing units | 20 new suites or detached cottage units (10% uptake) | 30 to 45 people |
| Total potential capacity | | 58 residences plus 20+ suites or cottage units | 210 to 240 people |
| Additional 20-year capacity required to meet maximum population projections | At 7.5 units per hectare: 10 hectares (24.7 acres) | up to 75 units | up to 240 people |

Assumptions:

- 3.13 persons per household for primary residential units
- 2.2 persons per household for suites, duplex units, and rental units
- 1 of 10 residential units includes a secondary suite, detached cottage, or is a duplex
- 230 to 450 new Teeshohsum residents (members) in 20 years

3.3.2 Facilities

Our top community facility needs as identified in our 2007 Comprehensive Community Plan and confirmed during this project include a new **Administration Building, a Cultural Facility, Longhouse** and a new **Elders Centre and Lodge**. We have carried out preliminary planning and feasibility work on these facilities, including location and siting preferences. The following table summarizes our facility needs.

TABLE: TEESHOHSUM FACILITY NEEDS

| Facility | Current Planning Phase | Location(s) | Land Area required |
|--|--|---|-------------------------|
| Administration Building and Cultural Facility | <ul style="list-style-type: none"> • 2007 Cultural Building & Admin Facility Report | <ul style="list-style-type: none"> • 2007 facility report and member vote selected site near Salish Centre • Land recently cleared across from Xwup-Xwup store for facility | .8 hectares (2 acres) |
| Elders' Facility | <ul style="list-style-type: none"> • 2005 Feasibility Study | <ul style="list-style-type: none"> • Potential site adjacent to Health Centre | .1 hectares (.25 acres) |
| Cemetery | <ul style="list-style-type: none"> • 2006 CCP community visioning identified potential site | <ul style="list-style-type: none"> • Potential site across Highway 101 from Salish Centre | 4 hectares (10 acres) |

| Facility | Current Planning Phase | Location(s) | Land Area required |
|-----------------|---|---|--|
| Longhouse | <ul style="list-style-type: none"> • Discussion only • 2006 CCP community visioning identified potential site | <ul style="list-style-type: none"> • Potential site north of Highway 101 above Salish Centre | 2 hectares (5 acres) for facility & parking, screening |
| Youth Centre | <ul style="list-style-type: none"> • 2009 discussion only • Project of new Tla'amin Youth Wellness Society | <ul style="list-style-type: none"> • Proponent wants to locate it in 'Village Centre' near Salish Centre and Health Centre | .1 hectares (.25 acres) |
| Wellness Centre | <ul style="list-style-type: none"> • 2009 discussion only • Project of new Tla'amin Youth Wellness Society | <ul style="list-style-type: none"> • Proponent wants to locate it in 'Village Centre' near Salish Centre and Health Centre | .1 hectares (.25 acres) |
| TOTAL | | | 7.1 hectares (17.5 acres) |

3.3.3 Economic Development

Our lands are the foundation of our economic development initiatives. As such, they must be able to provide **adequate opportunities for business development, revenue-generation and member employment**. While this land use plan recognizes the importance of economic development, it also understands that additional work, including the creation of an Economic Development Strategy, is required to properly determine our land requirements for economic development.

For Teeshohsum, our use of land for economic development consists primarily of **leasehold residential housing** and some limited commercial forestry. Currently, Teeshohsum includes the 111-lot Klahanie subdivision and 29-lot Southview subdivision, both of which are leased out to non-members and are significant revenue generators for Tla'amin.

Over the years, numerous development opportunities have been proposed, but few have been implemented. It is worth noting that the current Economic Development designations in this Land Use were based on specific development ideas that included everything from a golf course to a computer manufacturing facility. While some of the concepts still could be further explored and tested for financial feasibility, some, we know, are not likely feasible in the short- or long-term (e.g., computer manufacturing facility)

The table below summarizes some of the concepts and their status. Newer ideas developed through the land use planning process are also noted.

TABLE: TLA'AMIN ECONOMIC DEVELOPMENT OPPORTUNITIES AND LAND NEEDS

| Development Opportunity | Current Planning Phase | Potential Location(s) | Land Area required or designated |
|--|--|--|---|
| New Lease-Hold Subdivision(s) | <ul style="list-style-type: none"> • Discussion only • Feasibility to be determined | Southview extension, north west corner of Teeshohsum above Highway 101 | 18.5 hectares (45 acres) |
| | | Klahanie extension, Scuttle Bay area below Highway 101 | 3.5 hectares (9 acres) |
| Industrial Park / Light Manufacturing | <ul style="list-style-type: none"> • Identified in CCP • No detailed planning • Feasibility to be determined | Land designated above Highway 101, north west of Salish Centre | 2.65 hectares (6.55 acres) |
| Office space | <ul style="list-style-type: none"> • Discussion only • Feasibility to be determined | Economic Development designated land across from Xwup-Xwup | 2.48 hectares (6.12 acres) |
| Computer Manufacturing Facility | <ul style="list-style-type: none"> • Identified in CCP • Unlikely due to technical and business feasibility | NA | NA |
| Golf Course | <ul style="list-style-type: none"> • Identified in CCP • No detailed planning • Likely need to be linked to lease-hold housing project to be feasible | Forested land above Scuttle Bay, above Highway 101 | 56.5 hectares (140 acres) |
| Winery | <ul style="list-style-type: none"> • Identified in CCP • No detailed planning • Unlikely in short-term | Forested land above Scuttle Bay, above Highway 101 | 81 hectares (200 acres) |
| Gravel pit | <ul style="list-style-type: none"> • Potential site of moderate quality on Teeshohsum | North-east corner of Teeshohsum | 50 hectares (125 acres) |
| Eco-tourism | <ul style="list-style-type: none"> • Identified in CCP • No detailed planning | Numerous opportunities and sites, particularly on Ahgykson | 4 hectares (10 acres) |

3.4 LAND DEVELOPMENT CONSIDERATIONS

3.4.1 Land Requirements

We will require up to 17 hectares (42 acres) to meet our community housing and facilities needs on Teeshohsum over the next 20-years. We have ensured that adequate and appropriate land is available to accommodate these needs through our land use designations and zoning.

Because our Economic Development requirements and opportunities are not yet clarified, we have identified specific land areas that are most suitable for economic uses or leasehold housing. Suitability includes factors such as proximity to infrastructure and access to major roads. These areas are large enough to accommodate a wide range of potential economic activities.

TABLE: COMMUNITY LAND NEEDS AND REQUIREMENTS

| Community Need | Current Designated land area | Additional Land Requirements | Notes |
|--|------------------------------|------------------------------------|---|
| Member housing | 42.2 hectares (104.3 acres) | 10 hectares (24.7 acres) | <ul style="list-style-type: none"> • There are no members currently on our housing wait list. Our new subdivision could potentially meet our housing needs for 10-years. After 2020, we would need to build an average of 5 units per year to meet expected demands. • There are many ways to build housing that would reduce our land requirements and make servicing each house more cost effective. • The addition of secondary suites or cottages with existing homes would create more opportunities for our elders, our young people, and young families to live on reserve. • Additional member housing sites identified in Community Use designation north of Highway 101 above Salish Centre and below Xwup-Xwup store |
| Community facilities | 7.7 hectares (19 acres) | 7.1 hectares (17.5 acres) | <ul style="list-style-type: none"> • If we build our new Administration and Cultural facility as planned, we could use the old Administration site for housing or cemetery expansion. • As our community grows, we will consider and plan for new facility needs within each new area of development. |
| Economic development – Leasehold Housing | 18.7 hectares (47.74 acres) | 22 to 30 hectares (54 to 74 acres) | <ul style="list-style-type: none"> • Enough space to expand our leasehold housing above our Southview subdivision and next to our Klahanie subdivisions. Potential to develop 54 to 150+ new leasehold lots depending on lot layout, sizing and servicing. |



3.4.2 Development Constraints

We identified and mapped general land constraints for both Teeshohsum and Ahgykson. Constraints are limitations to development that either make new development impossible or limit it. Examples of land constraints include:

- **physical constraints** (e.g., steep and unstable slopes, high water table levels, flood threat, etc.);
- **cultural constraints** (e.g., known archaeological sites, cultural sites, etc.); and,
- **environmental constraints** (sensitive ecological areas like Sliammon Creek and the foreshore, etc.).

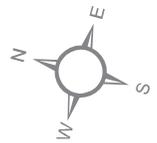
Knowing the location of these constraints also helped us better understand where our development opportunities are.

WATER AND SEWER

We also know that our current infrastructure and servicing capacity will limit development. Teeshohsum is nearing capacity for water services, so new residential and community facilities may require increased water services capacity or improved demand management strategies. We are in the process of addressing our future water needs and the management of this critical resource.

Our current sewer facility for Teeshohsum is also nearing maximum capacity. We are currently in planning stages to develop a new system to address current and future needs.

Ahgykson Land Use Constraints



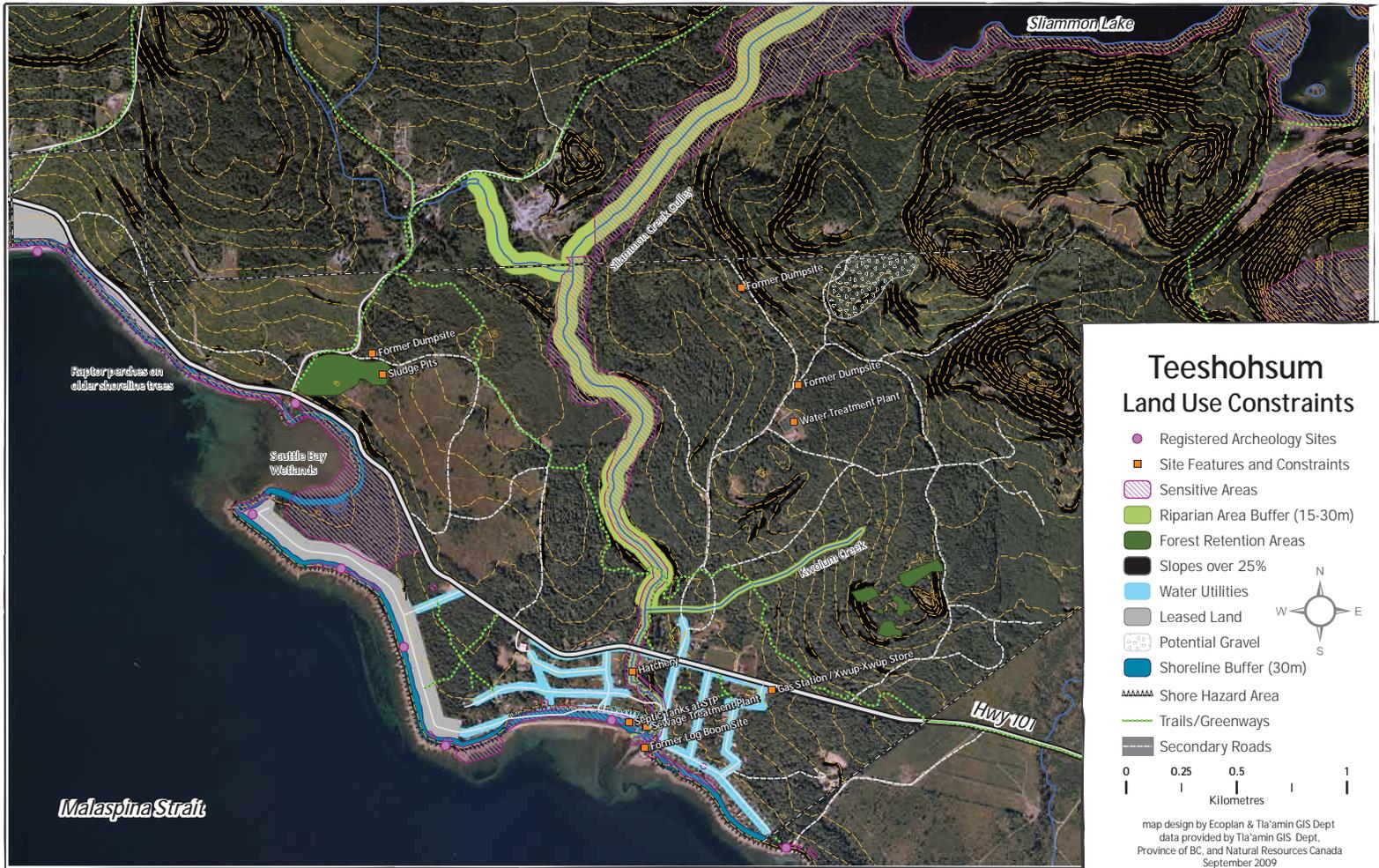
- Registered Archeology Sites
- Riparian Area Buffer (30m)
- Shoreline Buffer (30m)
- Wetlands
- Slopes over 25% (estimated)

not mapped: Contaminated Beaches 'on inside',
Flood and Sea Level Rise Hazards, Land Cover



map design by Ecoplan & Tla'amin GIS Dept
data provided by Tla'amin GIS Dept,
Province of BC, and Natural Resources Canada
September 2009

Salish Sea



Teeshohsum Land Use Constraints

- Registered Archeology Sites
- Site Features and Constraints
- Sensitive Areas
- Riparian Area Buffer (15-30m)
- Forest Retention Areas
- Slopes over 25%
- Water Utilities
- Leased Land
- Potential Gravel
- Shoreline Buffer (30m)
- Shore Hazard Area
- Trails/Greenways
- Secondary Roads



0 0.25 0.5 1
Kilometres

map design by Ecoplan & Tia'amin GIS Dept
data provided by Tia'amin GIS Dept,
Province of BC, and Natural Resources Canada
September 2009



4.0 WHERE DO WE WANT TO GO?

This section describes our land use vision and the larger, strategic community development objectives we used to guide our land use planning process.

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| 4.2 | Our Land Use Objectives | 36 |
| 4.3 | Anticipating the Future | 37 |



4.1 OUR LAND USE VISION

Our vision statement from our 2007 *Comprehensive Community Plan* reads:

Based on our Taow, we will empower our citizens to be healthy, self-governing stewards of the land. With full jurisdiction, and responsible leadership we will create the economic and employment opportunities to sustain and improve the quality of life for present and future generations.

Our Land Use Plan supports this vision.

When reviewing member feedback provided during past planning initiatives (e.g., *Sliammon Comprehensive Community Plan*, 2007) and feedback provided specific to this process, we heard some consistent ideas and thoughts from our members. We heard:

Teeshohsum is our home community

- This should be the core location for new member housing and facilities.
- Facilities should feel welcoming & accommodate the diverse needs of our membership.

A good Community is more than just houses

- Our community should be where we work, learn, play and gather.
- Our community should include parks, open spaces and natural areas.

Teeshohsum and Ahgykson must both sustain Tla'amin culture

- Our facilities in Teeshohsum should include a cultural centre.
- Special areas should be protected for ceremonial activities.
- Certain historic and cultural areas should be protected from all development.

Ahgykson should be protected

- Development on Ahgykson should be limited to traditional and cultural activities, or small-scale eco-tourism where practical and feasible.

Land use decisions for our lands must be transparent and involve members

- Development on our lands affects everyone, so members should be involved in reviewing major projects.
- Development review should be open, transparent and accountable.



4.2 OUR LAND USE OBJECTIVES

Our 2003 *Land & Resource Management Plan for Sliammon Reserve Lands (LRMP)* developed preliminary land use designations that were refined in this Land Use Plan. The LRMP also identified management objectives for the land use designations which are summarized below.

Because of overlapping objectives and designations, our Land Use Plan combined the Uhmsnahkayeh (Watershed Management) designation with the Yeexmet tums gijeh (Sensitive) designation to simplify and improve the designations. The management objectives for both designations were brought forward in the new designation.

TABLE: TLA'AMIN LAND USE DESIGNATION MANAGEMENT OBJECTIVES

| Designation | Management Objectives |
|---|--|
| Ookts oht yiqush (Community Use) | <ul style="list-style-type: none"> • Encourage diverse housing options to meet demographic needs • Encourage infill of existing serviced areas • Provide adequate recreational, cultural, government amenities • Maintain and enhance the rural village character in Teeshohsum • Promote sustainability (e.g., community gardens, orchards) • Encourage home-based businesses |
| Nineh jeh tahla (Economic Development) | <ul style="list-style-type: none"> • Minimize environmental and community impacts • Permit community-supportive commercial recreation facilities |
| Uhmsnah jehjeum (Forest Management) | <ul style="list-style-type: none"> • Promote and support sustainable forestry • Create a multi-use community forest (i.e., recreational and commercial uses) • Permit all traditional and cultural uses of Tla'amin forestlands |
| Uhmsnah kootlkoo (Marine Management) | <ul style="list-style-type: none"> • Encourage sustainable use of intertidal and coastal resources • Recognize area as Tla'amin "asset in common" • Permit traditional and cultural uses |
| Yeexmet tums gijeh (Sensitive Area) | <ul style="list-style-type: none"> • Protect traditional and cultural use sites whenever possible • Protect known archaeological sites whenever possible • Protect and buffer riparian habitat fish • Permit and support traditional and cultural uses • Accommodate non-consumptive uses, including sensitive recreational uses |

4.3 ANTICIPATING THE FUTURE

A challenging aspect of describing ‘Where Do We Want to Go?’ is the uncertain risks posed by the effects of climate change. Scientific debate has from “*Is this a real threat?*” to “*What will happen, by how much, and what can we do about it?*” This threat plays a significant role in shaping our long-term vision for our land.

Climate change scientists predict that BC will experience (and in some cases already is experiencing) the following impacts due to climate change²:

- Increasing temperatures will shift ecosystems to the north and to higher elevations.
- Increasing water temperatures will disturb aquatic ecosystems.
- Shifts in weather and precipitation patterns may disturb ecosystems that are sensitive to these cycles, as well as water supply infrastructure that is designed for specific conditions
- Coastal storm activity will increase in intensity and frequency, exposing coastal housing and infrastructure to greater risk.
- More intense and more frequent storms may damage and interrupt the provision of basic services such as water, power, fuel, and transportation.
- Sea levels could rise by as much as 1.2 metres, causing permanent flooding of low-lying areas and increasing the impacts of flood and storm events.

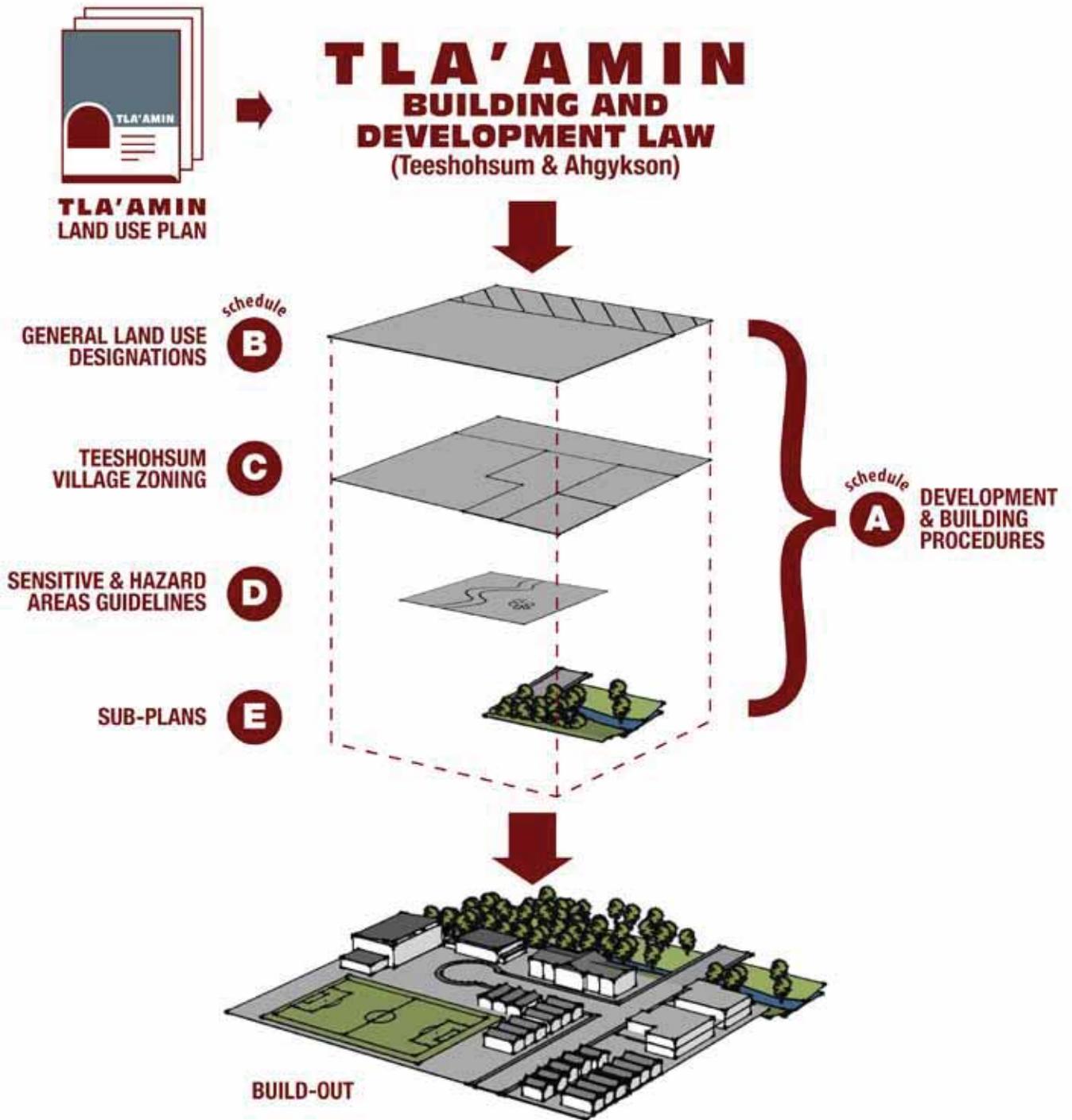
An example of our uncertainty is the projected height of actual sea level rise. Current provincial estimates for our traditional territory range from 0.04 to 1.03 metres by the year 2100³. Considering our time living on these lands, that year is not far away.

We want to manage our exposure to climate change risks and start preparing now. Though many of these impacts are beyond our ability to control, we can manage our exposure to hazards and our use of water and energy. The following summary of strategies refers to guidelines found elsewhere in this plan.

| Strategy | Plan Component |
|---|--|
| Minimize the need to drive by providing our members with local facilities and resources | Schedule B: General Land Use Designations locate most housing within walking distance of our commercial and community services. |
| Be prepared for sea level rise | Schedule D-2: Hazard Areas Guidelines recommend a 30-metre setback from high water and a minimum flood elevation level to protect future developments. |
| Protect important ecological features and maximize ecological functioning | Schedule D-1: Sensitive Areas Guidelines recommend the protection of environmentally sensitive areas such as riparian corridors and wetlands. |

² Adapted from “Climate Change Adaptation: Planning for BC”, Harford et al. November 2008

³ British Columbia Coast and Marine Environment Project, BC Ministry of Environment. 2006





5.0 HOW DO WE GET THERE?

This section summarizes the policies, guidelines and sub-plans that together make up the technical Land Use Plan for Teeshohsum and Ahgykson.

The graphic on the facing page illustrates how the different policies and guidelines fit together to create a comprehensive planning framework where development proposals go through a number of layers, or filters, as they are evaluated and refined.

The policies, guidelines and sub-plans that are attached as Schedules to this Land Use Plan describe how the Land Use Plan is enacted and implemented for day-to-day planning through the Tla’amin Building Law and the Tla’amin Land Use and Development Law – Teeshohsum.

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| 5.1 | Development and Building Procedures | 40 |
| 5.2 | Land Use Policies and Guidelines | 41 |



5.1 DEVELOPMENT AND BUILDING PROCEDURES

This section summarizes how our Land Use Plan policies will be implemented through Tla'amin laws and harmonized with those of our neighbours.

5.1.1 Development and Building Review

Our development and building review procedures are attached as **Schedule A**.

Our development and building procedures describe how development on our lands is reviewed and new buildings approved. The policies are established for the benefit of our community and our members to ensure that:

- Everyone is **treated fairly and equally**;
- Development planning is a **transparent and efficient process**;
- Land is developed and buildings constructed in a manner that **protects the health and safety** of members, residents, and visitors to Teeshohsum and Ahgykson; and,
- Land is developed and buildings constructed in a manner that **achieves community development objectives**.

With few exceptions, a permit will be required for all construction and land development. The process by which permits are reviewed and issued is defined and enforced by the **Tla'amin Land Use and Development Law** and the **Tla'amin Building Law**.

5.1.2 Land Use Harmonization

We are committed to working with our neighbours to ensure that land uses in Teeshohsum and on Ahgykson do not conflict with those in neighbouring jurisdictions, and vice versa.

Our Land Use Plan acknowledges and respects the existing **protocols** we have already established with the **City of Powell River** and the **Regional District of Powell River**. The following protocols and related planning initiatives are specifically acknowledged:

- Sliammon – City of Powell River Protocol Agreement on Culture, Heritage and Economic Development (2004) *Note: currently under a review and amendment process to strengthen cultural site protection*
- Sliammon – Powell River Regional District Protocol Agreement for Communication and Cooperation (2004)
- Sliammon – Powell River Regional District Harmonization Project (2007)

5.2 LAND USE POLICIES AND GUIDELINES

5.2.1 General Land Use Designations

Our general land use designation policies are attached as **Schedule B**.

Our Land Use Plan provides **general land use designations** for Teeshohsum and Ahgykson. The designations are established to ensure:

- **Future development** occurs in appropriate areas; and,
- Land is allocated in a way that **meets community development objectives** for both Ahgykson and Teeshohsum.

The land use designations guide all land use and development decisions. Zoning designations, development plans, permitted developments, and land management activities in any specific area should conform to the **management objectives** and **allowed uses** of the land use designation for that area.

Our land use designations were first created for our 2003 *Land & Resource Management Plan for Sliammon Reserve Lands* and carried over into our 2007 *Sliammon Comprehensive Community Plan*. While we maintained the designations, the list of permitted uses for them was further refined.

The land use designations were unanimously endorsed by Tla'amin Council on November 16, 2009.

5.2.2 Teeshohsum Village Zoning

Teeshohsum Village Zoning policies are attached as **Schedule C**.

Specific **zones** are established within Teeshohsum to provide additional development control in our main population centre. The zoning establishes **specific policies** regarding the size and shape of parcels, the activities and intensity of uses that might occur on those parcels, and the siting and configuration of buildings on those parcels in Teeshohsum.

Teeshohsum zoning is implemented through the **Tla'amin Land Use and Development Law** and must be considered during the planning and development of any land or structures in Teeshohsum.

5.2.3 Sensitive and Hazard Area Guidelines

These development guideline policies are attached as **Schedule D**.

- **Sensitive Areas:** Our people have been present in Teeshohsum and on Ahgykson for thousands of years. While we have identified many important archeological and cultural sites, many more wait to be discovered. These guidelines will help protect historic sites and sacred places from being damaged or lost during land development. We also accept our role of stewards of our lands and waters and take the challenge very seriously. These guidelines describe important ecological areas and illustrate how we will protect them from development activities.

Sensitive Areas guidelines are established to ensure that future lands are allocated and buildings constructed in a manner that protect our culture, heritage, and natural environment from damage or degradation due to construction and development impacts. Any construction work that we do in the indicated Sensitive Areas should consider these guidelines, including site works, landscaping, and the construction of homes or community buildings.

- **Hazard Areas:** As a coastal people, we are especially exposed to the threats posed by ocean storm surges and the potential impacts of sea level rise. These guidelines are established to ensure that future lands are allocated and buildings constructed in a manner that protect our people from harm and our investments in buildings and infrastructure from unnecessary damage due to coastal hazards. Any construction work that we do in the indicated Hazard Areas should consider these guidelines, including site works, landscaping, and the construction of homes or community buildings.

DEVELOPMENT PLANNING, DESIGN AND CONSTRUCTION GUIDELINES

We are planning on creating special guidelines that will represent our commitment to developing our lands in the most environmentally sustainable, economically responsible and socially appropriate manner possible. We accept our role of *stewards of our lands* and take the challenge very seriously. We expect all our development partners – from our members to our joint-venture collaborators - to work with us to ensure that our new developments meet the highest standards.

When completed, our planning, design and construction guidelines will be used in conjunction with our Land Use Plan, to achieve the following goals:

- All new development will *respect the natural environment* and take a holistic approach to *integrate new buildings* with the land and the particular site.
- All new buildings will *minimize resource consumption* (energy, water, land, and materials).
- All new buildings will be built to last and will *protect the health and safety* those living, working and playing in them.
- All new development will be *cost-effective* and make our homes and community facilities more affordable to build and maintain over the long-term.

5.2.4 Transportation & Servicing and Community Facility Sub-Plans

These sub-plan policies are attached as **Schedule E**.

This section describes two sub-plans that should be **referred to during all phases of land use planning, development planning, and construction**.

- **Transportation & Servicing:** As land is developed on our reserve and our on-reserve membership increases, we will need to expand our services infrastructure, our transportation network, and our mobility-related amenities. This sub-plan conceptually describes the key features of our transportation and servicing needs that will support our land use plan.
- **Community Facilities:** This sub-plan describes the community facilities that will support and strengthen our community and encourage our members to be physically and socially active in our community, such as outdoor spaces, parks, recreation facilities and community facilities. The plan conceptually describes those features and their general location.







6.0 HAVE WE ARRIVED?

The final step in our planning approach asks the question “Have we arrived?” It involves the monitoring and evaluation of our Land Use Plan to make sure that it is works as anticipated, and helps us meet our vision and land management objectives.

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6.1 MONITORING AND EVALUATION

We see our Land Use Plan as a **living document**. We will actively track our progress in meeting our vision and achieving our community development objectives. We will also review our Plan with leadership and members, and modify plan policies and guidelines as required.

This plan includes the following regular review period, benchmarks and general monitoring and evaluation framework.

STEP 1: PLAN LAUNCH – INITIAL TRAINING

- Tla’amin Community Planner (or equivalent) to conduct a **familiarization workshop** on the on the Tla’amin Land Use and Development Law, Tla’amin Building Law, and the Tla’amin Land Use Plan for all **senior staff**.
- Tla’amin Planner to conduct a **familiarization workshop** on the on the Tla’amin Land Use and Development Law, Tla’amin Building Law, and the Tla’amin Land Use Plan for **Chief and Council**.

STEP 2: ANNUAL REPORTING

- Tla’amin Planner to prepare **bi-annual report** (i.e., every six months) that summarizes any new developments, approvals, etc. The Planning report is to be presented to Council and distributed to members and staff via the Neh motl newsletter.

STEP 3: LEADERSHIP TRAINING

- Tla’amin Planner to conduct **familiarization workshop** on the Tla’amin Land Use and Development Law, Tla’amin Building Law, and the Tla’amin Land Use Plan within four months of beginning of term **with each new Council**.

STEP 4: FORMAL REVIEW

- Tla’amin Planner to conduct a formal evaluation of the Tla’amin Land Use and Development Law, Tla’amin Building Law, and the Tla’amin Land Use Plan every **six years**. Formal review to include an assessment of:
 - Development review process – *Is it working? Are decisions transparent, accountable and transparent? Does the community understand and support the Land Use Plan?*
 - Land Use Plan enforcement – *Has enforcement been required? Did it work? Could it be improved?*
 - Development Guidelines – *Based on current conditions, do the sea-level rise areas need revising? Have cultural and ecological resources been adequately protected?*
 - Data and mapping – *Based on new development, is Tla’amin mapping and land development data up-to-date?*
 - Plan coordination and integration – *Is the Land Use Plan still supporting Comprehensive Community Plan objectives? Does it need to be coordinated with other planning initiatives that may have started up?*

6.2 AMENDMENTS

We will need to revise and amend our Land Use Plan's policy Schedules and corresponding laws as our community develops and expands, and as new information and/or issues requiring our attention and action arise (e.g., new archeological sites are identified). Any development plan that proposes to deviate from this Land Use Plan or its Schedules will first require that the appropriate policies be amended.

The policy Schedules in this Land Use Plan may be revised from time to time as directed and approved by Tla'amin Council by Council motion. The Tla'amin Planner (or equivalent) will guide the amendment process. The Schedules may be amended individually with the revised Schedule replacing the old Schedule. The date of amendment will be noted along with addition and/or deletion and attached to the Land Use Plan. Amendments will also be published in Neh motl and posted in the Band Administration building for general community information.

An amendment process for the Tla'amin Land Use and Development Law and the Tla'amin Building Law require an amendment process outlined in those laws.







SCHEDULES AND POLICIES

The guidelines and sub-plans attached as Schedules to this Land Use Plan describe how the Land Use Plan is enacted and implemented for day-to-day planning. The policies and information included here as Schedules B and C will be incorporated into the Tla’amin Land Use and Development Law – Teeshohsum. The Development Procedures described in Schedule A will also be incorporated into this law. The Building Procedures described in Schedule A will be incorporated into the Tla’amin Building Law, which will regulate the actual construction of buildings and structures.

While the main section of our Land Use Plan established our vision and objectives for how our community develops over time, these Schedules describe how they are to be achieved at the policy and development review level in compliance with the Tla’amin Land Code.

These policies can be changed and amended over time where and when required, as long as they meet our land use management objectives, this Land Use Plan’s intent, and our guiding principles (Ta’ow).

Amendments to the Tla’amin Building Law and the Tla’amin Land Use and Development Law require an amendment process outlined in those laws.

The schedules include:

| | |
|--|-----------|
| A: Development and Building Procedures | 51 |
| B: General Land Use Designations | 59 |
| C: Teeshohsum Village Zoning | 67 |
| D: Sensitive and Hazard Areas Guidelines | 73 |
| E: Sub-Plans – Transportation & Servicing, Community Facilities | 83 |





A: DEVELOPMENT & BUILDING PROCEDURES

PURPOSE

Development and Building Procedures policies describe the process by which a proponent may be given permission to develop land or construct a structure on our lands. They are established for the benefit of all Tla'amin members and other community members living and working on Tla'amin lands to ensure that:

- Everyone is **treated fairly**;
- Development planning is a **transparent and efficient process**;
- Land is developed and buildings constructed in a manner that protects the health and safety of members, residents, and visitors to Teeshohsum and Ahgykson;
- Land is developed and buildings constructed in a manner that **achieves community objectives**;
- Land is developed and buildings constructed in **compliance with the Tla'amin Land Code**.

APPLICATION

A permit is required for all construction and land development. The process by which permits are reviewed and issued is defined and enforced by the **Tla'amin Development and Land Use Law** and the **Tla'amin Building Law**.

The two permit types are:

- **Development Permit:** A Development Permit must be obtained for subdivisions, new construction of any building or facility, and renovations that change the size or use of a building or structure. A Development Permit approves the location, size and use of any parcel of land or of any building on that parcel, and allows the proponent to apply for a Building Permit. Development Permits ensure that land development and proposed building projects conform to the Tla'amin Land Use Plan and zoning and development laws. These are issued in accordance with the **Tla'amin Development and Land Use Law**.
- **Building Permit:** Building Permits allow a proponent to begin and proceed with the construction of landscapes and structures. These permits ensure that individual buildings and structures meet the requirements of the B.C. Building Code. In Teeshohsum, a Building Permit cannot be issued until a Development Permit is first issued. Building permits are issued in accordance with the Tla'amin Building Law.

In **general terms**, Development and Building Permits are required in the following circumstances (Note: Please review Tla'amin Building Law and Tla'amin Land Use and Development Law – Teeshohsum for full requirements).

A.1 A Development Permit is required before proceeding with:

- a. Any project requiring a Building Permit, except renovations that do not change the size, use, or location of a building or structure;
- b. Construction of, additions to, demolition of, or relocation of a building or other structure, except a structure with an area less than 9.2 square metres (100 square feet) if it is not located within a Sensitive Area;
- c. Any construction or landscaping within 91 metres (300 feet) of a water body or waterway, measured from the high-water boundary or top of bank;
- d. Any construction or landscaping within an identified Hazard Area or Sensitive Area;
- e. Landscaping that includes removal of mature trees or native vegetation, installation of impervious paving, removal of soil, or alterations to drainage patterns;
- f. Changes to the use of a parcel of land or existing structure;
- g. Filling of land; and,
- h. New signage.¹

A.2 A Development Permit is not required for:

- a. Minor repairs that do not expand or alter the size, use, or location of a structure; and,
- b. Fences or other landscaping outside of Sensitive Areas that do not alter site drainage or remove trees larger than 20cm (7.9 inches) diameter when measured at chest height.

A.3 A Building Permit is required before proceeding with:

- a. Construction of a building or structure;
- b. Installation of a manufactured home or modular home;
- c. Construction requiring modifications or additions to any building utility such as plumbing, wiring, electrical, heating, and gas or other fuel systems equipment and fittings, except as noted in A.4.e;
- d. Construction or installation of a pool;
- e. Moving a building or structure;
- f. Demolition of a building or structure; and
- g. Construction of a masonry fireplace, the installation of a wood burning appliance or a chimney.

A.4 A Building Permit is not required for:

- a. Buildings or structures exempted by Division A, Part 1 of the BC Building Code, or as expressly provided in the Tla'amin Building Law;

¹ For example, the construction of a parking lot requires a Development Permit because it changes the use of a parcel of land and may involve new signage, fill, and alterations to drainage patterns.

- b. Fences under 1.5 metres (5 feet) in height;
- c. Decks that are not over 0.6 metres (2 feet) above grade;
- d. Repairs to an existing fireplace, wood burning appliance or factory constructed chimney or masonry chimney;
- e. The repair or replacement of a valve, faucet, fixture, sprinkler head or piping in a plumbing system if no change in piping configuration is required; and
- f. Recreational vehicles used for temporary accommodation (less than 30-days) for recreation or vacation purposes only; and,
- g. Structures such as greenhouses or storage facilities, that are constructed of a wood, steel or plastic frame covered with sheet polyethylene, fabric, tarps or glass that are intended to be used temporarily on a seasonal basis and will be removed seasonally.

IMPLEMENTATION – TLA'AMIN PLANNER

The Tla'amin Lands Department shall be responsible for development and building permitting under the Tla'amin Land Use Plan, Land Use and Development Law, and Building Law. Subject to available funding, it is anticipated that in the longer term (i.e., Treaty Effective Date) a new 'Tla'amin Planner' position will be created to ensure the effective administration of Tla'amin Land Use Plan, Land Use and Development Law, and Building Law. For the initial implementation of the Tla'amin Land Use Plan, and until a new position is created, the Tla'amin Land Use Coordinator working in partnership with the Tla'amin Lands Manager will carry out the duties of the Tla'amin Planner.

A.5 The duties of the Tla'amin Planner are:

- a. To monitor Tla'amin member and leaseholder compliance with the **Tla'amin Building Law** and **Tla'amin Land Use and Development Law**;
- b. To enforce the Tla'amin Building Law and Tla'amin Land Use and Development Law **where expressly provided** in those laws;
- c. Process and manage **Development Permit** applications;
- d. Process and manage **Building Permit** applications with the assistance of a qualified Building Inspector(s) where necessary and required;
- e. Prepare basic information concerning land use planning and act as a resource person for Tla'amin departments, members and Council on land use planning processes, procedures and laws; and,
- f. Work with other Tla'amin departments in a coordinated effort toward achieving the community development objectives identified in both the Tla'amin Land Use Plan and Sliammon Comprehensive Community Plan.

As proposed, a qualified Building Inspector(s) will support the Tla'amin Planner on a fee-for-service basis with building inspections and enforcement of the **Tla'amin Building Law**.

- A.6** The duties of the Building Inspector(s) are:
- a. To support the Tla’amin Planner in the **management and enforcement** of the **Tla’amin Building Law**;
 - b. To work with the Tla’amin Planner in the processing of **Building Permit** applications.
 - c. To conduct **building inspections** as required by the Tla’amin Building Law and BC Building Code; and
 - d. To support the Tla’amin Planner in the enforcement of the Tla’amin Building Law **where expressly provided** in that law.

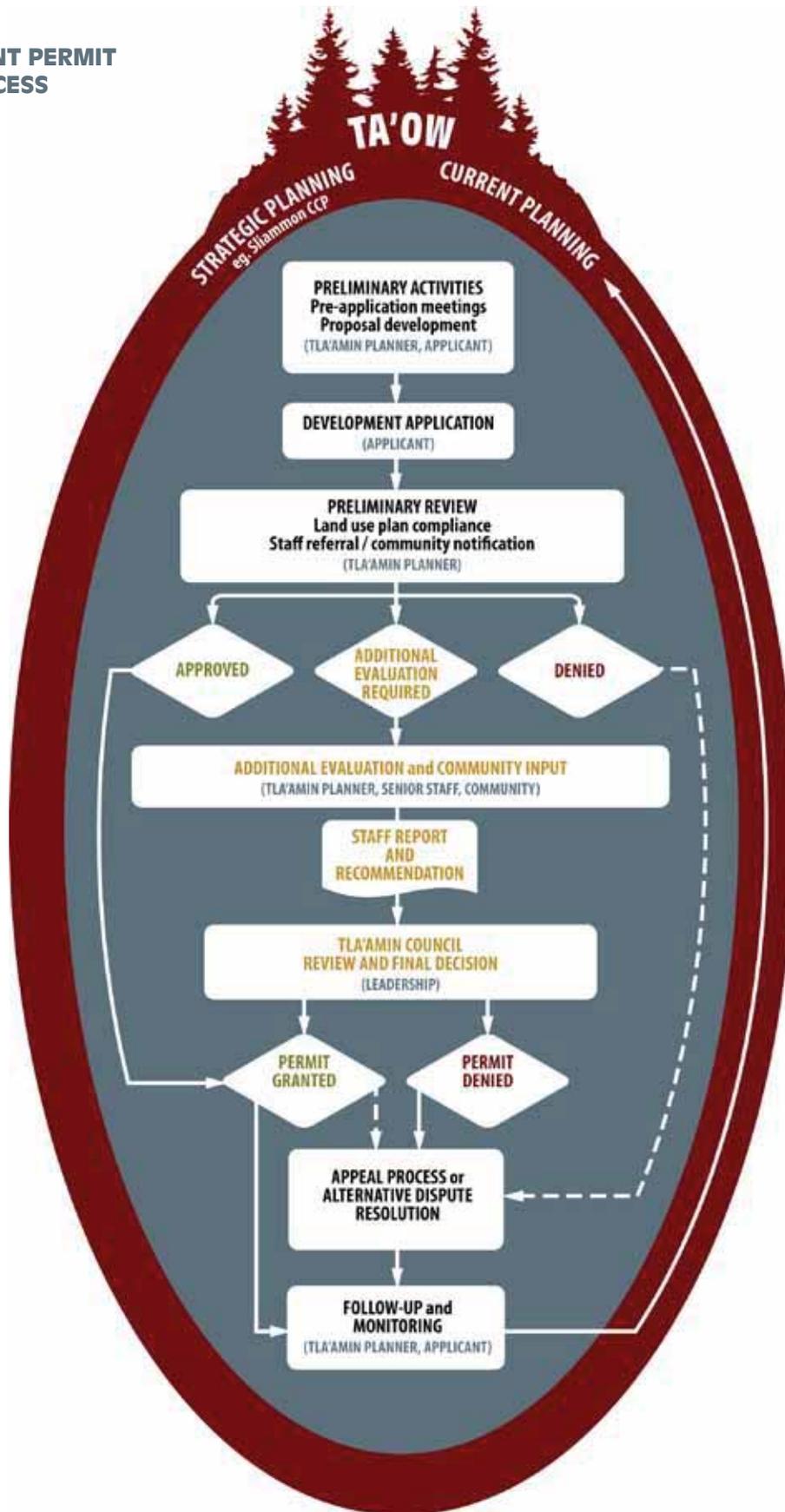
GENERAL PROCEDURES – DEVELOPMENT & BUILDING PERMIT REVIEW

A generalized development review and permitting process is illustrated. Detailed procedures and requirements are provided in **Tla’amin Land Use and Development Law** and in the **Tla’amin Building Law**.

As illustrated, Tla’amin Council controls the issuance of Development Permits. The Tla’amin Planner (or equivalent) with the support of a contracted Building Inspector issue Building Permits. For Development Permits, the **Tla’amin Planner** will guide and facilitate the review process and make reports and recommendations to Council on Development Permit applications.

As the law-making body on the reserve, Council will not be **directly** involved in the enforcement of either the Tla’amin Building Law, or the Tla’amin Land Use and Development Law. A Chief or Council member cannot interfere in individual cases, for example, by seeking preferred or punitive treatment on behalf of certain individuals or groups.

**FIGURE:
DEVELOPMENT PERMIT
REVIEW PROCESS**



DEVELOPMENT PERMIT PROCEDURES

The **generalized** Development Permit Review Process applies to:

- Any **minor projects** such as residential home improvements and renovations that change the size, use, or location of a building, multifamily conversions, and new construction of a home on a single lot; and,
- Any **major development projects** that include subdividing and developing land, constructing community facilities or new streets and infrastructure, and any other activities having a long-term impact on land use and community resources.
- Individual parcels only. For example, a permit may be granted to subdivide a parcel of land and develop that land to service the newly created parcels. Following this process, an additional development permit will be required for construction on each of the new parcels.

1. Preliminary Meeting

- a. The proponent meets with the Tla'amin Lands Department and Tla'amin Planner (or equivalent) and other staff as necessary to review the site location, potential constraints, and application requirements;
- b. For **major projects** involving Band-owned lands or properties, the proponent may be a person designated by Council.
- c. The proponent identifies the location of their project and describes their intentions to the staff (sketch plans should be provided if possible but are not required);
- d. The Tla'amin Planner (or equivalent) reviews the permitting process and requirements with the proponent, identifies any special conditions that could constrain the project, and provides application materials (i.e., forms); and,
- e. For **major projects**:
 - i. The Tla'amin Planner (or equivalent) prepares a report describing the proposed project, preliminary comments from staff and committees, and the preliminary considerations described above and submits report to Council; and,
 - ii. Council may deny that the project should proceed, or approve that the project should continue and request that further evaluation be conducted.

2. Application

- a. Applicants are encouraged to seek assistance from the Tla'amin Lands Department and Tla'amin Planner (or equivalent) for the development of their application package;
- b. Applications are submitted to the Tla'amin Lands Department; and,
- c. Applications can be submitted by the owner of the property or the owner's agent (builder, architect, etc) and will include the materials required by the Tla'amin Land Use and Development Law.

3. **Review**

- a. The Tla'amin Lands Department and Tla'amin Planner (or equivalent) reviews the application to ensure compliance with the Tla'amin Land Use and Development Law and to ensure it meets the objectives of the Tla'amin Land Use Plan;
- b. The Tla'amin Lands Department may reject an application for insufficient or incomplete information or for non-compliance with the Tla'amin Land Use and Development Law;
- c. The Tla'amin Planner (or equivalent) distributes the application for review by other Tla'amin staff as necessary, or as required by the Tla'amin Land Use and Development Law;
- d. The Tla'amin Planner (or equivalent) will make the application available for public review using a method and time period defined by the Tla'amin Land Use and Development Law.
- e. Within the prescribed time period, any member or staff may submit comments of approval or concern relating to the proposal to the Tla'amin Lands Department, with these comments being included as information in the Approval Review package;
- f. For **major projects**:
 - i. Where necessary, or if Council requests further evaluation, the Tla'amin Lands Department and Tla'amin Planner (or equivalent) will conduct a more in depth review of the potential project as per the requirements laid out in the Tla'amin Land Use and Development Law; and
 - ii. Member input will be solicited during this phase of project as per the requirements laid out in the Tla'amin Land Use and Development Law.

4. **Approval**

- a. The Tla'amin Planner (or equivalent) submits an Approval Review package, including the full application with comments and a recommendation, to Council for their considerations and recommendation. The Council may:
 - i. Deny issuance of a permit for having insufficient or incomplete information or for non-compliance with Tla'amin Land Use and Development Law;
 - ii. Defer consideration of the application and recommend further review or evaluation required prior to further consideration;
 - iii. Authorize the issuance of a permit subject to specific conditions as determined by Council; or,
 - iv. Authorize the issuance of a permit with no changes.

5. **Additional Evaluation or Review**

- a. If Council defers approval, Council should provide direction regarding further review or evaluation, including any study or member consultation.

- b. If approval is conditionally granted, Council will provide direction on the subject conditions.
- c. Following deferred or conditional approval, the proponent and staff will arrange to review, amend, and resubmit the proposal as necessary. This review may include revisions to the plans and specifications, consultation with relevant committees, or broader member consultation. It may also include legal review or expert analysis where necessary.

6. Final Approval

- a. When Council grants an approval with no changes, the Tla’amin Planner (or equivalent) will issue a development permit that allows the project to continue.
- b. A **Building Permit is required for all subsequent construction activities**. The procedure for Building Permits and inspections is established in the **Tla’amin Building Law**.

7. Implementation

- a. Upon Council approval to continue the project, the Tla’amin Lands Department and Tla’amin Planner (or equivalent) will initiate appropriate development procedures.

8. Appeals

- a. The proponent can appeal a decision as described in the Tla’amin Land Use and Development Law.
- b. Council will not reconsider a permit application for a parcel that has previously been refused a permit for 6 months following the date of the refusal.

PROCEDURES – BUILDING PERMITS

Building permits will be issued according the authority and procedures described in the **Tla’amin Building Law**.

B: GENERAL LAND USE DESIGNATIONS

PURPOSE

The land use designations are established to ensure **future development occurs in appropriate areas** and that land is allocated in a way that **meets community objectives** on Ahgykson and in Teeshohsum. The designations set out broad management objectives and provide broad guidelines on allowed uses for designated land areas.

APPLICATION

The land use designations guide all land use and development decisions. Zoning designations, development plans, permitted developments, and land management activities in any specific area should conform to the **management objectives** and **allowed uses** of the land use designation for that area.

MANAGEMENT OBJECTIVES

The following management objectives are established for the land use designations and should be considered during the planning and development of any land or structures in Teeshohsum or on Ahgykson. The management objectives were first developed for the 2003 *Tla'amin Land and Resource Management Plan*.

OOKTS OHT YIQUSH (COMMUNITY USE)²

B.1 Management objectives for the Ookts oht yiqush (Community Use) designation are:

- a. Encourage diverse housing options to meet demographic needs;
- b. Encourage infill of existing serviced areas;
- c. Provide adequate recreational, cultural, government amenities;
- d. Maintain and enhance the rural village character in Teeshohsum;
- e. Promote sustainability (e.g., community gardens, orchards); and,
- f. Encourage home-based businesses.

NINEH JEH TAHLA (ECONOMIC DEVELOPMENT)

B.2 Management objectives for the Nineh jeh tahla (Economic Development) designation are:

- a. Promote and support sustainable economic development opportunities;
- b. Encourage and expand a diversified local economy with increased employment opportunities;

² The English names for the land use areas are not literal translations. Please see the Glossary for a fuller description of the Tla'amin names.

- c. Provide opportunities for industrial and commercial development of a type and scale compatible with the natural environment;
- d. Minimize environmental and community impacts; and,
- e. Permit community-supportive commercial recreation facilities.

UHMSNAH JEHJEUM (FOREST MANAGEMENT)

B.3 Management objectives for the Uhmsnah jehjeum (Forest Management) designation are:

- a. Promote and support sustainable forestry;
- b. Create a multi-use community forest (i.e., recreational and commercial uses); and,
- c. Permit all traditional and cultural uses of Tla’amin forestlands.

UHMSNAH KOOTLKO (MARINE MANAGEMENT)

B.4 Management objectives for the Uhmsnah kootlko (Marine Management) designation are:

- a. Encourage sustainable use of intertidal and coastal resources;
- b. Recognize area as Tla’amin’s valuable “asset in common”; and,
- c. Permit and support traditional and cultural uses and activities³.

YEEXMET TUMS GIJEH (SENSITIVE AREA)

B.5 Management objectives for the Yeexmet tums gijeh (Sensitive Area) designation are:

- a. Protect traditional and cultural use sites whenever possible;
- b. Protect known archaeological sites whenever possible;
- c. Protect and buffer riparian habitat fish;
- d. Permit and support traditional and cultural uses and activities; and,
- e. Accommodate non-consumptive uses, including sensitive recreational uses.

ALLOWED USES

OOKTS OHT YIQUSH (COMMUNITY USE)

B.6 To support the Ookts oht yiqush (Community Use) designation’s management objectives the following uses are allowed in the designation:

- a. Member housing (single- and multi-family, Elders, other options)
- b. Non-member, leasehold housing (single-family)
- c. Parks and recreation facilities (fields & ancillary buildings)

³ “traditional cultural uses and activities” means activities and uses historically or traditionally carried out by Tla’amin members, and recognized by the community as traditional or cultural, and does not include large scale, commercial, industrial or mechanized excavation of land, extraction of resources, construction of structures, or development of land;

- d. Tla'amin program offices (administration and program delivery)
- e. Community facilities (gym, meeting space, program offices, youth centre)
- f. Cultural facilities and buildings (Longhouse, Cultural Centre)
- g. Elders Care facility
- h. Health Centre
- i. Schools and day care, including adult education
- j. Cemetery
- k. Local food production (e.g., community gardens, orchards)
- l. Supporting infrastructure (water, sewer, power, roads)

NINEH JEH TAHLA (ECONOMIC DEVELOPMENT)

B.7 To support the Nineh jeh tahla (Economic Development) designation's management objectives the following uses are allowed:

- a. Commercial retail (Tla'amin-owned/joint venture, leased)
- b. Commercial enterprises (Tla'amin-owned/joint venture, leased)
- c. Commercial office (aboriginal professional and leased)
- d. Light industrial and manufacturing (e.g., value-added wood products manufacturing, in-vessel composting, etc.)
- e. Supporting infrastructure (water, sewer, power, roads)

UHMSNAH JEHJEUM (FOREST MANAGEMENT)

B.8 To support the Uhmsnah jehjeum (Forest Management) designation's management objectives the following uses are allowed:

- a. Timber harvesting and restoration
- b. Traditional and cultural uses and activities
- c. Non-timber forest products
- d. Agro-forestry and agriculture
- e. Limited eco- and cultural tourism
- f. Habitat protection and stewardship

UHMSNAH KOOTLKOO (MARINE MANAGEMENT)

B.9 To support the Uhmsnah kootlkoo (Marine Management) designation's management objectives the following uses are allowed:

- a. Traditional and cultural uses and activities
- b. Limited eco- and cultural tourism and recreation
- c. Shellfish/fin fish harvesting (commercial/food)

- d. Habitat protection and stewardship

YEEXMET TUMS GIJEH (SENSITIVE AREA)

B.10 To support the Yeexmet tums gijeh (Sensitive Area) designation’s management objectives the following uses are allowed:

- a. Protected environmental areas (i.e., creeks, foreshore, wetlands, etc.)
- b. Protected wildlife areas (i.e., eagle and heron nesting sites, etc.)
- c. Protected cultural areas (i.e., traditional use sites, archaeological sites, etc.)
- d. Traditional and cultural uses and activities
- e. Limited eco- and cultural tourism

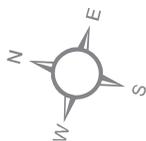
DESIGNATIONS MAPS – TEESHOHSUM & AHGYKSON

B.11 Designations are allocated to the land areas indicated on the following maps.



Ahgykson Land Use Designations

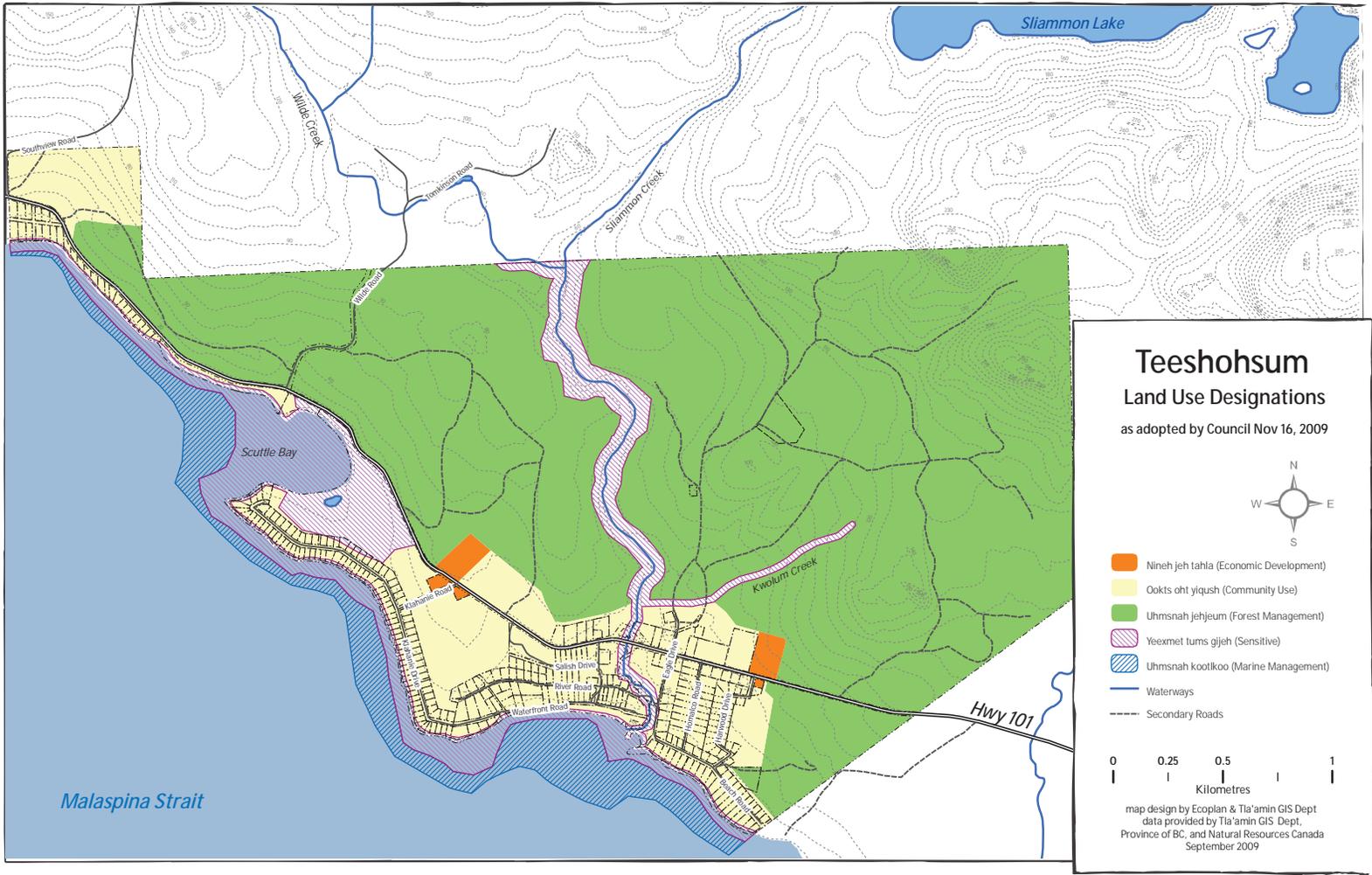
as adopted by Council Nov 16, 2009



- Nineh jeh tahla (Economic Development)
- Ookts oht yiqush (Community Use)
- Uhmsnah jehjeum (Forest Management)
- Yeexmet tums gijeh (Sensitive)
- Uhmsnah kootkoo (Marine Management)
- Waterways



map design by Ecoplan & Tla'amin GIS Dept
 data provided by Tla'amin GIS Dept,
 Province of BC, and Natural Resources Canada
 September 2009



C: TEESHOHSUM VILLAGE ZONING

PURPOSE

Specific **zones** are established within Teeshohsum to provide additional development control in our main population centre. The zoning establishes **specific policies** regarding the size and shape of parcels, the activities and intensity of uses that might occur on those parcels, and the siting and configuration of buildings on those parcels in Teeshohsum.

APPLICATION

Teeshohsum zoning is implemented through the **Tla'amin Land Use and Development Law** and must be considered during the planning and development of any land or structures in Teeshohsum.

GENERAL ZONING PROVISIONS

Teeshohsum is divided into the following zones, as shown on the Zoning Map:

- a. **L** – Limited Use Areas
- b. **CF** – Community Facilities
- c. **TR** – Tla'amin Residential (Member Housing)
- d. **LR** – Leasehold Residential (Leased Housing)
- e. **I** – Light Industrial
- f. **TC** – Tla'amin Commercial
- g. **TF** – Tla'amin Forest
- h. **U** – Utilities

General permitted uses in the zones are:

- a. **L – Limited Use Areas**
 - Traditional and cultural uses and activities;
 - Recreational, tourism, or education activities that are related to the promotion and dissemination of Tla'amin culture;
 - Hunting, fishing, trapping;
 - Ecological restoration; and,
 - Conservation activities and areas.
- b. **CF – Community Facilities**
 - A community centre;
 - A recreation facility;

- A cultural centre;
- A school;
- Any space for the purpose of supporting community programs and activities;
- Band administration offices;
- A health clinic;
- Elders' care facility;
- Elders housing;
- Supportive housing;
- A cemetery;
- Outdoor sports and recreation facilities;
- Community gardens;
- Conservation areas;
- Trails;
- Boat yards and docks;
- Cemeteries; and,
- A use accessory to any of the foregoing permitted uses.

c. TR – Tla'amin Residential (TR) - Tla'amin Member and Tla'amin Citizen Housing

- A single family dwelling;
- A two family dwelling
- A duplex dwelling;
- A semi-detached dwelling;
- A triplex dwelling;
- A group home;
- A home daycare;
- A mobile home dwelling;
- A home occupation;
- A cottage industry;
- A park or playground; and,
- A use accessory to any of the foregoing permitted uses.

d. LR – Leasehold Residential (LR) - Leased non-Tla'amin Member and Tla'amin Citizen

- A single family dwelling;
- A two family dwelling

- A duplex dwelling;
- A semi-detached dwelling;
- A home daycare;
- A home occupation;
- A cottage industry;
- A park or playground; and,
- A use accessory to any of the foregoing permitted uses.

e. I – Light Industrial

- Manufacturing;
- Packaging;
- Food processing;
- Storage or warehousing;
- An automobile service station, commercial garage or automobile business, including sales and rentals;
- Industrial equipment sales and service;
- A garden nursery and/or commercial greenhouse;
- A business or professional office;
- Vocational instruction;
- A caretaker’s residence; or
- A use accessory to any of the foregoing permitted uses.

f. TC – Tla’amin Commercial

- An automobile service station, commercial garage or automobile business, including sales and rentals;
- A car wash;
- A bank or other financial institution;
- A personal service shop;
- A boat, snowmobile, trailer or cycle business, including sales and rentals;
- A business or professional office;
- A convenience store;
- A laundry or dry cleaning establishment;
- A restaurant or other eating establishment;
- A commercial kitchen used for processing or preparation of food;
- A hotel;



- Tourist accommodations;
- A post office;
- A recreational use;
- A retail store;
- Apartments, caretakers residence, or other residence (conditionally); or
- A use accessory to any of the foregoing permitted uses.

g. TF – Tla’amin Forest

- Silviculture;
- Log yarding and loading;
- Portable sawmills;
- Fish hatcheries;
- Public utilities;
- Traditional cultural uses and activities;
- Recreational, tourism, or education activities;
- Hunting, fishing, trapping;
- Ecological restoration; and,
- Conservation areas.

h. U – Utilities

- Housing of equipment related to utility services and infrastructure;
- Offices relating to utility management and maintenance;
- Storage of maintenance equipment and vehicles;
- Communication towers and equipment; and,
- Other uses relating to infrastructure and delivery of infrastructure services.

D: SENSITIVE & HAZARD AREAS GUIDELINES

D1: Cultural And Environmental Areas Guidelines

PURPOSE

The Sensitive Areas Design Guidelines are established to ensure that future lands are allocated and buildings constructed in a manner that protect our culture, heritage, and natural environment from damage or degradation due to construction and development impacts. Any construction work that we do in the indicated Sensitive Areas should consider these guidelines, including site works, landscaping, and the construction of homes or community buildings. The 2006 *Sliammon First Nation Handbook for Emergencies and Disasters* and the 2007 *Sliammon Environmental Management Framework* should both be referenced when assessing hazard areas.

APPLICATION

These guidelines are implemented through the Tla'amin Land Use and Development Law and must be enforced during the planning and development of any land or structures that (1) fall within or near an area designated Yeexmet tums gijeh (Sensitive Area), or (2) that are in or near a Sensitive Area as determined by a pre-development survey and /or by Tla'amin Council.

MAPPING AND DELINEATION

- D.1** This map was developed using current data indicating all known culturally significant, historic, or environmentally significant areas (December 2009). It is very likely that other sites exist that have not been mapped or identified, and that the actual boundaries of the mapped areas will require more accurate surveying on the ground. Information on the nature, importance, extent, and use of these areas are not indicated and should be examined on a case by case basis.
- D.2** It should be assumed that all lands on Teeshohsum and Ahgykson are potentially sensitive lands, and all major projects should employ a site specific survey as well as a monitoring program during any excavation.

TYPES OF CULTURALLY AND ENVIRONMENTALLY SENSITIVE AREAS

Sensitive areas include **culturally and environmentally sensitive places and features**.

- D.3** Culturally sensitive features include:
- a. Archaeological sites;
 - b. Areas that are currently used for cultural activities; and,
 - c. Culturally significant landmarks or landscape features.

D.4 Environmentally sensitive areas include:

- a. Waterways (fish-bearing and non-fish bearing);
- b. Wetlands;
- c. Estuaries;
- d. The edge of the sea and the intertidal zone;
- e. Riparian areas associated with a, b, c, and d;
- f. Coastal bluffs;
- g. Areas with high habitat value and rare or endangered species; and,
- h. Heron and raptor nesting trees.

DESIGN GUIDELINES

CONSTRUCTION AND DEVELOPMENT PLANNING AND MONITORING

- D.5** All major projects should include a professional archaeological assessment and survey, conducted during preliminary planning phases, indicating known or potential cultural sites within or adjacent to the project area.
- D.6** All major projects should include a professional environmental assessment and survey, conducted during preliminary planning phases, indicating environmentally sensitive sites within or adjacent to the project area.
- D.7** Major projects include any extensive site works (such as dikes or sports fields), subdivisions, band related or community facility, or multifamily building.
- D.8** A designated qualified person should observe any excavation activity.

TIMING OF CONSTRUCTION

- D.9** Waterways should be protected from sedimentation and erosion by coordinating grading and excavation activities during dry months of the year.
- D.10** Nesting sites should be protected by avoiding construction activities when eggs or young are present in the nest.

TREE AND SOIL PROTECTION

- D.11** On any construction site, mature trees and woody vegetation should be retained to the maximum extent possible.
- D.12** A tree protection plan should be submitted with any development application. This plan should indicate the type and location of all existing trees and vegetation, trees and vegetation identified for removal, and the location of construction fencing to be erected to protect those areas identified for protection. Trees and landscaping identified for protection should be indicated on any site plans and grading and drainage plans.



Malaspina Strait

BUILDING SETBACKS

- D.13** No building should be constructed within:
- 15 metres (50 feet) of the perimeter of a known cultural site;
 - 15 metres (50 feet) of the top of bank of Sliammon or Kwolan Creeks within any areas designated 'Ookts oht yiqush (Community Use)';
 - 30 metres (100 feet) of the top of bank of Sliammon or Kwolan Creeks within any areas designated 'Uhmsnah jehjeum (Forest Management)';
 - 30 metres (100 feet) of the natural boundary of the sea;
 - 100 metres (300 feet) of an eagle nesting tree;
 - 200 metres (600 feet) of any other raptor nesting tree; and,
 - 200 metres (600 feet) of any heron nesting trees or colony.
- D.14** Structures in sensitive areas may be allowed where they will not impact any culturally or environmentally sensitive feature and not inhibit the possibility for future archaeological work. This may include structures such as interpretive signage, footpaths, landscaping, or boardwalks.
- D.15** Improvements to non-conforming structures (those that are already built within prescribed sensitive areas setbacks) should not further extend into these setbacks.

FENCING AND LIMITS TO CONSTRUCTION RELATED ACTIVITIES

- D.16** Construction fencing should be erected at or outside the drip line of the canopy of any tree identified for protection.
- D.17** High visibility construction fencing should be erected prior to any other construction activity that delineates the maximum limit of construction related activity according to the setbacks described herein.
- D.18** Where the sensitive area is a riparian zone or waterway and is down slope from the construction area, sediment fencing should also be erected prior to any other construction activity that delineates the maximum limit of construction related activity according to the setbacks described herein. The sediment fencing should not be removed until construction is complete and all bare soils have been revegetated.
- D.19** No construction related activity can occur within 10 metres (30 feet) of the perimeter of a cultural site, including excavation, earthworks, material storage, waste storage, machinery or vehicle storage or operations, and vehicle access and loading or unloading.
- D.20** Within areas designated Ookts oht yiqush (Community Use) or adjacent Yeexmet tums gijeh (Sensitive) areas, no construction related activity can occur within 15 metres (50 feet) of the top of bank of Sliammon or Kwolan Creeks, including excavation, earthworks, material storage, waste storage, machinery or vehicle storage or operations, and vehicle access and loading or unloading.
- D.21** Within areas designated Uhmsnah jehjeum (Forest Management) or adjacent Yeexmet tums gijeh (Sensitive) areas, no construction related activity can occur within 30 metres of the top of bank of Sliammon or Kwolan Creeks, including excavation, earthworks, material storage, waste storage, machinery or vehicle storage or operations, and vehicle access and loading or unloading.

D2: HAZARD AREAS GUIDELINES

PURPOSE

The Hazards Areas Design Guidelines are established to ensure that future lands are allocated and buildings constructed in a manner that protect residents and people working in and on Tla’amin lands from harm and buildings and infrastructure from unnecessary damage due to coastal hazards. Any construction work that we do in the indicated Hazard Areas should consider these guidelines, including site works, landscaping, and the construction of homes or community buildings.

APPLICATION

- D.22** These guidelines should be referred to during the planning and development of any land or structures that fall within the Shore Hazard Area or Steep Slopes Areas indicated by the Hazard Areas map.
- D.23** These guidelines should be enforced upon the determination of a qualified surveyor that the land or structure falls within the delineated areas described below.

MAPPING AND DELINEATION

The Hazard Areas map indicates estimated hazard areas and is intended for reference only. Actual hazard area delineations are described below and should be measured on site during site design and construction.

- D.24** The natural boundary of the sea is located at the limit of permanent terrestrial vegetation.
- D.25** Until such time that a specific study is available delineating the extents of coastal hazards including sea level rise and climate change impacts, the Shore Hazard Area is any land that lies between 0 and 3 vertical metres (10 feet) above the natural boundary of the sea.
- D.26** The Steep Slopes Hazard Area includes any portion of land that is steeper than a 25% grade (22.5 degrees incline).

DESIGN GUIDELINES

SETBACKS

- D.27** Buildings should be setback 30 horizontal metres (100 feet) from the natural boundary of the sea.
- D.28** Landfill or structural support for a coastal development or type of development shall be permitted a setback of 15 metres (50 feet) from the natural boundary of the sea where the sea frontage is protected from erosion by a natural bedrock formation or works designed by a professional engineer and maintained by the owner of the land.



- D.29** The setbacks may be increased on a site-specific basis such as for exposed erodible beaches and/or in areas of known erosion hazard.
- D.30** Where the building site is at the top of a steep coastal bluff and where the toe of the bluff is subject to erosion and/or is closer than 15 metres (50 feet) from the natural boundary of the sea, the setback shall be a horizontal distance equal to 3.0 times the height of the bluff as measured from the toe of the bluff. For practical application, this setback condition will require site-specific interpretation and could result in the use of a minimum distance measured back from the crest of the bluff. This setback may be reduced provided the reduction is supported by a report prepared by a suitably qualified professional.
- D.31** Where a building may be located near any other steep slope, safe setbacks from the toe or top of that slope must be determined by a qualified professional.

FLOOD CONSTRUCTION LEVEL

- D.32** The Flood Construction Level shall be at least 2.0 vertical metres (6 feet) higher than the natural boundary of the sea.
- D.33** No habitable floor space or framing supporting habitable floors (including sills, joists and sheathing) should be constructed below the Flood Construction Level (FCL).
- D.34** Areas below the FCL should not be used for the installation of furnaces, major electrical switchgear, or other fixed equipment susceptible to damage by floodwater.
- D.35** The following spaces and structures will be allowed an exception from the Flood Construction Level requirement, subject to the condition that all enclosed areas built below the Flood Construction Level must provide an unobstructed means of pedestrian ingress and egress:
- a. Renovation of an existing building or structure that does not involve an addition or the 'finishing' of a basement for regular habitation;
 - b. Additions to legally non-conforming structures, at the original non-conforming floor elevation, that would increase the size of the building or structure by less than 25 percent of the floor area existing at the time of enactment of such flood proofing requirements, provided that the degree of nonconformity regarding setback is not increased;
 - c. That portion of a building or structure that is to be used as a carport, garage or entryway;
 - d. Other minor buildings such as storage buildings, porches and domestic greenhouses;
 - e. Parking areas;
 - f. Boat related facilities such as docks, ramps, and piers;
 - g. Recreation shelters, stands, campsite washhouses and other outdoor facilities susceptible to only marginal damage by floodwaters do not require flood proofing by elevation.

ELEVATION BY LANDFILL

D.36 Where landfill is used to raise the natural ground elevation, it should be adequately compacted and the toe of the landfill slope should be no closer to the natural boundary than the prescribed setback. In addition, the face of the landfill slope should be adequately protected against erosion from flood flows, wave action, ice or other debris. The fill must not adversely impact neighbouring properties by increasing the surface water elevation or directing flows toward those properties.

EXISTING COASTAL LOTS AND BUILDINGS

D.37 In the case of the existing lots, where the above setback distances prevent construction, and where it is not possible to provide sufficient protection through works designed by a suitably qualified professional, the approving officer may: (1) agree to modifying setback requirements to permit construction provided this is augmented through a restrictive covenant stipulating the hazard, building requirements, and liability disclaimer; or, (2) agree to waive other setback or yard requirements as required by any other building and construction bylaws.

STEEP SLOPES

D.38 On any portion of land that is steeper than 25 % (22.5 degree incline), there should be no construction or clearing, grading, or excavation of land.

E: SUB-PLANS

E1: TRANSPORTATION AND SERVICING

PURPOSE

As land is developed in Teeshohsum and our population increases, we will need to expand our services infrastructure, our transportation network, and our mobility-related amenities. This Sub-plan conceptually describes the key features of our transportation and servicing needs that will support our land use plan.

APPLICATION

- E.1** Staff and Council should consider this Sub-plan during any development planning process.
- E.2** This Sub-plan should be referred to during the Development Permit review process (Application & Review stage).
- E.3** Development applications should consider how they could expedite the realization of the transportation and servicing concept identified in this Sub-plan.

FEATURES – TRANSPORTATION & SERVICING CONCEPT PLAN

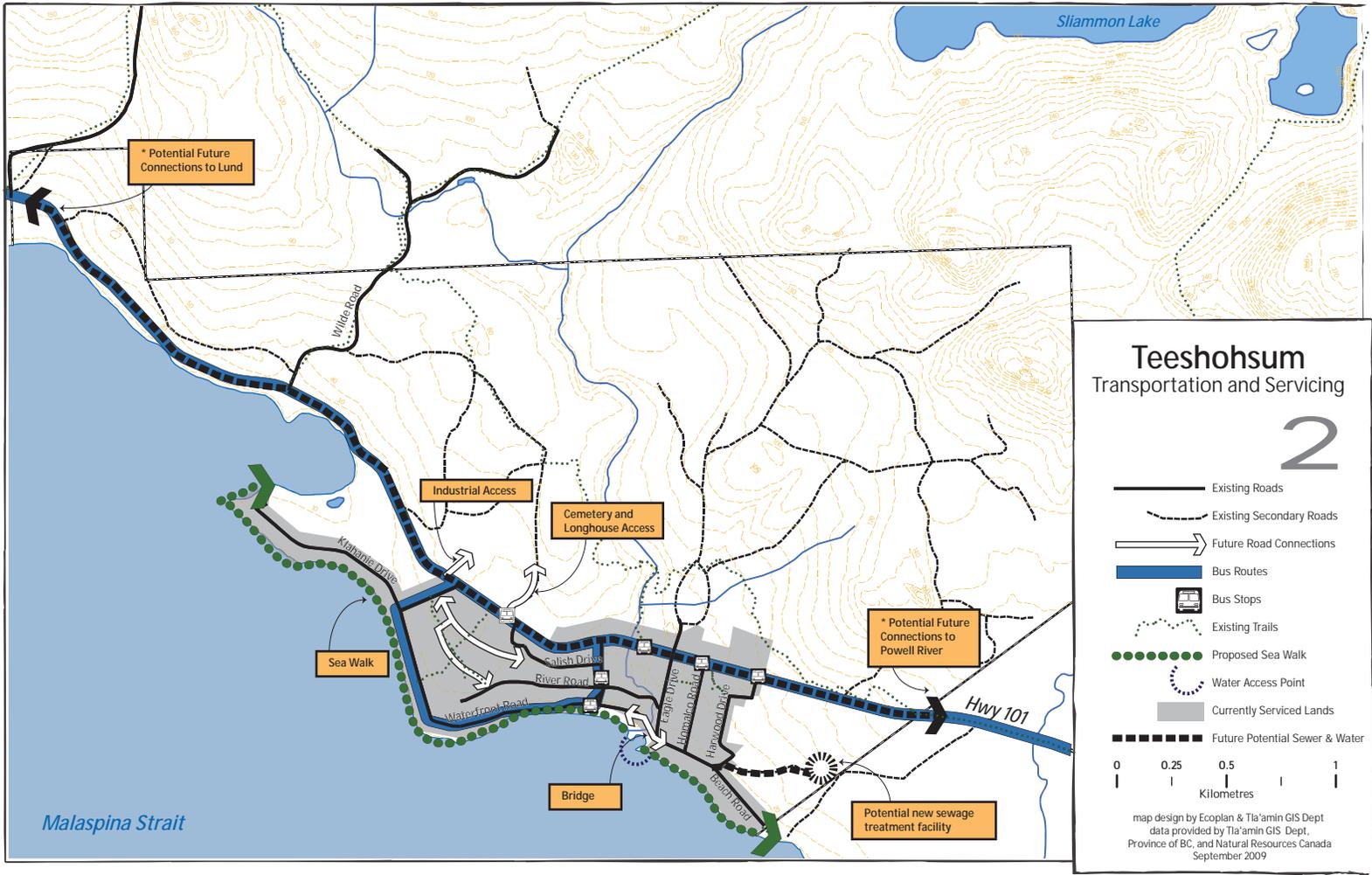
The table summarizes key features of the long-range Transportation and Servicing Concept Plan.

TABLE: FEATURES OF THE 'TRANSPORTATION AND SERVICING PLAN'

| | |
|--|---|
| Future Road Connections | Several areas have been identified for future development, such as the economic development areas and the new Longhouse and Cemetery sites north of the highway. These areas will require road access. Other new roads are indicated where our neighbourhoods require better connectivity. Wherever possible, new roads should create connections between different areas of our community. |
| Sidewalks and Accessibility (not shown) | As we develop new neighbourhoods and build new streets, we should remember that some people feel safer on a sidewalk. Many of those people are pushing strollers, pulling wagons with children, or using a walker or a wheelchair to get around. We should include sidewalks on our streets and remember to include ramps at every street crossing so that these members can feel safe and get around more comfortably. |
| Transit routes and stops | Existing transit routes and stops are identified along with potential future extensions and/or stops that would connect our neighbourhoods to new community facilities. |
| Trails | There are a number of existing trails passing through our lands. We will continue to expand this network of trails, and develop a waterfront 'Seawalk' to emphasize and attract our members to this key feature of our community. |



| | |
|---------------------------------|--|
| Ocean Access points | Our shoreline is already an important part of our community. We will improve this area and identify an area where members can launch and moor boats and small craft over the long-term. |
| Water and Sewer Services | It is our intent to extend sewer and water servicing along Highway 101 to provide services “from end-to-end” of Teeshohsum. Spur lines would be developed for new Community Use and Economic Development developments where and when developed. In the future, sewage treatment facilities could be improved and expanded to provide fee-for-service sewage treatment to portions of the City of Powell River and properties located in the Powell River Regional District to the north of Teeshohsum along Highway 101. |



E2: COMMUNITY FACILITIES

PURPOSE

This sub-plan describes the **community facilities that will support and strengthen our community** and encourage residents to be physically and socially active in our community, such as outdoor spaces, parks, recreation facilities and community facilities. The plan conceptually describes those features and their general location.

APPLICATION

- E.4** Staff and Council should refer to this Sub-plan during any facility planning or development project.
- E.5** This Sub-plan should be referred to during the Development Permit review process (Application & Review stage).
- E.6** Development applications should consider how they could expedite the realization of the transportation and servicing concept identified in this Sub-plan.

FEATURES – TRANSPORTATION & SERVICING CONCEPT PLAN

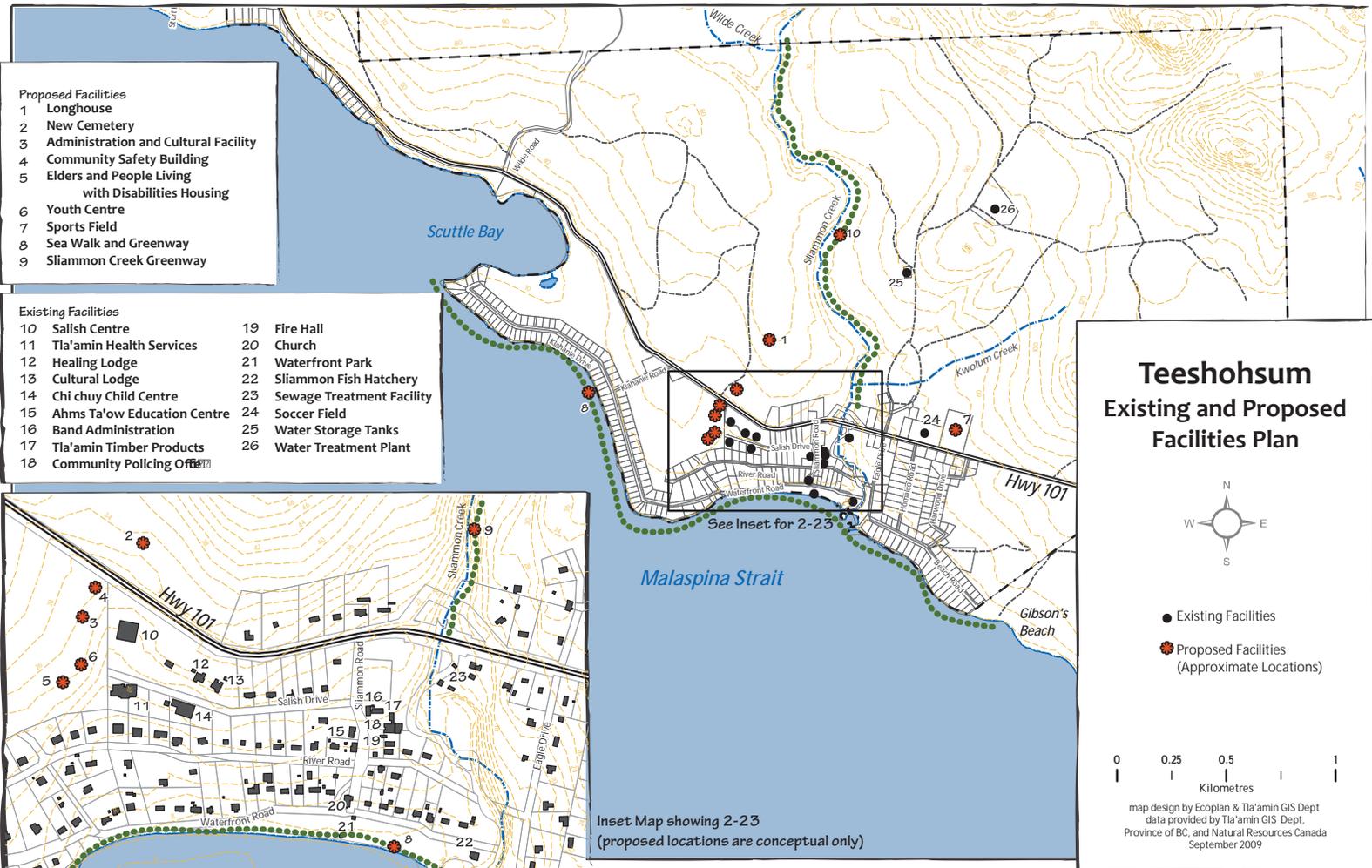
The table summarizes key features of the long-range Community Facilities Concept Plan.

TABLE: FEATURES OF THE 'COMMUNITY FACILITIES PLAN'

| Parks & Recreation | | |
|---|-----------------------------------|---|
| Name | Status | Description |
| Salish Centre  | Existing Proposed improvements | <p>Completed in 1976, this older facility was renovated (interior and exterior) fall/winter 2009/2010. It includes a full-sized gym and offices for Development Corporation and Treaty Society. It is used extensively for all community functions.</p> <p>Once a new Administration Building is completed, we hope to move our Development Corporation and Treaty Society offices and replace them with a fitness centre with multi-purpose rooms for special classes.</p> |
| Sports Field  | Existing Proposed improvements | <p>There is currently one well-used grass soccer field and clubhouse building. Many members have expressed interest in developing a second all-weather field immediately adjacent to the existing field that would allow Tla'amin to host larger soccer and multi-use field sport tournaments.</p> |

| Parks & Recreation (continued) | | |
|---|-----------------------------------|---|
| Name | Status | Description |
| Waterfront Park  | Existing Improvements proposed | Our Waterfront Park is an important community hub. This park shall remain our principal community park and be upgraded over time to include a community barbecue/event area, an accessible waterfront walkway/boardwalk and a canoe storage shed. We will also plant areas with native species for cultural learning. |
| Sea Walk and Greenway | Proposed | <p>Our beach and foreshore is an important feature of our lands and should be accessible to all of our members. We will respect and restore the vegetation along the shore, set new buildings well away from the high water mark, and continue to designate that setback area as a community green space.</p> <p>Our long-term goal is to develop a Sea Walk pathway that would run from Scuttle Bay to Gibson’s Beach. Portions could be developed to protect especially sensitive or threatened lands from storm surges. Future connections could connect it northward to Lund and south to Powell River. The pathway would be quite naturalized in places and minimize visual impacts to waterfront homes. Connections to this pathway from residential areas using existing right-of-ways would be included in each neighbourhood and any new subdivisions.</p> |
| Sliammon Creek Greenway | Proposed | Our creeks run through the heart of our lands and will be protected from development and restored wherever possible. Small pathways will follow the creeks, connecting neighbourhoods to each other, to the ocean, and to community facilities. |

| Community Health and Well-Being | | |
|--|---------------|---|
| Name | Status | Description |
| Tla’amin Health Services  | Existing | Our newest facility was completed in 2006. The Health Centre provides community health care services to our members in addition to community meeting space. |
| Elders Cultural Lodge  | Existing | Built as a residential group home in 1982, the facility offers cultural and language programs. |



- Proposed Facilities**
- 1 Longhouse
 - 2 New Cemetery
 - 3 Administration and Cultural Facility
 - 4 Community Safety Building
 - 5 Elders and People Living with Disabilities Housing
 - 6 Youth Centre
 - 7 Sports Field
 - 8 Sea Walk and Greenway
 - 9 Slammom Creek Greenway

- Existing Facilities**
- 10 Salish Centre
 - 11 Tla'amin Health Services
 - 12 Healing Lodge
 - 13 Cultural Lodge
 - 14 Chi chuy Child Centre
 - 15 Ahms Ta'ow Education Centre
 - 16 Band Administration
 - 17 Tla'amin Timber Products
 - 18 Community Policing Office
 - 19 Fire Hall
 - 20 Church
 - 21 Waterfront Park
 - 22 Slammom Fish Hatchery
 - 23 Sewage Treatment Facility
 - 24 Soccer Field
 - 25 Water Storage Tanks
 - 26 Water Treatment Plant

Teeshohsum Existing and Proposed Facilities Plan

- Existing Facilities
- Proposed Facilities (Approximate Locations)

Kilometres

map design by EcoPlan & Tla'amin GIS Dept
 data provided by Tla'amin GIS Dept,
 Province of BC, and Natural Resources Canada
 September 2009

Inset Map showing 2-23
(proposed locations are conceptual only)

Community Health and Well-Being (continued)

| Name | Status | Description |
|---|----------|--|
| Elders and People Living with Disabilities Housing | Proposed | To be located near the existing Health Centre, staff and members have both shown high interest and support for development of the facility. It would include several supportive housing units for our Elders who require them. |



| | | |
|----------------------|----------|--|
| Healing Lodge | Existing | The facility provides healing programs for Tla'amin members. |
|----------------------|----------|--|

**Education and Culture**

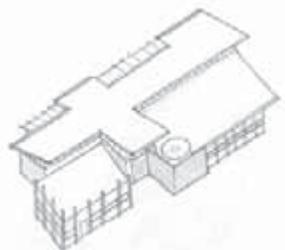
| Name | Status | Description |
|------------------------------------|----------|--|
| Ahms Ta'ow Education Centre | Existing | Built in 1954 as a Residential Day School, Ahms Ta'ow is open to people of all ages and provides courses and educational facilities. The facility includes a small playground and community garden. The facility, playground and community garden will all be maintained for future use. |



| | | |
|---|----------|---|
| Chi chuy Child Development and Resource Centre | Existing | Our licensed daycare, preschool and kindergarten teaches and promotes important cultural values. It was built in 1996 and serves both members and neighbouring communities. |
|---|----------|---|



| | | |
|---------------------------------|----------|---|
| Tla'amin Cultural Centre | Proposed | A Cultural Facility with a small museum/display space, gift shop, and artefact storage is proposed to be developed with the proposed new Administration Building. |
|---------------------------------|----------|---|



| Services, Utilities & Public Safety | | |
|---|---|---|
| Name | Status | Description |
| <p>Fire hall</p>  | <p>Existing New facility proposed</p> | <p>Built in 1975, the hall houses our fire truck and is staffed by a volunteer crew that provides first response for fire and other emergencies in Teeshohsum.</p> <p>We would like to develop a new Community Safety building closer to the village centre and Highway 101 and improve our fire safety services when funding becomes available.</p> |
| <p>Community Policing Office (Old RCMP Building)</p>  | <p>Existing New facility proposed</p> | <p>The station is located in a late 1980s portable that needs upgrading and/or replacement.</p> <p>Our proposed new Community Safety building closer to the village centre could include space for a community policing office.</p> |
| <p>Maintenance Shed</p>  | <p>Existing</p> | <p>This older structure houses building materials and supplies and was constructed in the late 1970s. While it is still functional, some upgrades and repairs are necessary.</p> |
| <p>Water Treatment Plant</p>  | <p>Existing</p> | <p>Our state-of-the-art water treatment plant was built in 1999 and provides high quality water for Teeshohsum and the Klahanie subdivision.</p> |
| Government Services | | |
| Name | Status | Description |
| <p>Administration Building</p>  | <p>Existing New facility proposed</p> | <p>This old army building was moved here in 1973 and provides administration office space. The facility includes two older portables.</p> <p>There are plans to replace it. While two locations have been suggested, two rounds of community consultation (one during the Comprehensive Community Plan in 2007 and one during the Land Use Plan in 2009) confirm overwhelming member support to locate it next to the Salish Centre rather than a second location next to the soccer field.</p> |

| Government Services (continued) | | |
|--|-----------------------------------|---|
| Name | Status | Description |
| Tla'amin Timber Products  | Existing New facility proposed | Built in 1977, these portables house our forestry company, GIS and associated departments. The building requires upgrades and repairs. The offices could be relocated to the proposed new Administration Building or another location closer to the Salish Centre and other community buildings. |
| Other Facilities | | |
| Name | Status | Description |
| Sacred Heart Church  | Existing | Originally built in 1896, it was rebuilt after burning down in 1918. Our community still regularly uses it. |
| Cemetery  | Existing New facility proposed | Our cemetery has been used since 1897, and is nearing capacity. We have selected a site for a new cemetery across the highway from the Salish Centre we plan to develop soon. |
| Salmon Hatchery  | Existing Improvements proposed | Built in stages beginning in 1976, our fish hatchery includes a number of buildings and facilities. Some require upgrades and renovations. |



GLOSSARY

This Land Use Plan uses Tla’amin words and spellings from our official Sliammon Culture, Heritage and Language Committee phonetic place names list. These names will be changed legally in the BC Geographical Naming system through the Treaty Process.

TEESHOHSUM

This area was issued Reserve status in 1945 and incorrectly registered as Sliammon IR #1, a mispronunciation of Tla’amin, which refers to the people - not the place. The name Teeshohsum translates to “waters milky white with herring spawn” which was a descriptor of the abundance of this important resource to the people in the ancient village situated around the bay. Teeshohsum is currently the main village site for the Tla’amin people and includes numerous culturally and spiritually significant sites.

AHGYKSON

This area was issued Reserve status in 1945 and incorrectly registered as Harwood Island IR #2. In 1798 Captain Vancouver named the island after a navy surgeon aboard the HMS Providence. The name Ahgykson translates to “pointed nose” in reference to the island’s shape. Ahgykson was a village site for thousands of years, as evidenced by numerous archaeological sites. Today, many Tla’amin people still use Ahgykson to hunt, fish and gather a variety of traditional foods and medicines.

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Although there are many related terms in the language, these were the closest we could find for shoo-oh (selecting areas) to zone and manage for the benefit of future generations.

NINEH JEH TAHLA

The name for our “economic development designation” refers to dealing with economic and monetary matters.

OOKTS OHT YIQUSH

The name for our “community use designation” refers to collectively shared areas that everyone is allowed to use.

UHMSNAH JEHJEUM

The name for our “forest management designation” refers to taking care of our wooded areas and its resources.

UHMSNAH KOOTLKOO

The name for our “marine management designation” refers to taking care of our salt water and its resources.

YEEXMET TUMS GIJEH

The name for our “sensitive area designation” refers to protecting and taking care of special spiritual, cultural and sensitive habitat places.



Tla'amin First Nation

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Siammon Land Use And Development Law

July 2011

SLIAMMON LAND USE AND DEVELOPMENT LAW

WHEREAS the Council of Sliammon First Nation deems it advisable and in the best interests of the Sliammon Nation to enact a law to establish specific development zones and controls within Teeshohsum (Sliammon IR#1) to regulate the size and shape of land parcels, the activities and intensity of uses that might occur on those parcels, and the siting and configuration of buildings on those parcels in Teeshohsum;

NOW THEREFORE Council enacts the *Sliammon Land Use and Development Law* as a law of the Sliammon First Nation.

PART I INTERPRETATION AND APPLICATION

1.0 Short Title

1.1 This Law may be cited as the “*Sliammon Land Use and Development Law*”.

2.0 Definitions

2.1 In this Law:

The following words and terms have the meanings set out in subsection 1.4 of the *British Columbia Building Code*: assembly occupancy, building, building area, building height, business and personal services occupancy, care or detention occupancy, constructor, coordinating registered professional, designer, dwelling unit, field review, high hazard industrial occupancy, industrial occupancy, low hazard industrial occupancy, mercantile occupancy, medium hazard industrial occupancy, occupancy, owner, registered professional, and residential occupancy;

“**accessory building or structure**” means a detached building or structure, the use of which is incidental or secondary to that of the main building;

“**accessory use**” means a use customarily incidental and subordinate to the principal use;

“**adjacent ground level**” means the level of the ground surface for a minimum of 0.6 metres (2 ft) beyond the outside perimeter of the deck, building or structure;

“**agent**” means a person, firm, or corporation representing the land holder, by designation or contract, and includes a hired tradesman or contractor who may be granted a permit for work within the limitations of his/her licence;

“application” means the form of application for a permit established by Council, from time to time, which is to be completed by any person who carried out or intends to carry out any work on Sliammon Lands;

“approved” means approved in writing;

“assembly hall” means a building or part of a building in which facilities are provided for such purposes as meetings for civic, education, political, religious or social purposes, and includes a banquet hall;

“attached” means a building otherwise complete in itself, which depends for structural support, or complete enclosure, upon a division wall or walls shared in common with adjacent building or buildings;

“building” means any structure used or designed to be used for shelter, accommodation or enclosure of persons, animals, or chattels;

“Building Code” means the *British Columbia Building Code* as adopted, amended or superseded from time to time, by the Province of British Columbia;

“building coverage” means the area covered by all building foundations including garages and accessory structures divided by the area of the lot;

“building inspector” means the person appointed from time to time by Council, or with whom Council has an agreement, to act as building inspector for the purpose of enforcing and carrying out the provisions of this Law and includes any delegate;

“business and professional office” means an office in which any business is carried on or any profession is practised;

“community facility” means any tract of land or buildings or any part of any buildings used for community activities, whether used for commercial purposes or not, the control of which is vested in the Sliammon Nation or a Sliammon Corporation;

“conservation area” means the maintenance of the natural environment for the purpose of preservation, research, observation and outdoor uses such as hiking, hunting and fishing, and includes the erection and use of trail shelters and other similar structures ancillary to the foregoing uses, but does not include the use of a dwelling house, a mobile home, a tourist vehicle or a tourist trailer;

“convenience store” means a retail commercial establishment supplying groceries, sundries and other daily household necessities to the immediate surrounding area;

“cottage industry” means a use accessory to a single family dwelling, and includes a carpentry shop, a craft shop, a plumbing shop, a metal working shop, an electrical shop, a welding shop, a storage building for school buses, boats or snowmobiles, a repair shop for farm equipment, or any similar use;

“construction” or **“constructed”** means any reconstruction, erection, alteration, enlargement, addition, demolition, or removal;

“Council” means the Chief and Councillors of Sliammon Nation or any successor elected government;

“community land” means any Sliammon Lands that is subject to the *Land Code*, in which all Members have a common interest;

“duplex” means a building that is divided horizontally into two dwelling units, each of which has an independent entrance;

“dwelling unit” means one or more habitable rooms designed for use by and occupied by not more than one family and in which separate kitchen and sanitary facilities are provided for the exclusive use of such a family, with a private entrance from outside the building or from a common hallway or stairway inside the building;

“enactment” includes laws and regulations;

“erect” means build, construct, reconstruct, or relocate, and includes any preliminary physical operations such as cutting, grading, excavating, filling or draining, and any altering of an existing building by an addition, extension or other structural change;

“flood construction level” is the calculated elevation of potential floodwaters plus the allowance for freeboard and establishes the elevation of the underside of a wooden floor system or top of concrete slab for habitable buildings;

“flood proofing” means the alteration of land or structures either physically or in use to reduce flood damage and includes the use of building setbacks from water bodies to maintain a floodway and to allow for potential erosion;

“garage, commercial” means a building, structure or lot where commercial vehicles are stored or where vehicles are repaired or maintained;

“hazard land” means land which is not suitable to be used for the erection of any building because it is on a flood plain, is subject to erosion, has steep slopes, has organic soil or has a high water table;

“height” means, when used with reference to a building, the vertical distance between the average elevation of the finished surface of the ground at the front of the building and:

- In the case of a flat roof, the highest point of the roof surface or the parapet, whichever is the greater;
- In the case of a mansard roof, the deck roof line; and
- In the case of a gable, hip or gambrel roof, the height that is half way between the eaves and ridge.

“home occupation” means an occupation, trade, business profession or craft carried on as an accessory use to the use of a dwelling that is the private residence of the person carrying on the occupation, trade, business, profession or craft;

“impervious surface” means any surface or structure covering an area of a lot that prevents rainwater from naturally infiltrating into the soil below that area;

“impervious surface coverage” means the total area of impervious surfaces (including for example all building foundations and paved areas) divided by the area of the lot;

“Land Code” means the *Sliammon Nation Amended Land Code* Sliammon;

“land holder” means a person who is registered in the Sliammon Lands Register as the holder of an interest in Sliammon Lands and, where applicable, includes a person whose interest in Sliammon Lands is not registered but has authorization from Council, by Resolution, to engage in construction on the land;

“manufactured home” means either a mobile home or modular home.

“manufactured home” means a building that is manufactured in a factory for transport, assembly, and completion as a residence, including placement on a foundation, and is certified as being constructed to the requirements of the CSA National Standard CAN/CSA-Z240 or A277 but is not designed to be transported on its own wheels or undercarriage;

“modular home” means a detached dwelling unit conforming to the CAN/CSA A277-90 standard which is completely constructed in a factory but is not designed to be transported on its own wheels or undercarriage;

“natural boundary of the sea” means the visible high watermark of the sea;

“non-conforming” means that which does not conform, comply or agree with the provisions of this Law as of the date it was made;

“noxious use” means any use which is offensive or dangerous by reason of the emission of odour, smoke, dust, noise, gas, fumes, vibration or refuse matter;

Sliammon Land Use and Development Law July 18, 2011

“occupant” or **“occupier”** means a person who is legally entitled to occupy or simply occupies a parcel of land, building, dwelling or premises within Sliammon Lands;

“one family” or **“single family”** means a separate building containing only one dwelling unit;

“permit” means a permit required by or issued under this Law;

“person” in addition to the ordinary meaning, includes any association, household, society, corporation, partnership or party, whether acting by themselves or by a servant, agent or employee, and the successors, assigns and personal or other legal representative of such person to whom the context can apply according to law;

“registered professional” means:

- (a) a person who is registered or licenced to practice as an architect under the *Architects Act*; or
- (b) a person who is registered or licensed to practice as a professional engineer under the *Engineers and Geoscientists Act*;

“restaurant” means a building or part of a building where food is offered for sale or sold to the public for immediate consumption therein, but does not include a boarding or lodging home;

“retail store” means a building or part of a building in which goods, wares, merchandise, substance, articles or things are offered or kept for sale at retail;

“semi-detached” means a building that is divided vertically into two dwelling units;

“Sliammon” or **“Sliammon Nation”** means the Sliammon First Nation;

“Sliammon Corporation” means a corporation in which at least a majority of the shares are held in trust for the benefit of Sliammon Nation or all the members of Sliammon;

“Sliammon Lands” means

- (a) Sliammon Lands or portions thereof; and
- (b) any additional lands that may be acquired by Sliammon, whether by treaty, accretion, purchase or other process, that are subject to the Land Code.

“Sliammon Planner” means the person appointed or designated by the Council under this Law and charged with the duty of administering and enforcing the provisions of this Law.

“structure” means a construction or portion thereof of any kind, whether fixed to, supported by or sunk into land, but specifically excludes landscaping, fences, paving and retaining structures less than 1.5 metres (5 ft) in height;

“temporary building” means a building or any part thereof that will be used for a period of time, not exceeding two years, unless an extension has been requested by the land holder and approved by the building inspector, and that has no permanent foundation or construction associated with it, other than footings;

“traditional cultural uses and activities” means activities and uses historically or traditionally carried out by Sliammon members, and recognized by the community as traditional or cultural, and does not include large scale, commercial, industrial or mechanized excavation of land, extraction of resources, construction of structures, or development of land;

“triplex” means the whole of a building that is divided horizontally into three separate dwelling units, each of which has an independent entrance, either directly from the outside, or through a common vestibule;

“two family” means a separate building containing only two dwelling units;

“wetland” means land that is saturated with water long enough to promote wetland or aquatic processes as indicated by poorly drained soils, hydrophytic (water-loving) vegetation, and various kinds of biological activity which are adapted to a wet environment.

“work” means any construction, erection, repair, alternation, enlargement, addition, demolition, removal or excavation; and

“zone” means a designated area of land use shown on Schedule "B" hereto.

- 2.2 Words in this Law that are in the singular include the plural, and words in the plural include the singular.
- 2.4 Where a provision in this Law is expressed in the present tense, the provision applies to the circumstances as they arise.
- 2.5 Except where otherwise defined, words and expressions used in this Law have the meanings given to them in the Land Code.
- 2.6 A reference in this Law to an enactment is a reference to the enactment as it is amended or replaced from time to time, and includes any regulations made under the enactment.
- 2.7 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 shall be severed from the remainder of this Law and the decision that it is invalid shall not affect the validity of the remaining portions of this Law.

2.8 This Law shall be construed as being remedial and shall be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objectives.

3.0 Application of Law

3.1 This Law applies to:

- (a) Any project requiring a building permit, except renovations that do not change the size, use, or location of a building or structure;
- (b) The subdivision of any land;
- (c) Construction of, additions to, demolition of, or relocation of a building or other structure, except a structure with an area less than 9.2 square metres (100 square feet) if it is not located within a Sensitive Area;
- (d) Any construction or landscaping within 91 metres (300 feet) of a water body or waterway, measured from the high-water boundary or top of bank;
- (e) Any construction or landscaping within an identified Hazard Area or Sensitive Area;
- (f) Landscaping that includes removal of mature trees or native vegetation, installation of impervious paving, removal of soil, or alterations to drainage patterns;
- (g) Changes to the use of a parcel of land or existing structure;
- (h) Filling of land; and,
- (i) New signage.¹

3.2 This Law does not apply to:

- (a) Minor repairs that do not expand or alter the size, use, or location of a structure; and,
- (b) Fences or other landscaping outside of Sensitive Areas that do not alter site drainage or remove trees larger than 20cm (7.9 inches) diameter when measured at chest height.

3.3 Where any federal or provincial enactment, or any other Sliammon law may apply to any matter covered by this Law, compliance with this Law will not relieve the person from also complying with the provisions of the other applicable enactment.

3.4 The headings given to the sections and paragraphs in this Law are for convenience of

¹ For example, the construction of a parking lot requires a Development Permit because it changes the use of a parcel of land and may involve new signage, fill, and alterations to drainage patterns.

reference only, and do not form part of this Law and will not be used in the interpretation of this Law.

- 3.5 Unless otherwise noted, any specific statute named in this Law if a reference to a statute of British Columbia and the regulations thereto, as amended, revised, consolidated or replaced from time to time, and any Sliammon law referred to herein is a reference to a law or regulation enacted by the Sliammon First Nation, as amended, revised, consolidated or replaced from time to time.

4.0 Administration

- 4.1 Council must appoint, from time to time, a Zoning Administrator (Sliammon Planner or equivalent) who will carry out the duties set out in this Law pursuant to the terms and conditions established by Council.
- 4.2 All dimensions and other measurements in this Law are expressed in Standard International Units (the metric system); approximate Imperial System equivalents shown bracketed are included for convenience only and do not form a part of this Law. The metric measurement shall take precedence.

PART II

GENERAL PROVISIONS

5.0 Prohibition

- 5.1 No building or structure shall hereafter be erected or altered, nor shall the use of any land, building or structure hereafter be changed, in whole or in part, except in conformity with the provisions of this Law.
- 5.2 Notwithstanding any other Sliammon law, no building permit shall be issued where the proposed building, structure or use would be in violation of any provision of this Law.
- 5.3 No land shall be subdivided in contravention of this Law.

6.0 Non-Conforming Uses

- 6.1 Nothing in this Law prevents the use of any land, building or structure for any purpose prohibited by this Law if such land, building or structure was lawfully used for such purpose on the day this Law was made, so long as it continues to be used for that purpose.
- 6.2 If a building or structure which does not conform with the requirements of this Law with respect to use, lot occupancy, or height is destroyed, said building or structure may be

restored to its original dimensions and strengthened to a safe condition, provided that such restoration or strengthening does not further increase the extent of non-conformity of such building or structure, and provided that all other applicable provisions of this Law are complied with and the use is not a noxious use.

7.0 Temporary Construction Uses Permitted

7.1 Nothing in this Law prevents uses incidental to construction, such as a construction camp or other such temporary work camp, a tool shed, scaffold or other building or structure incidental to the construction, or a sign not more than four and one-half (4.5) square metres in area incidental to the construction, if these uses are permitted only for so long as they are necessary for work in progress which has neither been finished nor abandoned.

8.0 Occupancy of Incomplete Buildings

8.1 In any zone, no new buildings shall be occupied before the main side walls and roof have been erected and roofing has been completed and, in the case of a dwelling, kitchen, heating and sanitary conveniences have been installed and rendered useful.

9.0 Occupation of Vehicles

9.1 No car, truck, coach or streetcar body shall be used for permanent human habitation in any zone, whether or not mounted on wheels.

10.0 Home Occupations and Cottage Industries

10.1 Where the zone allows, a home occupation or cottage industry is permitted if:

- (a) All uses are conducted entirely within a completely enclosed building permitted in this Law with no external storage of materials, equipment, containers, or finished products, except for daycare use and instruction in outdoor recreational activities;
- (b) There is no external display or advertising other than a non-illuminated sign, not more than three tenths of a square metre (.3m²) in area, to indicate to persons outside that any part of the dwelling unit or lot is being used for a purpose other than residential;
- (c) Not more than 25% of the dwelling unit area is used for the purpose of the home occupation or cottage industry;
- (d) The home occupation or cottage industry is secondary to the main residential use and does not change the residential character of the dwelling home or dwelling unit;
- (e) There are no toxic, noxious, corrosive, explosive, flammable, or otherwise hazardous materials stored on the premises;

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- (f) The home occupation or cottage industry does not create or become a nuisance in particular, in regard to noise, traffic or parking; and,
- (g) The home occupation or cottage industry does not interfere with television or radio reception.

10.2 Where the zone allows for home occupation or cottage industry activities, the following uses, and businesses are strictly prohibited:

- (a) Any onsite use involving mechanical repair or servicing of heavy duty equipment or boats;
- (b) Sawmills and/or any lumber processing;
- (c) Industrial scale welding;
- (d) Animal kennels and/or other animal related uses excluding grooming;
- (e) Cutting and/or wrapping of wild game or other animal products;
- (f) Industrial scale business use;
- (g) Hazardous business use;
- (h) Adult business use;
- (i) Any resale outlets such as pawnbrokers, mushroom buyers or similar uses; and,
- (j) Dry cleaning or laundry services.

11.0 Noxious Uses

11.1 Except by specific approval from Council, no use is permitted which is offensive or dangerous by reason of the emission of odour, smoke, dust, noise, gas, fumes, vibration or refuse matter, or which from its nature or the materials used therein is declared to be a noxious trade, business or manufacturer.

12.0 Accessory Buildings and Structures

12.1 Accessory uses, buildings and structures, including private garages, are permitted in any zone within Teeshohsum, but shall not be used for human habitation, except where a dwelling is a permitted accessory use. To take advantage of the benefits of sharing walls, reducing material use, and to provide additional passive insulation to a dwelling, accessory buildings should be attached to dwelling units or garages wherever practical and feasible.

13.0 Multiple Uses

13.1 Where any land or building is used for more than one purpose, all provisions of this Law relating to each use shall be satisfied and, where there is a conflict, the higher or more stringent standard shall prevail.

14.0 Soil and Aggregates

14.1 Except by specific approval from Council, removal of soil and/or aggregate materials such as gravel is prohibited in all zones except as required in the normal course of excavation and grading for construction of permitted structures.

15.0 Setbacks from Highway 101

15.1 As per Ministry of Transportation requirements², no building or structure is permitted in any zone within 4.5 metres (14.76 feet) of the highway right-of-way except:

- (a) By permission from the BC Ministry of Transportation; or
- (b) Where the lot has access from another street, the setback may be 3 metres (9.84 feet).

16.0 Setbacks from Sensitive, Hazard and Conservation Areas

16.1 No building, structure, land clearing or grading, or removal of trees or vegetation is permitted in any zone within the following required setbacks from sensitive, hazardous or conservation areas:

- (a) 15m (50 feet) from archaeological sites;
- (b) 15m (50 feet) from the stream top of bank along Sliammon Creek within the Ookts oht yiqush (Community Use) designation;
- (c) 30m (100 feet) from the stream top of bank along Sliammon Creek within the Uhmsnah jehjeum (Forest Management) designation;
- (d) 15m (50 feet) from the stream top of bank along Kwolan Creek;
- (e) 30m (100 feet) from the natural boundary of the Scuttle Bay wetlands;
- (f) 30m (100 feet) from the natural high water boundary of the sea (Malaspina Strait);
- (g) 100m (330 feet) from any eagle nesting tree; and,
- (h) 200m (655 feet) from any other raptor nest or heron colony or heron nesting tree.

17.0 Exceptions to Height Limitations

17.1 The height limitations of this Law do not apply to solar collectors, chimneys, traditional house posts or totem poles, church spires, public buildings, elevator enclosures, flag poles, television or radio antennae, electrical transmission facilities, ventilators or skylights.

18.0 Secondary Units

18.1 Secondary units are conditionally permitted in all residential zones, and may either be included in the primary residential structure or in a secondary structure (e.g., cottage house), provided that:

² see <http://www.th.gov.bc.ca/permits/Structures%20Permits.asp>

- (a) there is sufficient infrastructure to support the additional unit;
- (b) any unit within the primary residential structure does not occupy more than 30% of the floor area of that structure; and,
- (c) all structures conform to all dimensional standards in that zone.

19.0 Subdivision Requirements

- 19.1 Rights of way for roads and public trails must be provided in accordance with the Transportation and Servicing sub-plan (Schedule E of the Sliammon Land Use Plan: Teeshohsum)
- 19.2 Building lots must conform with the requirements of the zone within which they will be created.
- 19.3 Building lots must be arranged and located so that physical, environmental, and cultural features do not unduly constrain or conflict with the intended use of any lot.
- 19.4 Drainage systems must be designed to have no net impact on surrounding properties or on the hydrology of any nearby ecosystems.

20.0 Parking

- 20.1 Parking and driveways should be located at the side or rear of any building and not at the front or on any side abutting a street.
- 20.2 Paving for driveways and parking a may not occupy more than 25% of the lot frontage.

21.0 Storage and Waste Management

- 21.1 Each residential unit should have space allocated for storage of waste and recyclables.
- 21.2 Each building must have an area for storage of waste and recyclables that is either within a building or structure or screened from view of the street. Screening may be accomplished with a landscaped area or a fence, or both.

PART III

SPECIFIC PROVISIONS

22.0 Establishment and Mapping of Zones

- 22.1 For the purpose of this Law, Teeshohsum is hereby divided into the following zones, the metes and bounds are as shown on “Schedule B: Zoning Map” attached hereto and form part of this Law:

- (a) L - Limited Use Areas
- (b) CF - Community Facilities
- (c) TR - Sliammon Residential (Sliammon Member/Citizen Housing)
- (d) LR - Leasehold Residential (Leased Housing)
- (e) I – Light Industrial
- (f) TC - Sliammon Commercial
- (g) TF - Sliammon Forest
- (h) U - Utilities

23.0 Limited Use Areas (L)

23.1 Land, buildings, and structures may be used only for:

- a) Traditional cultural uses and activities;
- b) Recreational, tourism, or education activities that are related to the promotion and dissemination of Sliammon culture;
- c) Hunting, fishing, trapping;
- d) Ecological restoration; and,
- e) Conservation areas.

23.2 Development and Design review

Limited Development Areas include numerous unique cultural and/or environmental conditions and should be approached with the highest degree of care and sensitivity to the landscape. It is recommended that a development and design review committee be established to review any proposals for development or construction in these areas. Sliammon Land Use Plan *Cultural and Environmental Areas Guidelines* and *Hazard Areas Guidelines* should be consulted.

24.0 Community Facilities (CF)

24.1 Land, buildings, and structures may be used only for:

- a) A community centre;
- b) A recreation facility;
- c) A cultural centre;
- d) A school;
- e) Any space for the purpose of supporting community programs and activities;
- f) Sliammon administration offices;
- g) A health clinic;
- h) Elders' care facility;
- i) Elders housing;
- j) Supportive housing;
- k) A cemetery;
- l) Outdoor sports and recreation facilities;
- m) Community gardens;

- n) Conservation areas;
- o) Trails;
- p) Boat yards and docks;
- q) Cemeteries; and,
- r) A use accessory to any of the foregoing permitted uses.

24.2 As Community Facilities serve unique and varied purposes and are built for the benefit of all members and residents, dimensional standards are not established for this zone. It is recommended that a development and design review committee be established to review community facility proposals.

25.0 Siammon Residential (TR) - Siammon Member and Siammon Citizen Housing

25.1 Land, buildings, and structures may be used only for:

- a)
- b) A single family dwelling;
- c) A two family dwelling;
- d) A duplex dwelling;
- e) A semi-detached dwelling;
- f) A group home;
- g) A home daycare;
- h) A mobile home dwelling;
- i) A home occupation;
- j) A cottage industry;
- k) A park or playground; and,
- l) A use accessory to any of the foregoing permitted uses.

Figure: Illustration of lot dimensional standards

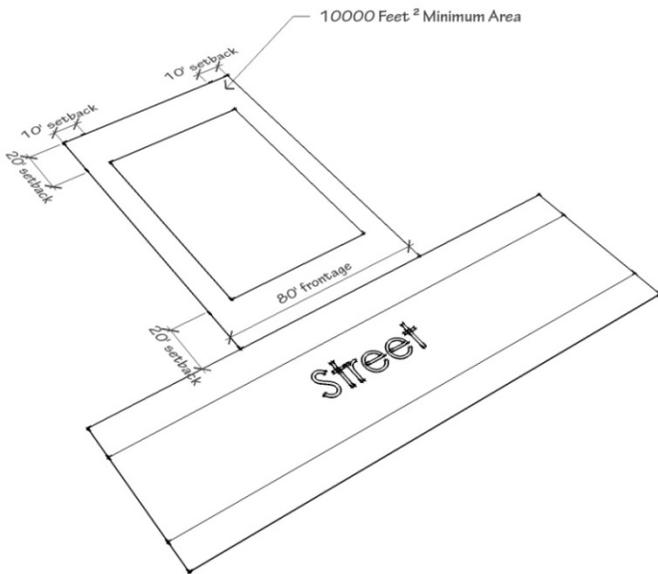
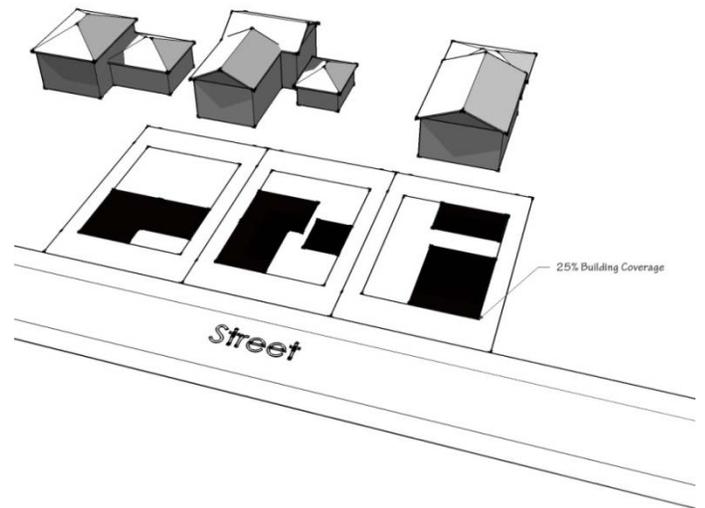


Figure: Illustration showing various lot coverage



25.2 Land may be used and buildings and structures may be erected, altered or used only where the following specifications are complied with:

| Lot Size and Frontage | |
|--|---|
| minimum allowed lot size | 930 metres (10,000 square feet) |
| minimum allowed street frontage | 24 metres (80 feet); or, on curving roads this may be relaxed to 15 metres (50 feet) providing that the lot measures 24 metres (80 feet) at 1/3 the depth of the lot |
| Building Coverage | |
| maximum allowed building coverage | 20% |
| maximum allowed impervious surface coverage | 30% |
| Building Size and Setbacks | |
| maximum allowed building height | 11 metres (36 feet) |
| minimum required setback from any street frontage | 6 metres (20 feet) |
| minimum required rear setback | 6 metres (20 feet) |
| minimum required side setbacks | 3 metres (10 feet) |
| setback exceptions for decks, porches, stairs, ramps, and roof eaves | up to .3 metres (1 foot) from lot line |
| minimum separation between structures | 6 metres (20 feet) |
| Landscaping and Amenity Space | |
| required landscaping | A landscaped area or front yard at least 3 metres (10 feet) deep and 60% of the lot width must be maintained between the street and any building on the lot. |

26.0 Leasehold Residential (LR) - Leased non-Sliammon Member and Sliammon Citizen Housing

26.1 Land, buildings, and structures may be used only for:

- a) A single family dwelling;
- b) A two family dwelling
- c) A duplex dwelling;
- d) A semi-detached dwelling;
- e) A home daycare;
- f) A home occupation;
- g) A cottage industry;
- h) A park or playground; and,
- i) A use accessory to any of the foregoing permitted uses.

26.2 Land may be used and buildings and structures may be erected, altered or used only where the following specifications are complied with:

| Lot Size and Frontage | |
|--|---|
| minimum allowed lot size | 930 metres (10,000 square feet) |
| minimum allowed street frontage | 24 metres (80 feet); or, on curving roads this may be relaxed to 15 metres (50 feet) providing that the lot measures 24 metres (80 feet) at 1/3 the depth of the lot |
| Building Coverage | |
| maximum allowed building coverage | 20% |
| maximum allowed impervious surface coverage | 30% |
| Building Size and Setbacks | |
| maximum allowed building height | 11 metres (36 feet) |
| minimum required setback from any street frontage | 6 metres (20 feet) |
| minimum required rear setback | 6 metres (20 feet) |
| minimum required side setbacks | 3 metres (10 feet) |
| setback exceptions for decks, porches, stairs, ramps, and roof eaves | up to .3 metres (1 foot) from lot line |
| minimum separation between structures | 6 metres (20 feet) |
| Landscaping and Amenity Space | |
| required landscaping | A landscaped area or front yard at least 10' deep and 60% of the lot width must be maintained between the street and any building on the lot. |

27.0 Light Industrial (I)

27.1 Land, buildings, and structures may be used only for:

- a) Manufacturing;
- b) Packaging;
- c) Food processing;
- d) Storage or warehousing;
- e) An automobile service station, commercial garage or automobile business, including sales and rentals;
- f) Industrial equipment sales and service;
- g) A garden nursery and/or commercial greenhouse;
- h) A business or professional office;
- i) Vocational instruction;
- j) A caretaker's residence; or
- k) A use accessory to any of the foregoing permitted uses.

27.2 No use will be allowed unless:

- a) It is carried on wholly within a completely enclosed building, except for parking and loading, and displays;
- b) All bulk storage is wholly contained within a completely enclosed building, unless the yard or portion of the yard containing the goods or materials is enclosed by a suitable fence or wall restricting public access;
- c) There is no bulk storage of explosive, flammable, or otherwise toxic or hazardous materials;
- d) Bulk storage of toxic, corrosive, or hazardous materials or materials that would attract pests is wholly contained within a completely enclosed building; and,
- e) Appropriate measures are taken, to the satisfaction of Council, to eliminate any dangerous, injurious, noxious or otherwise objectionable impact that could adversely affect the surrounding area and adjoining non-industrial districts, including ventilation and air filtering, noise mitigation, and dust and odour control.

27.3 Land may be used and buildings and structures may be erected, altered or used only where the following specifications are complied with:

| Lot Size and Frontage | |
|---|--|
| minimum allowed lot size | 1,395 square meters (15,000 square feet) |
| minimum allowed lot dimension, as measured across the lot from any opposing sides | 36.5 metres (120 feet) |
| minimum allowed street frontage | 11 metres (36 feet) |
| Building Coverage | |
| maximum allowed building coverage | 60% |
| maximum allowed impervious surface coverage | 75% |
| Building Size and Setbacks | |
| maximum allowed building height | 16.7 metres (55 feet) |
| minimum required setback from any street frontage | 6 metres (20 feet) |
| minimum required rear setback | 6 metres (20 feet) |
| minimum required side setbacks | 6 metres (20 feet) when abutting a lot in a commercial zone or industrial zone; 10 metres (33 feet) when abutting a lot in any other zone |
| minimum separation between structures | 6 metres (20 feet) |
| Landscaping and Site Design | |
| entrances | Landscaping must be used to distinguish building |

| | |
|--|--|
| | entrance areas from parking and driveways (e.g. courtyard or patio entrance) |
| pedestrian access | A pedestrian walkway must be provided along any street frontage to safely control pedestrian/vehicle circulation; and, A pedestrian walkway must be provided from the street frontage to any building entrance. |
| separation of pedestrians and vehicles | A minimum .9 metre (3 foot) planting strip with low landscaping and high branching trees is required to provide separation between moving traffic and pedestrians. |
| buffering | A minimum 4.5 metre (15 foot) planting strip with a mix of densely vegetated, mixed canopy height plants is required along any lot edge that abuts a lot in a non-industrial zone. |

28.0 Sliammon Commercial (TC)

28.1 Land, buildings, and structures may be used only for:

- a) An automobile service station, commercial garage or automobile business, including sales and rentals;
- b) A car wash;
- c) A bank or other financial institution;
- d) A personal service shop;
- e) A boat, snowmobile, trailer or cycle business, including sales and rentals;
- f) A business or professional office;
- g) A convenience store;
- h) A laundry or dry cleaning establishment;
- i) A restaurant or other eating establishment;
- j) A commercial kitchen used for processing or preparation of food;
- k) A hotel;
- l) Tourist accommodations;
- m) A post office;
- n) A recreational use;
- o) A retail store;
- p) Apartments, caretakers residence, or other residence (conditionally); or
- q) A use accessory to any of the foregoing permitted uses.

28.2 Residential uses are allowed only if:

- a) a commercial use is included and the commercial use is located on the ground floor facing the street; and,
- b) the commercial use occupies at least 60% of the building frontage and 50% of the ground floor area.

28.3 Land may be used and buildings and structures may be erected, altered or used only where the following specifications are complied with:

| Lot Size and Frontage | |
|---|--|
| minimum allowed lot size | 1,395 square meters (15,000 square feet) |
| minimum allowed lot dimension, as measured across the lot from any opposing sides | 36.5 metres (120 feet) |
| minimum allowed street frontage | 11 metres (36 feet) |
| Lot Area per Dwelling Unit | |
| | 1 unit per 150 square meters (1600 square feet) of lot area |
| Building Coverage | |
| maximum allowed building coverage | 60% |
| maximum allowed impervious surface coverage | 75% |
| Building Size and Setbacks | |
| maximum allowed building height | 16.7 metres (55 feet) |
| minimum required setback from any street frontage | 0 feet |
| minimum required rear setback | 6 metres (20 feet) |
| minimum required side setbacks | 6 metres (20 feet) when abutting a lot in a commercial zone; 10 metres (33 feet) when abutting a lot in any other zone |
| minimum separation between structures | 6 metres (20 feet) |
| Landscaping | |
| entrances | Landscaping must be used to distinguish building entrance areas from parking and driveways (e.g. courtyard or patio entrance) |
| pedestrian access | A pedestrian walkway must be provided along any street frontage to safely control pedestrian/vehicle circulation; and, A pedestrian walkway must be provided from the street frontage to any building entrance. |
| separation of pedestrians and vehicles | A minimum .9 metre (3 foot) planting strip with low landscaping and high branching trees is required to provide separation between moving traffic and pedestrians. |

29.0 Sliammon Forest (TF)

29.1 Land, buildings, and structures may be used only for:

- a) Silviculture;
- b) Log yarding and loading;
- c) Portable sawmills;
- d) Fish hatcheries;
- e) Public utilities;
- f) Traditional cultural uses and activities;
- g) Recreational, tourism, or education activities;
- h) Hunting, fishing, trapping;
- i) Ecological restoration; and,
- j) Conservation areas.

29.2 Land may be used and buildings and structures may be erected, altered or used only where the following specifications are complied with:

| Building Size and Setbacks | |
|---|--|
| maximum allowed building height | 16.7 metres (55 feet) |
| minimum required setback from any street frontage or lot line | 30 metres (99 feet) |
| Landscaping | |
| leave strip | A 30 metre (99 foot) buffer zone of existing vegetation and trees must be preserved along the frontage of any public road. |

30.0 Utilities (U)

30.1 Land, buildings, and structures may be used only for:

- a) Housing of equipment related to utility services and infrastructure;
- b) Offices relating to utility management and maintenance;
- b) Storage of maintenance equipment and vehicles;
- c) Communication towers and equipment; and,
- d) Other uses relating to infrastructure and delivery of infrastructure services.

30.2 Land may be used and buildings and structures may be erected, altered or used only where the following specifications are complied with:

| Building Size and Setbacks | |
|-----------------------------------|-----------------------|
| maximum allowed building height | 16.7 metres (55 feet) |

| | |
|---|---|
| minimum required setback from any street frontage or lot line | 30 metres (99 feet) |
| Landscaping | |
| vegetative buffers | A vegetative screen of shrubs and trees should be planted or retained to minimize the visual impact of utility related structures on residential, commercial, or community facility areas or on public roads. |

PART V APPLICATION PROCEDURES

31.0 Types of Permits and Requirements of Permit Applications

31.1 A Development Permit is required for:

- (a) Any project requiring a building permit, except renovations that do not change the size, use, or location of a building or structure;
- (b) The subdivision of any land;
- (c) Construction of, additions to, demolition of, or relocation of a building or other structure, except a structure with an area less than 9.2 square metres (100 square feet);
- (d) Any construction or landscaping within 91 metres (300 feet) of a water body or waterway, measured from the high-water boundary or top of bank;
- (e) Any construction or landscaping within an identified Hazard Area or Sensitive Area;
- (f) Landscaping that includes removal of mature trees or native vegetation, installation of impervious paving, removal of soil, or alterations to drainage patterns;
- (g) Changes to the use of a parcel of land or existing structure;
- (h) Filling of land; and,
- (i) New signage.³

31.2 A Development Permit is not required for:

- (a) Minor repairs that do not expand or alter the size, use, or location of a structure; and,
- (b) Fences and other landscaping that does not alter site drainage or remove significant trees or native vegetation.

³ For example, the creation of a parking lot does not require a Building Permit, but does require a Development Permit because it changes the use of a parcel of land and may involve new signage and fill.

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- 31.3 The following types of Development Permits will be issued:
- (a) use and subdivision of land;
 - (b) new use and development of a building lot;
 - (c) change of use on an existing lot; or,
 - (d) renovation or expansion of existing structures.
- 31.4 Development permit applications must include, at the discretion of the Zoning Administrator:
- (a) a statement of the intended future use of the land;
 - (b) a statement describing any legally non-conforming uses or structures that will be retained;
 - (c) a dimensioned survey of the land showing existing site features including any vegetation, topography, cultural features, or environmental features;
 - (d) dimensioned plan(s) of the proposed subdivision or site plan, including grading and landscaping plans, proposed lot lines or building footprints, existing site features and features to be retained including protective structures such as construction fencing, site servicing plans, and phasing plans;
 - (e) geotechnical or hazardous conditions report;
 - (f) archaeological survey report;
 - (g) environmental survey and impact report; and/or,
 - (h) an appeal and justification for a minor variance.
- 31.5 In addition to the requirements of subsection 30.4, the Zoning Administrator may require any other information to be submitted with a permit application to establish substantial compliance with this Law and other Sliammon laws with respect to land development and public safety in Teeshohsum.
- 31.6 In addition to applicable fees and charges required under other Sliammon laws, a permit application fee will be required with every application, calculated in accordance with current Sliammon Development Permit application fee policies. No application will be considered until the permit application fee has been paid.
- 31.7 An application made for all permits issued under this Law must be in the form provided by Sliammon First Nation and signed by the land holder making the application.
- 31.8 Every Development permit is issued upon the condition that the permit shall expire and the rights of the land holder under the permit shall terminate if the proposed work does not proceed within six (6) months from the date of permit issuance;
- 31.9 The Zoning Administrator may extend the period of time set out under subsection 30.4 where development activities have not commenced or where development has been discontinued due to adverse weather, strikes, material or labour shortages, economic

conditions or similar hardship beyond the land holder's control.

32.0 Duties and Responsibilities of the Applicant

- 32.1 Every Applicant shall ensure that all development complies with this Law and other applicable enactments respecting safety.
- 32.2 Every Applicant must obtain all permits and approvals required in connection with proposed work, prior to commencing such work.
- 32.3 Prior to commencement of any construction, every successful Applicant must apply for and receive as building permit, as required by the Sliammon Building Law.
- 32.4 Every Applicant when required by the Zoning Administrator, must provide, in a form satisfactory to the Zoning Administrator, evidence to certify compliance with the requirements of this Law and of any permits required.

33.0 Duties and Responsibilities of the Zoning Administrator

- 33.1 The Zoning Administrator is responsible for the administration and enforcement of this Law.
- 33.2 The Zoning Administrator must work with other Sliammon departments in a coordinated effort toward achieving the community development objectives identified in both the Sliammon Land Use Plan and Sliammon Comprehensive Community Plan and that are expressed through this Laws general zoning provisions.
- 33.3 The Zoning Administrator must keep copies of all permit applications, permits, notices and orders issued, and of all documents related to the administration of this Law or make digital copies of such documents.
- 33.4 The Zoning Administrator must issue such notices or orders as may be required to inform the land holder where a contravention of this Law has been observed;
- 33.5 The Zoning Administrator may reject an application for insufficient or incomplete information or for non-compliance with this Law;
- 33.6 The Zoning Administrator must distribute applications for review by other Sliammon staff as necessary, or as required by this Law;
- 33.7 The Zoning Administrator must prepare an Approval Review package for Council, including the full application with comments and recommendations, and submit to Council for final review where Council may:

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- (a) Reject the application for non-compliance this Law;
- (b) Defer approval due to the need for further review or evaluation;
- (c) Provide conditional approval subject to any changes recommended by the Zoning Administrator; or,
- (d) Approve the proposal with no changes.

34.0 Powers of the Zoning Administrator

34.1 The Zoning Administrator is empowered to order:

- (a) A person who contravenes this Law to comply with this Law in a specified time period;
- (b) Work to stop on a building or part thereof, if work is proceeding in a contravention of this Law or the *Sliammon Building Law*;
- (c) The removal of any unauthorized encroachment on community lands; and
- (d) The termination of any occupancy, in the contravention of this Law or other applicable Sliammon law.

34.2 The Zoning Administrator may revoke a permit:

- (a) if there is a contravention of any condition under which the permit was issued;
- (b) that was issued in error; and
- (c) that was issued on the basis of incorrect information.

34.3 Any revocation of a permit made under section 33.3 must be in writing and transmitted to the permit holder by registered mail.

35.0 Minor Variance

35.1 If site conditions present unique circumstances that are not anticipated by this Law and would prohibit the practical development of that site for its intended use, the owner of any land, building or structure affected by this by-law may apply to the Council for a minor variance from the provisions of this by-law, in respect of the land, building or structure, or use thereof. The non-conforming structure or use allowed by such variance will apply only to a relaxation of lot dimensional standards and not to any requirement relating to environmental, cultural, or hazardous areas.

36.0 Non-Conforming Uses

36.1 Any land, building or structure that was constructed or used for a purpose prohibited by a law prior to the day this Law was made will be considered 'legally non-conforming', the land holder may apply to the Council for authorization to:

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- (a) enlarge or extend the building or structure if such work does not further encroach upon the conditions that cause it to be non-conforming; ; or
- (b) use such land, building or structure for a purpose that is similar to the purpose for which it was used on the day this Law was made, or is more compatible with the uses permitted by this Law than the purpose for which it was used on the day this Law was made.

37.0 Criteria for Permit Recommendations made by the Zoning Administrator

37.1 The Zoning Administrator shall submit a recommendation to Council to issue the permit for which the application is made provided:

- (a) A completed application including all required supporting documentation has been submitted;
- (b) The proposed work set out in the application substantially conforms with this Law and all other applicable laws and enactments;
- (c) The land holder, applicant and/or his/her agent has paid all applicable fees set out in current Sliammon Development Permit application fee policies;
- (d) The land holder, applicant and/or his/her agent has paid all charges and met all requirements imposed by any other enactment or law; and
- (e) No covenant, agreement, or regulation in favour of Sliammon, or Sliammon law or other enactment authorizes the permit to be withheld;

37.2 The Zoning Administrator may recommend to Council to refuse or defer to issue a permit if:

- (a) Information submitted is inadequate to ensure compliance with this or any other applicable Sliammon law;
- (b) Incorrect information is submitted;
- (c) The proposed work would be prohibited by any other law, Act or regulation;
- (d) Site work has been carried out previous to issuance of a permit, including but not limited to, excavation or fill; and,
- (e) The need for further, more detailed review or evaluation, or community consultation has been identified.

38.0 Procedures

38.1 Within ninety days of the filing of a properly completed application, the Council shall hold a hearing with respect to the application.

38.2 At least fourteen days prior to the hearing, the Zoning Administrator shall:

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- (a) Give notice to the applicant of the date, time and place of the hearing and informing the applicant, and any other resident of the reserve, that they have the right to appear at the hearing and to be heard in respect of the application;
 - (b) Post in the Sliammon Office a copy of the notice; and
 - (c) Refer the application for comment to appropriate Sliammon departments and external agencies as necessary.
- 38.3 At the hearing, the Council shall:
- (a) provide the applicant with an opportunity to present evidence and to make oral or written submissions in support of the application; and
 - (b) provide any Sliammon member, citizen or community resident present at the hearing with an opportunity to be heard.
- 38.4 Council may make rules of procedure governing the hearing of applications and shall keep records of its proceedings.
- 38.5 After it has heard all of the evidence and submissions, the Council shall meet in private to consider the application.
- 38.6 Council may seek the input and recommendations of the Zoning Administrator to determine how the application meets Sliammon Land Use Plan objectives.
- 38.7 In determining whether an application for a permit should be granted, the Council shall take into consideration:
- (a) the recommendations made by staff and comments made by staff, community members, and external agencies;
 - (b) whether the general intent and purpose of the Sliammon Land Use Plan will be maintained; and
 - (c) whether the general intent and purpose of this Law will be maintained.
- 38.8 Within ten days after the hearing, the Council shall render its decision on the application and shall give a written notice of its decision to the applicant which incorporates written reasons in support of its decision.
- 38.9 Within five days after disposing of the application, the Council shall post a notice of its decision in the Sliammon office.

PART VI

ENFORCEMENT

39.0 Notices and Charges Against Land Holders

39.1 Where Sliammon is required to give notice to or imposes an additional cost or charge against the land holder and two or more persons are shown as land holders in respect of a parcel of land, then a notice given to or a cost or charge imposed against one land holder is not invalidated by the failure to give notice to or to impose a charge against any other land holder.

40.0 Offences and Enforcement

40.1 Any person who contravenes this Law is liable upon summary conviction to a fine not exceeding \$10,000 and the cost of prosecution, every day during which there is an infraction of this Law constituting a separate offence.

40.2 Any person who:

- (a) fails to comply with any order or notice issued by the Zoning Administrator;
- (b) who allows a violation of this Law to continue

contravenes this Law.

40.3 A person who commences any development or construction activities prior to obtaining a permit as required by this Law shall pay double the permit fee calculated as prescribed in current Sliammon development permit fee policy to this Law to a maximum fee of \$5,000.

40.4 For the purposes of subsection 49.3, development shall be deemed to have commenced when:

- (a) land is cleared, brushed, or graded for construction; or
- (b) a building or structure or portion thereof has been demolished for reasons other than ensuring occupant or community safety.

40.5 The Zoning Administrator may order the cessation of any work that is proceeding in contravention of this Law by posting a stop work notice on the building, structure or land in the form provided by Sliammon First Nation.

40.6 The land holder on which a stop work notice has been posted, and every other person, must cease all construction and development work immediately and shall not do any work until all applicable provisions of this Law have been substantially complied with and the stop work notice has been rescinded in writing by the Zoning Administrator.

41.0 Appeal

- 41.1 A decision of Council, subject to section 41.2, may be appealed.
- 41.2 An appeal against a decision of Council may be submitted to the Zoning Administrator by any applicant who:
- (a) has applied under the provisions of this Law for a permit which has not been granted; or
 - (b) has had a permit revoked.
- 41.3 The appellant must file with the Zoning Administrator a statement in writing in such detail as will enable the Zoning Administrator to properly consider the appeal, setting out:
- (a) the address of the proposed development affected by the appeal;
 - (b) the sections of this Law that are relevant to the appeal; and
 - (c) the grounds for appeal.
- 41.4 The Zoning Administrator may confirm, reverse or modify their decision within a reasonable period following the written appeal.
- 41.5 If the appellant is dissatisfied with the decision of the Zoning Administrator, they may appeal in writing to Council.
- 41.6 Council must:
- (a) consider the appeal at a regular Council meeting within a reasonable time of receiving the appeal;
 - (b) notify the Zoning Administrator and the appellant of the time and place of the meeting;
 - (c) provide the appellant with an opportunity to be heard when the appeal is being heard by Council; and
 - (d) render its decision within a reasonable time of hearing the appeal.

42.0 Immunity

- 42.1 No action for damages lies or may be instituted against past or present Council, the building inspector or members, employees, servants or agents of either Sliammon Nation or Council:
- (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; or

- (b) Any alleged neglect or default in the performance or intended performance of the person's duty or the exercise of the person's authority.

42.2 Section 50.1 does not provide a defense if:

- (a) Council, the Zoning Administrator, members, employees, servants or agents have, in relation to the conduct that is the subject matter of the action, been guilty of dishonesty, gross negligence, or malicious or willful misconduct; or
- (b) The cause of action is libel or slander.

42.3 Sliammon, present or past Council, or members, employees, servants or agents of any of Sliammon or Council 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 neglect or failure, for any reason, to discover or detect any contravention of this Law or any other Sliammon law, or from the neglect or failure, for any reason or in any manner, to enforce this Law or any other Sliammon law. .

42.4 All actions against Sliammon for the unlawful doing of anything that:

- (a) Is purported to have been done by Sliammon under the powers conferred by this Law or any Sliammon law; and
- (b) Might have been lawfully done by Sliammon if acting in the manner established by law,

must be commenced within six (6) months after the cause of action first arose, or within a further period designated by Council in a particular case, but not afterwards.

42.5 Sliammon is in no case liable for damages unless notice in writing, setting out the time, place and manner in which the damage has been sustained, is delivered to Sliammon, within two (2) months from the date on which the damage was sustained.

42.6 In the case of the death of a person injured, the failure to give notice required under section 50.4 is not a bar to the maintenance of the action.

42.7 Failure to give the notice or its insufficiency is not a bar to the maintenance of the action if the court before whom it is tried, or in the case of appeal, the Court of Appeal, believes:

- (a) There was a reasonable excuse; and
- (b) Sliammon has not been prejudiced in its defense by the failure or insufficiency.

43.0 Amendment of Law

43.1 Council may consider and make amendments to this Law in accordance with the Land Code. Provided that the amendment conforms to and supports the Vision, Objectives, and General Land Use designations of the Sliammon Land Use Plan, amendments may:

- (a) Create new zoning districts and standards for that district;
- (b) Modify the boundaries of existing zoning districts;
- (c) Revise the standards for an existing zoning district;
- (d) Revise the general standards for all districts; or,
- (e) Revise any portion of the Applications section of this Law.

(Amendments that would be applicable only to a single building lot will be considered a variance as described in section 35.0).

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

A quorum of Council consists of five members of Council.

Chief Clint Williams

Councillor Eugene Louie

Councillor Vern Pielle

Councillor Gloria Francis

Councillor Walter Paul

Councillor Denise Smith

Councillor Bruce Point

Councillor Larry Louie

Councillor John S. Hackett

Councillor Dillon Johnson

Councillor Clint Williams

SCHEDULE "A" GENERAL LAND USE DESIGNATIONS - TEESHOSUM

A.1 Purpose

- (a) The land use designations are established to ensure future development occurs in appropriate areas and that land is allocated in a way that meets community objectives on Ahgykson and in Teeshohsum. The designations set out broad management objectives and provide broad guidelines on allowed uses for designated land areas.

A.2 Application

- (a) Zoning designations, development plans, permitted developments, and land management activities in any specific area should conform to the management objectives and allowed uses of the land use designation for that area.

A.3 Permitted Uses

- (a) **Ookt soht yiqush** (Community Use): The following uses are allowed in this designation:

- a) Member housing (single- and multi-family, Elders, other options)
- b) Non-member, leasehold housing (single-family)
- c) Parks and recreation facilities (fields & ancillary buildings)
- d) Sliammon program offices (administration and program delivery)
- e) Community facilities (gym, meeting space, program offices, youth centre)
- f) Cultural facilities and buildings (Longhouse, Cultural Centre)
- g) Elders Care facility
- h) Health Centre
- i) Schools and day care, including adult education
- j) Cemetery
- k) Local food production (e.g., community gardens, orchards)
- l) Supporting infrastructure (water, sewer, power, roads)

- (b) **Nineh jeh tahla** (Economic Development): The following uses are allowed in this designation:

- a) Commercial retail (Sliammon-owned/joint venture, leased)
- b) Commercial enterprises (Sliammon-owned/joint venture, leased)
- c) Commercial office (aboriginal professional and leased)
- d) Light industrial and manufacturing (e.g., value-added wood products manufacturing, in-vessel composting, etc.)
- e) Supporting infrastructure (water, sewer, power, roads)

(c) **Uhmsnah jehjeum** (Forest Management) : The following uses are allowed in this designation:

- a) Timber harvesting and restoration
- b) Traditional and cultural uses and activities
- c) Non-timber forest products
- d) Agro-forestry and agriculture
- e) Limited eco- and cultural tourism
- f) Habitat protection and stewardship

(d) **Uhmsnah kootkoo** (Marine Management): The following uses are allowed in this designation:

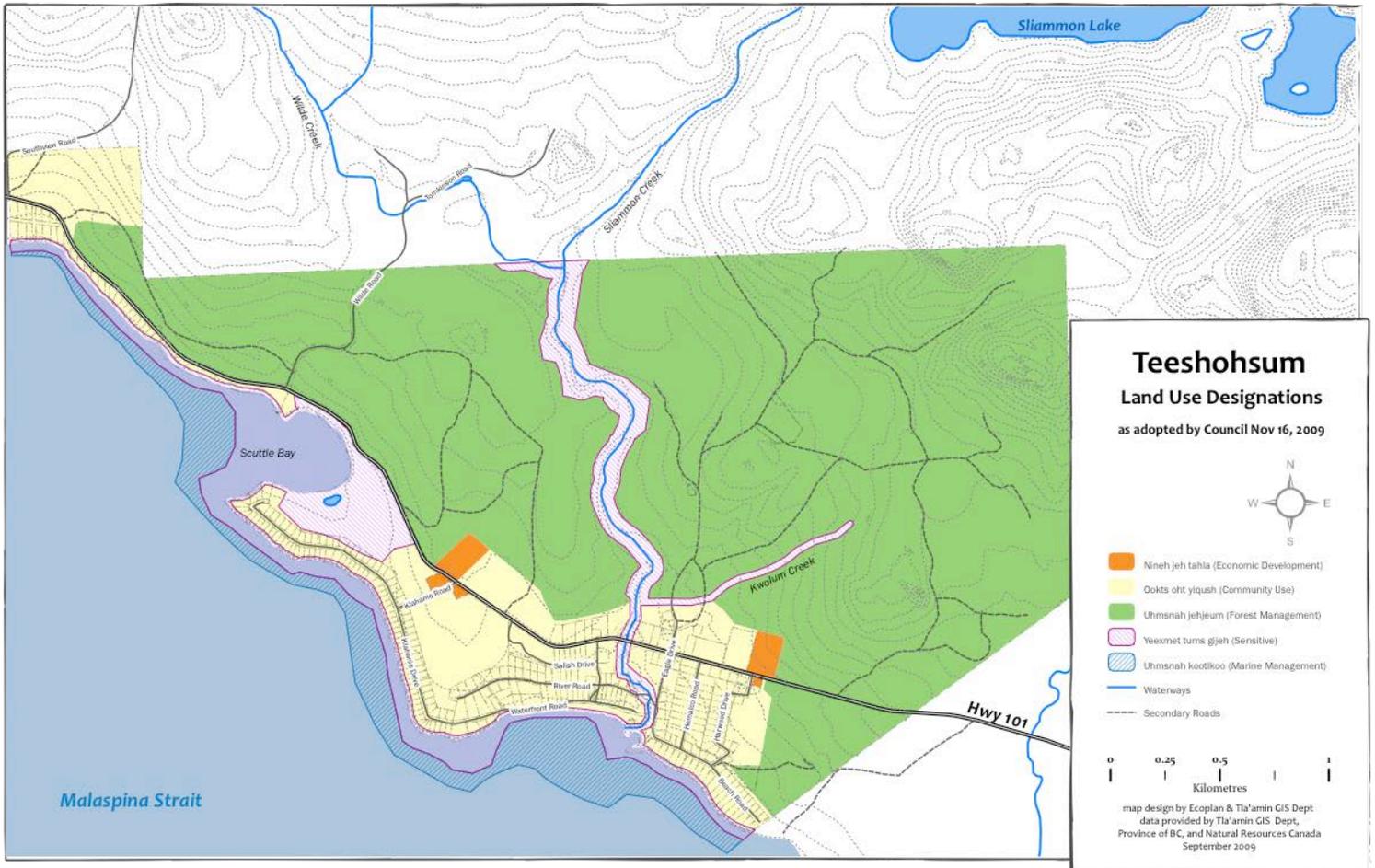
- a) Traditional and cultural uses and activities
- b) Limited eco- and cultural tourism and recreation
- c) Shellfish/fin fish harvesting (commercial/food)
- d) Habitat protection and stewardship

(e) **Yeexmet tums gijeh** (Sensitive Area): The following uses are allowed in this designation:

- a) Limited eco- and cultural tourism
- b) Protected environmental areas (i.e., creeks, foreshore, wetlands, etc.)
- c) Protected wildlife areas (i.e., eagle and heron nesting sites, etc.)
- d) Protected cultural areas (i.e., traditional use sites, archaeological sites, etc.)
- e) Traditional and cultural uses and activities

A.4 Area

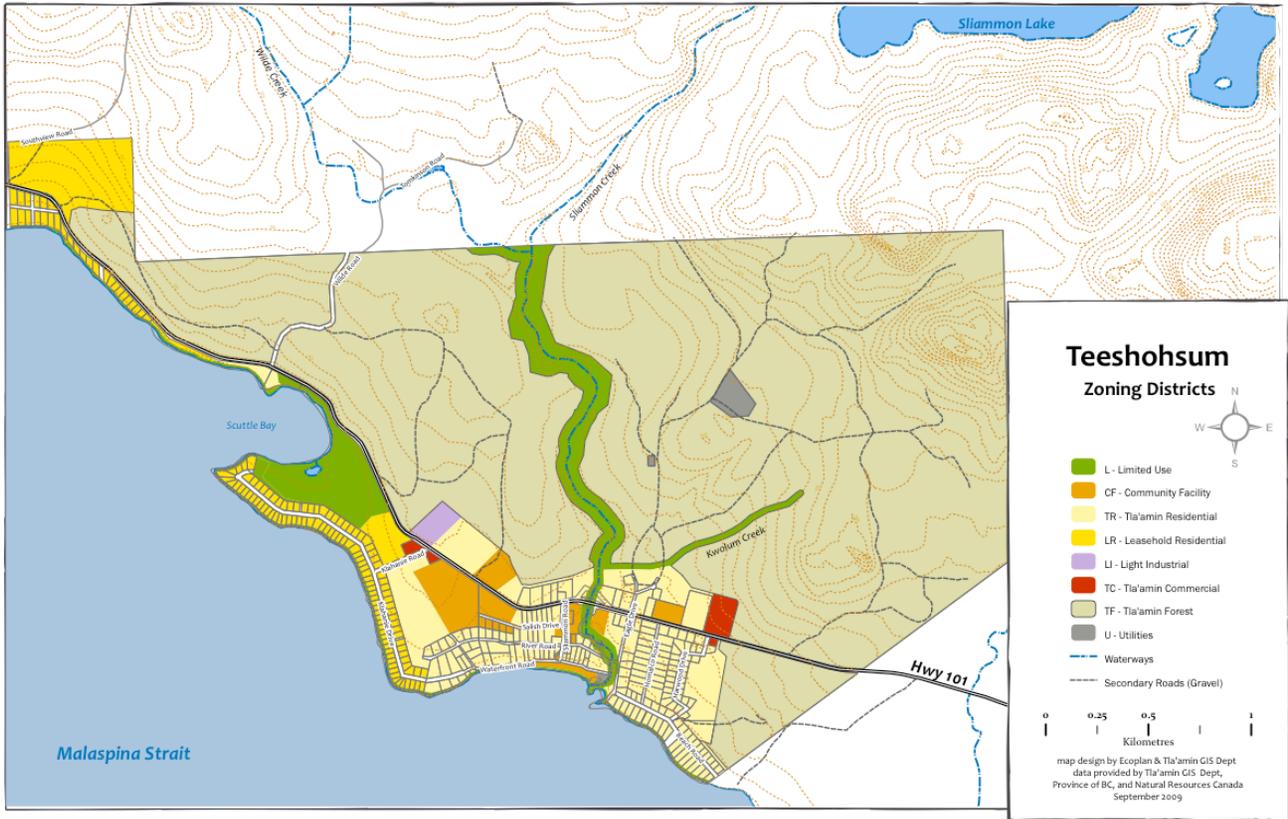
(a) General Land Use Designations for Teeshohsum are allocated to the land areas indicated on the following map.



SCHEDULE “B” ZONING - TEESHOSUM

B.1 Area

(a) Zones for Teeshohsum are allocated to the land areas indicated on the following map.



FRAMEWORK AGREEMENT

DEVELOPMENTAL PHASE

COMPLETING YOUR LAND CODE & INDIVIDUAL AGREEMENT

SUPPORT & FACILITATION

LABRC

- PROVIDE EXPERTISE
- RESOLVE DIFFICULTIES
- DEVELOP MODEL
 - Law
 - Land codes
 - Land mgmt systems

• ASSIST FN'S TO DEVELOP & IMPLEMENT:

- Laws
- Land code
- Land mgmt systems
- Curriculum & training
- Environmental assessments
- Protection regimes

LANDS COMMITTEE

- DEVELOP:
 - Land code
 - Ratification process
- OVERSEE RATIFICATION PROCESS
- ENSURE FA COMPLIANCE
- CERTIFY LAND CODES
- RESOLVE DISPUTES

LANDS COORDINATOR

- COORDINATE:
 - Land code development
 - Individual agreement negotiation

NEGOTIATION • GOC PROVIDES

- Land description
- ESA Phase 1
- OFF Statement
- Revenue Account Statement

GOVT OF CANADA

