

LEQ'Á:MEL FIRST NATION

Environmental Assessment Law

2018

SYUWÁ:LELH - Stó:lō Laws

“S’ólh Téméxw te ikw’elo. Xolhmet te mekw’stam it kwelat”

This is Our Land, we have to take care of everything that belongs to us

“Xaxastexw te mekw’stam”

Respect all Things

“Ewe chexw qelqelit te mekw’stam loy qw’ esli hokwex yexw lamexw ku:t”

Don’t waste, ruin or destroy everything; only take what you need

“T’xwelátse”

Do things in a good way; respect each other

WHEREAS:

- A. Leq’á:mel First Nation has an inherent right to self-government which emanates from our people, culture and land and which is recognized and affirmed by section 35 of the *Constitution Act, 1982*;
- B. Leq’á:mel First Nation has traditional laws and mechanisms to ensure the responsible and sustainable use of lands within Leq’á:mel First Nation’s traditional territory;
- C. Leq’á:mel First Nation has taken over control and management of Leq’á:mel Lands pursuant to the *Framework Agreement on First Nation Land Management* and has enacted the *Leq’á:mel First Nation Land Code* as of December 11, 2008, with amendments on November 26, 2014;
- D. Under the *Leq’á:mel First Nation Land Code*, the Leq’á:mel First Nation Council is authorized to pass various laws including laws relating to the protection, management and regulation of Leq’á:mel Lands, including environmental protection, and the use and storage of hazardous materials and substances;
- E. Leq’á:mel First Nation has authority under section 23 of the Framework Agreement to enact an environmental assessment law

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NOW THEREFORE this *Leq’á:mel First Nation Environmental Assessment Law* is hereby enacted at a duly convened Council meeting as a Law of the Leq’á:mel First Nation.

PART 1 - NAME

1.0 This Law may be cited as the *Leq’á:mel First Nation Environmental Assessment Law*.

PART 2 - PURPOSE

2.1 The purposes of this law are:

- (a) to protect Leq’á:mel Lands from significant adverse environmental effects caused by a Project;

- (b) to identify potential environmental effects before decisions are made to proceed with a Project;
- (c) to promote cooperation and coordinated action between Leq'á:mel, the federal and provincial governments and municipal governments with respect to environmental assessments; and
- (d) to ensure that an environmental assessment is completed in a timely manner.

PART 3 - WHERE THIS LAW APPLIES

3.1 This law applies to the whole area of the Reserve and Leq'á:mel Lands as defined in the Leq'á:mel Land Code.

PART 4 - DEFINITIONS

4.1 Unless specifically provided otherwise in this Law, terms used in this Law have the same definitions as set out in the Leq'á:mel Land Code.

4.2 For the purposes of this Law, the following definitions apply:

"Contaminated Site" means an area of Leq'á:mel Lands in which the soil or any groundwater lying beneath it, or the Water or the underlying sediment, contains a Substance in quantities or concentrations exceeding risk based or numerical criteria, standards or conditions provided in the

"CEAA" means the *Canadian Environmental Assessment Act, 2012* SC 2012, c. 19 as amended from time to time;

"Council" means the elected Chief and Council of Leq'á:mel;

"Cumulative Effect" means the combined environmental, cultural or socio-economic impacts that accumulate from past, present and potential future actions, contaminants, or Projects;

"Environment" means the components of the Earth, and includes:

- (a) land, water and air, including all layers of the atmosphere;
- (b) all organic and inorganic matter and living organisms;
- (c) the interacting natural systems that include components referred to in paragraphs (a) and (b); and
- (d) human activities, structures and communities, including economic and cultural activities and heritage features and resources.

"Environmental assessment approval" means the certificate that is issued to the Proponent indicating that the environmental assessment has been accepted by Leq'á:mel;

"Environmental effects" means any change to the environment, including archaeological features, heritage resources, traditional use areas, economic activities, health and socio-economic conditions;

“Framework Agreement” means the *Framework Agreement on First Nation Land Management* dated February 12, 1996 signed by the Minister of Indian and Northern Development and 13 First Nations, as amended from time to time;

“Inspector” means an Inspector appointed from time to time by Council as an Inspector for the purposes of this law.

“Leq’á:mel Lands Office” means the Leq’á:mel employee responsible for the administration of First Nation Land or his or her authorized representative(s), employees or contractors, or a Person authorized by the Council to act as his or her delegate;

“Leq’á:mel Land Code” means the *Leq’á:mel First Nation Land Code* of December 11, 2008, amended on November 26, 2014 with any future amendments from time to time;

“Mitigation Measures” means measures for avoiding, eliminating, reducing or controlling the adverse environmental effects of a Project, and includes restitution for any damage to the environment caused by those effects through replacement, restoration, compensation or any other means;

“Person” means an individual, corporation, body corporate, partnership, joint venture, association, syndicate, trust or other legal entity, including a First Nation or Indian band, or any trustee, executor, administrator or other legal representative of any such entity;

“Project” means any activity or project on Leq’á:mel Land that has the potential to affect the environment, including:

- (a) any activity or project that has taken place on Leq’á:mel Land which requires new authorizations or consent from Leq’á:mel or which Council determines should be subject to an environmental assessment; and
- (b) a development, a subdivision or a grant or disposition of a licence or interest in Leq’á:mel Land;

“Project Description” means the description of the Project pursuant to section 8;

“Proponent” means a Person that proposes to undertake a Project, or has undertaken a Project on Leq’á:mel Land prior to the passing of this Law which requires new authorization or consent from Leq’á:mel, including, but not limited to, the government of Canada, British Columbia, a municipality or regional district, another province, or jurisdiction, a utility provider, a first nation, and a first nation member;

“Supreme Court” means the Supreme Court of British Columbia.

PART 5 - PROJECTS SUBJECT TO THE ENVIRONMENTAL ASSESSMENT PROCESS

5.1 A Proponent must not undertake or carry on any activity that is a Project, or construct, operate, modify, dismantle or abandon all or part of the facilities of a Project, unless:

- (a) the Proponent first obtains an environmental assessment approval for the Project, or

- (b) the Leq'á:mel Lands Office has determined that an environmental assessment approval is not required for the Project and Council has issued a written letter to the Proponent confirming this.

5.2 Despite any other applicable law, if an environmental assessment approval has been issued for a Project, a Person must not:

- (a) undertake or carry on an activity that is authorized by the environmental assessment approval, or
- (b) construct, operate, modify, dismantle or abandon all or part of the Project facilities that are authorized by the environmental assessment approval,

except in accordance with the environmental assessment approval.

5.3 The Leq'á:mel environmental assessment process applies to the following:

- (a) any grant or disposition of an interest or licence in First Nation Land; and
- (b) any Project on First Nation Land.

5.4 Unless Council requires that an environmental assessment is required for a particular project, the Leq'á:mel environmental assessment process does not apply to the following:

- (a) administrative actions that will not, or do not, affect land or resources;
- (b) emergency repairs or actions needed on an urgent basis to avert or respond to emergencies; and
- (c) responses to accidents or threats to public health.

PART 6 - HARMONIZING THE ENVIRONMENTAL ASSESSMENT PROCESS

6.1 Leq'á:mel recognizes that in addition to being subject to this Law, some Projects may also be subject to federal environmental assessment legislation, and that some Projects which extend to lands adjacent to First Nation Land may also be subject to provincial environmental assessment legislation. In these instances, the Leq'á:mel Lands Office will use best efforts to work cooperatively with the other parties to seek agreement on the following issues:

- (a) the agency and individual that will be the main contact and coordinator of the environmental assessment for each jurisdiction;
- (b) the common requirements under the federal, provincial and Leq'á:mel's environmental assessment processes;
- (c) the development of a specific work plan for each Project undergoing a multi-jurisdictional environmental assessment;

- (d) how the parties will co-ordinate their environmental assessment decisions and associated regulatory decisions with respect to a Project; and
- (e) for future Projects, how each party will notify the others when an environmental assessment process is initiated under that jurisdictions' law.

6.2 In accordance with the Framework Agreement, Leq'á:mel and Canada will make best efforts to ensure that Leq'á:mel's environmental assessment process will be used where there is overlapping jurisdiction. This priority will be reflected in any environmental assessment harmonization plan developed between Leq'á:mel, Canada and British Columbia in accordance with the Framework Agreement.

PART 7 - ENVIRONMENTAL ASSESSMENT PROCESS

7.1. Leq'á:mel's environmental assessment obligations depend on adequate financial resources and expertise being available to Leq'á:mel

7.2 Leq'á:mel's environmental assessment process requires that:

- (a) an environmental assessment is triggered in cases where Leq'á:mel is approving, consenting to, regulating, funding or undertaking a Project on First Nation Land;
- (b) environmental assessments must be conducted as early as possible in the planning stages of the Project, before an irrevocable decision is made; and
- (c) the Proponent must ensure that an environmental assessment is completed before other approvals are considered by Leq'á:mel, including but not limited to: negotiating impact benefit agreements, obtaining permits, or other authorizations and completing leases, sub-leases or licence agreements.

PART 8 - ENVIRONMENTAL ASSESSMENT PROCEDURE

Screening – Submission of Project Description

8.1 The Proponent of a Project must provide the Leq'á:mel Lands Office with a Project Description using the form specified by the Leq'á:mel Lands Office, or in the absence of a specified form using the form set out in Appendix "A"

8.2 Unless the Leq'á:mel Lands Office specifies otherwise in respect of a particular Project, a project Description will include, at a minimum, the following information:

- (d) the Project's name, nature and proposed location;
- (e) the Proponent's name and contact information and the name and contact information of their primary representative for the purpose of the description of the Project;

- (f) a description of and the results of any consultations undertaken with any jurisdictions and other parties;
- (g) other relevant information, including the environmental assessment and regulatory requirements of other jurisdictions; and information concerning any environmental study that is being or has been conducted of the region where the Project is to be carried out;
- (h) a description of the Project's context and objectives;
- (i) a description of the physical works that are related to the Project including their purpose, size and capacity;
- (j) the anticipated production capacity of the Project and a description of the production processes to be used, the associate infrastructure and any permanent or temporary structures;
- (k) a description of all activities to be performed in relation to the Project, including site preparation, construction, operation or decommissioning;
- (l) a description of any solid, liquid, gaseous or hazardous waste that is likely to be generated during any phase of the Project and of plans to manage those wastes;
- (m) a description of the anticipated phases of and the schedule for, the Project's construction, completion, operation, decommissioning and abandonment;
- (n) a description of the Project's location, including;
 - 1. its geographic coordinates;
 - 2. site maps produced at an appropriate scale in order to determine the Project's overall location and the relationships among the Project components;
 - 3. the legal description of land to be used for the Project, including the reserve or parcel abstract report and any authorization relating to a water lot;
 - 4. the Project's proximity to any permanent, seasonal or temporary residences;
 - 5. the Project's proximity to provincial, federal or municipal lands;
- (o) a description of any financial support that federal authorities are, or may be, providing to the Project;
- (p) any federal or provincial legislative or regulatory requirements that may be applicable including a list of permits, licences or other authorizations that may be required in order to carry out the Project;
- (q) a description of the physical and biological setting;
- (r) a professional opinion regarding the likely presence or absence of the following species:
 - 1. fish as defined in section 2 of the *Fisheries Act*, R.S.C., 1985, c.F-14 and any amendments enacted from time to time, and fish habitat as defined in subsection 34(1) of that Act;
 - 2. aquatic species, as defined in subsection 2(1) of the *Species at Risk Act*, S.C. 2002, c. 29 and any amendments enacted from time to time; and

3. migratory birds, as defined in subsection 2(1) of the *Migratory Birds Convention Act, 1994*, S.C. 1994, c. 22 and any amendments enacted from time to time.
- (s) any information that the Proponent may have in its possession regarding any changes to the environment that may occur as a result of carrying out the Project, or the continued operation of the Project, on First Nation Land;
 - (t) information, that the Proponent may have in its possession regarding the effects on Leq'á:mel or other people of any changes to the environment that may be caused as a result of carrying out the Project, or continued operation of the Project, including effects on health and socio-economic conditions, physical and cultural heritage, the current use of First Nation Lands and resources for traditional purposes or on any structure, site or thing that is of historical, archaeological, paleontological or architectural significance; and
 - (u) a summary of the above information.
- 8.3 If the Leq'á:mel Lands Office is of the opinion, after receiving the Project Description that it is incomplete or does not contain sufficient details, the Leq'á:mel Lands Office may within 10 business days after receiving it, require the Proponent to provide an amended Project Description that includes the information and details that the Leq'á:mel Lands Office specifies.
- 8.4 The Leq'á:mel Lands Office may forward the Project Description, or direct the Proponent to forward the Project Description, to Aboriginal Affairs and Northern Development Canada, the Lands Advisory Board, Fisheries and Oceans Canada, the Canadian Wildlife Service, the District of Abbotsford, Langley Township, or other government departments or authorities. The involvement of other government departments may be based on whether those departments or other entities have decisions to make or can contribute expert or specialist advice.
- 8.5 When the Leq'á:mel Lands Office is satisfied that the Project Description contains all of the required information, a notice will be posted in the Leq'á:mel Lands Office that indicates that the Project Description is available for Leq'á:mel members to provide comments respecting the Project within fifteen (15) business days after the posting of the notice.

Determining the Need for an Environmental Assessment

- 8.6 Within thirty-five (35) days after the posting of the notice, the Leq'á:mel Lands Office may determine whether an environmental assessment is required based on, but not limited to, the following considerations:
- (a) the Project Description;
 - (b) the possibility that the carrying out of the Project may cause adverse environmental effects;
 - (c) any comments received from the Leq'á:mel members within fifteen (15) days after the posting of the notice subject to section 8.11;
 - (d) comments received from other government bodies; and
 - (e) the results of any relevant study.

8.7 The Leq'á:mel Lands Office :

- (a) may determine that a Project requires an environmental assessment;
- (b) if the Leq'á:mel Lands Office considers that a Project will not have a significant adverse environmental, economic, social, heritage or health effect, taking into account practical means of preventing or reducing to an acceptable level any potential adverse effects of the Project, the Leq'á:mel Lands Office may determine that an environmental assessment is not required for the Project.
- (c) The Council may, at its discretion, review the Leq'á:mel Lands Office's decision made pursuant to either subsection 8.7 (a) or (b). If the Council either does not review the decision of the Leq'á:mel Lands or concludes that an environmental assessment is not required the Proponent may proceed with the Project without an environmental assessment approval, or
- (d) subject to subsection 8.7 (c), if the Leq'á:mel Lands Office or the Council considers that a Project may have a significant adverse environmental, economic, social, heritage or health effect, taking into account practical means of preventing or reducing to an acceptable level any potential adverse effects of the Project, the Leq'á:mel Lands Office or the Council, as the case may be, may determine that:
 - 1. an environmental assessment approval is required for the Project, and
 - 2. the Proponent may not proceed with the Project without undertaking an environmental assessment pursuant to an environmental assessment approval.

8.8 The Leq'á:mel Lands Office or the Council, or both, may attach conditions considered necessary pursuant to a decision under this Section.

8.9 The Leq'á:mel Lands Office will advise the Proponent in writing of the determination as to whether or not an environmental assessment is required. A notice of the decision will be posted in the Leq'á:mel Lands Office.

8.10 A determination under subsection 8.7 does not relieve the Proponent from compliance with the requirements pertaining to the Project under other applicable laws, policies and enactments.

8.11 Notwithstanding section 8.6, the Leq'á:mel Lands Office may determine that a further twenty (20) working days is required to obtain input from other governmental departments or authorities or Leq'á:mel members.

PART 9 - ENVIRONMENTAL ASSESSMENT

Terms of Reference

9.1 If a Project requires the preparation of an environmental assessment, the Proponent shall prepare the terms of reference of the environmental assessment in consultation with the Leq'á:mel Lands Office to ensure that the environmental assessment will include the information considered

necessary by Leq'á:mel. A form of generic terms of reference that can be used as a reference guide will be provided by the Leq'á:mel Lands Office .

9.2 Generally, a typical environmental assessment report will include information on the following topics:

- (a) Project setting: Physical, ecological, social, cultural and economic setting of the First Nation Land potentially affected by a Project;
- (b) Project description: Including design, construction, operation and decommissioning;
- (c) Project effects and Mitigation Measures: Identification of potential environmental effects, assessment of the impacts and description of Mitigation Measures;
- (d) Cumulative Effects assessment: Combined environmental, cultural or socio-economic impacts that accumulate from past, present and potential future actions, contaminants or Projects.
- (e) Commitments: Clear statement of commitments by the Proponent to implement the Mitigation Measures described in the environmental assessment.
- (f) Process: for preparation of the environmental assessment including a list of agencies or individuals to be contacted, a description of reports or other deliverables to be prepared including special studies and a schedule for the conduct of the work.
- (g) Professional Expertise: the qualifications of the professionals that will be preparing the environmental assessment.
- (h) Liability Insurance: identification of any liability concerns and the professional expertise that will be retained to address those concerns, as well as the obtaining of any insurance or bonding that is required.
- (i) Conclusion: A summary and conclusion of the significance of identified adverse environmental effects.

9.3 The Leq'á:mel Lands Office may require that an environmental assessment include some or all of the topics listed in Appendix "B".

9.4 The Leq'á:mel Lands Office may retain, at the expense of the Proponent, professional expertise to review the terms of reference submitted by the Proponent.

9.5 The Leq'á:mel Lands Office may circulate the draft terms of reference to other governments for review and comments. The Leq'á:mel Lands Office may:

- (a) refer the draft terms of reference to the Council; and
- (b) engage the Leq'á:mel membership in a review of the terms of reference.

- 9.6 The Leq'á:mel Lands Office will determine whether the terms of reference include the issues necessary for the environmental assessment and notify the Proponent in writing of the decision.
- 9.7 The Proponent, at its own cost, will retain the appropriate professionals to conduct the environmental assessment in accordance with the approved terms of reference.

Analysis of Environmental Assessment Report

- 9.8 The Proponent will submit the draft environmental assessment report to the Leq'á:mel Lands Office for review. The Leq'á:mel Lands Office will determine the process for reviewing the draft and any costs incurred in the review, including the costs to retain an independent professional and review with the Leq'á:mel membership, will be paid by the Proponent.
- 9.9 The Leq'á:mel Lands Office may require the draft environmental assessment report to be made available for review by the Leq'á:mel membership through open houses, workshops, or other means.
- 9.10 The Leq'á:mel Lands Office will submit comments on the draft environmental assessment report to the Proponent for the preparation of a final environmental assessment report. The Proponent will amend the draft as necessary and prepare a final environmental assessment report.

Environmental Assessment Decision

- 9.11 The Proponent will submit the final environmental assessment report to the Leq'á:mel Lands Office. The Leq'á:mel Lands Office and the Leq'á:mel Family Advisory Committee will review the report. The Leq'á:mel Lands Office may also:
- (a) retain a specialist, the cost of which is to be paid by the Proponent, to review the final environmental assessment report;
 - (b) circulate the final environmental assessment report to staff of other government agencies; and
 - (c) make the final environmental assessment report available for review by the Leq'á:mel membership.
- 9.12 The Leq'á:mel Lands Office , on behalf of the Leq'á:mel Family Advisory Committee, will prepare an environmental assessment completion report that:
- (a) summarizes comments from the Leq'á:mel Family Advisory Committee, specialists, the Leq'á:mel membership or others on the quality and findings of the environmental assessment report;
 - (b) presents conclusions about the nature and significance of potential environmental effects and the effectiveness of Mitigation Measures identified; and
 - (c) provides the comments of the Leq'á:mel Lands Office and the Leq'á:mel Family Advisory Committee on:
 - 1. the implications of permitting the Project to proceed to other approval processes; and

2. what conditions may be attached to future approvals or permits that would likely mitigate identified environmental impacts or enhance identified benefits.
- (d) The environmental assessment completion report will be presented to the Council for a decision on Project approval, approval with conditions and issuance of an environmental assessment approval, referral back to the Leq'á:mel Lands Office in order to obtain additional information, or rejection.

Implementation of Mitigation Measures and Follow-Up Program

- 9.13 The Mitigation Measures identified in the Project approval and any environmental assessment approval will be incorporated into any design plans, site plans, timber-harvesting permits, and construction tenders and will be implemented with the Project. If so instructed by the Leq'á:mel Lands Office, a Proponent may be required to prepare an environmental protection plan that specifies how impacts will be avoided or mitigated, and how First Nation Land will be restored following construction. Mitigation Measures will also form part of the conditions of any development permit issued.
- 9.14 Where deemed appropriate by the Leq'á:mel Lands Office, the Proponent will prepare and conduct a monitoring program to verify the findings of the environmental assessment and to assess the effectiveness of the Mitigation Measures. Alternatively, the Proponent may fund monitoring to be conducted by Leq'á:mel, subject to mutual agreement of the Proponent and the Leq'á:mel Lands Office.
- 9.15 The Leq'á:mel Lands Office will advise the Proponent of Leq'á:mel's decision and requirements associated with the Project.

PART 10 - ADMINISTRATION AND ENFORCEMENT

Inspection Power

- 10.1 For any purpose related to the administration or enforcement of this Law or to verify compliance or prevent non-compliance with this Law, an Inspector may:
- (a) enter at any reasonable time on property that is the site of a Project, and
 - (b) inspect any works or activity connected with the Project.
- 10.2 An Inspector must provide proof of identity to a Person present on the property who has been authorized to be on the property by the Proponent, unless there is no authorized representative of the Proponent present on the property.
- 10.3 The owner or the Person in charge of the Project and every Person on site of the Project must give all assistance that is reasonably required to enable the Inspector to perform his or her duty and must provide any documents, data or information that are reasonably required for that purpose.
- 10.4 No Person shall prevent or obstruct or attempt to prevent or obstruct the entry of the Inspector upon the Project property.

Stop Order or Remedial Order

10.5 An Inspector or the Leq'á:mel Lands Office may:

- (a) if a Project approval or an environmental assessment approval for the Project has not been issued, or has been issued but does not remain in effect, order that construction, completion, operation, modification, dismantling or abandonment of the Project cease, or that the activity cease, either altogether or to the extent specified by the Inspector or the Leq'á:mel Lands Office until the Proponent obtains a Project approval or an environmental assessment approval, or
- (b) if a Project approval or an environmental assessment approval for the Project has been issued and remains in effect,
 - (i) order that construction, completion, operation, modification, dismantling or abandonment of the Project cease, or that the activity cease, either altogether or to the extent specified by the Inspector or the Leq'á:mel Lands Office , until the holder of the Project approval or environmental assessment approval complies with the terms of the approval, or
 - (ii) order that the holder of the Project approval or environmental assessment approval carry out, within the time to be specified in the order, measures specified by the Inspector or the Leq'á:mel Lands Office in order to mitigate the effects of non-compliance.

10.6 All orders made by the Inspector or the Leq'á:mel Lands Office pursuant to section 10.5 must be provided as a written notice to the Proponent and include the following:

- (a) a statement of the reasons for the order; and
- (b) the time and manner in which the order must be carried out.

10.7 Any Person to whom an order is given under section 10.5 must comply with the order given within the time set forth in the order.

10.8 If the Person does not comply with an order within the time specified, or if it is an emergency situation, the Inspector or the Leq'á:mel Lands Office may, on his or her own initiative and at that Person's expense, carry out the measure required.

Supreme Court Order for Compliance

10.9 If Leq'á:mel considers that any Person is not complying or has not complied with the order made under this Law, Leq'á:mel may apply to the Supreme Court for either or both of the following:

- (a) an order directing the Person to comply with the order or restraining the Person from violating the order; and/or
- (b) an order directing the directors and officers of the Person to cause the Person to comply with or to cease violating the order.

10.10 On application by Leq'á:mel under this section, the Supreme Court may make an order it considers appropriate.

Penalties

- 10.11 A Person who contravenes this Law, the terms or conditions of any authorization or environmental assessment approval issued under this Law, or an order made by the Supreme Court pursuant to this Law, is guilty of an offence and liable on summary conviction to a fine of not more than \$10,000 or to imprisonment for a term of not more than three months, or to both.
- 10.12 A fine payable under subsection 10.11 shall be remitted to Leq'á:mel by the Supreme Court, after reasonable Supreme Court costs have been deducted.

PART 11 - AMENDMENTS

- 11.1 Amendments to this Leq'á:mel First Nation Environmental Law shall be approved by the Council.

PART 12 - IMMUNITY

- 12.1 No action for damages lies or may be instituted against present or past Council or Council members or members, employees, servants or agents of Leq'á:mel;
- (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) for any alleged neglect or default in the performance or intended performance of the person's duty or exercise of the person's authority.
- 12.2 Section 12.1 does not provide a defence if:
- (a) members of Council or the Council members or members, employees, servants or agents of Leq'á:mel have, in relation to the conduct that is the subject matter of the action, been guilty of dishonesty, gross negligence or malicious or wilful misconduct; or
 - (b) the cause of action is libel or slander.
- 12.3 Leq'á:mel, present or past Council or Council members, or members, employees, servants or agents of Leq'á:mel are 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 Leq'á:mel Law, or from the neglect or failure, for any reason or in any manner, to enforce this Law or any other Leq'á:mel Law.

PART 13 - COSTS

- 13.1 Without limiting any of the foregoing provisions wherein fees are payable, the Proponent will also be responsible for the payment of all administrative, legal and consultation fees incurred by Leq'á:mel in relation to the administration, application and enforcement of this Leq'á:mel First Nation Environmental Law.

PART 14 - COMING INTO FORCE

Date Law Comes into Force




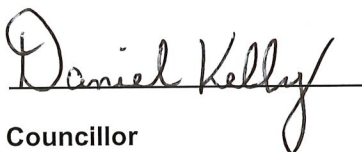
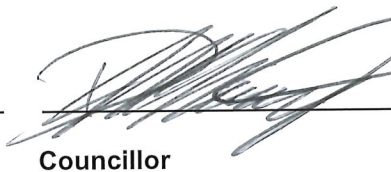
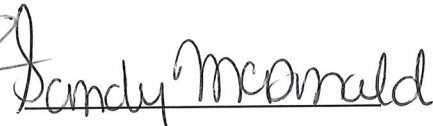
14.1 This Law shall come into force and effect on the date it is enacted by pursuant to section 7.10 of the Leq'á:mel Land Code.

Date of approval by a quorum of the Council: 24 September, 2018

Voting in favour of the law are the following members of the Council:



Chief


Councillor
Councillor
Councillor
Councillor
Councillor
Councillor

A quorum consists of 4 Council
Members

APPENDIX "A"

PROJECT DESCRIPTION – ENVIRONMENTAL ASSESSMENT PROCESS

Proponents are to complete this Project Description for submission to the Leq'á:mel Lands Office .
Submission of this form initiates the Leq'á:mel First Nation environmental assessment process.

1.0 GENERAL INFORMATION

1.1 Contact Information

Project Title: _____

Proponent Contact (job title): _____

Address: _____

Telephone Number: _____

Fax Number: _____

Email: _____

If Applicable:

Co-Proponent Name: _____

Contact and Title: _____

Address: _____

Telephone Number: _____

Fax Number: _____

Email: _____

If Applicable:

Environmental Consultant: _____

Contact and Title: _____

Address: _____

Telephone Number: _____

Fax Number: _____

Email: _____

Reserve Name and Number:

-
-

1.2 Potential Regulatory Requirements

a) Is there Federal financial support for this Project? Yes No

If yes, then from which department?

b) Is there Leq'á:mel First Nation financial support for this Project? Yes No

c) Please list other environmental assessment regimes or potential permits, approvals, or authorizations from Canada, the Province, Municipal, or International governments to which the Project may be subject or require (e.g. *Fisheries Act, SARA, Canadian Environmental Protection Act, Provincial water licence, municipal rezoning, etc.*)?

2.0 PROJECT INFORMATION

2.1 Project Title

2.2 Project Description

a) Project rationale (need for Project, goals, purpose)

b) Briefly describe the Project (its market, permanent or temporary structures, affected land area, etc.)

c) Are there subsequent phases or expansion, or other facilities or activities associated with the Project that are not included in this Project Description? Yes No

If "yes", please describe:

d) Does this Project involve cutting of trees on Leq'á:mel First Nation land? If so, how many, species, size, health?

e) Estimated Capital Cost: _____

2.3 Detailed Project Location

Geographical Location and/or GPS Coordinates:

Legal Land Description:

Attach a detailed map of the Project footprint and affected area, conceptual plans, and other facility designs or plans if available.

2.4 Resource and Material Requirements

a) Does this Project involve gravel, sand, or any other non-metallic minerals from the Leq'á:mel First Nation land? If yes, which reserve? What raw materials will be processed (including gravel, metals, or others)?

b) What are the energy sources for the operation of this development (propane, natural gas, electrical, diesel, etc)? How much energy will be required for its operation?

c) How much water will be used, for what purpose, and from what source

2.5 Waste Disposal

a) What types of wastes will be generated during construction and operation of this Project?

b) How and where will wastes be disposed?

2.6 Associated Infrastructure

a) Describe infrastructure required by this Project (roads, transit, water supply, power, sewers, other).

2.7 Project activities

a) Project construction:

- Start and finish date: _____

- List activities in sequence:

- Number of workers

- Total

- Per average day

- Leq'á:mel First Nation members

- Vehicles per day (trucks and cars, maximum and daily average):

b) Project operation:

- Project activities

- Number of workers

- Total

- Per average day

- Leq'á:mel First Nation members

- Vehicles per day (trucks and cars, maximum and daily average):

- Where will vehicles park:

- Noise generation:

- Air, water, or other emissions:

c) Decommissioning:

- Activities:

- Materials generated and method of disposal:

3..0 ENVIRONMENTAL FEATURES

a) Map and describe the environmental features in the area of development.

- i. Site topography (for facilities and access)
- ii. Soils (type and depth, productivity, erodability)
- iii. Surface water, such as lakes or streams, nearby
- iv. Watercourse crossings or development near water
- v. Wetlands or estuaries
- vi. Aquifers
- vii. Vegetation
- viii. Wildlife habitat
- ix. Fish habitat
- x. Other areas of special concern or environmentally sensitive areas
- xi. Known species as identified in the SARA in or adjacent to the proposed Project area
- xii. Registered or unregistered archaeological sites or features
- xiii. Areas of moderate to high archaeological potential
- xiv. Areas used for traditional aboriginal purposes
- xv. Visual aesthetic character

b) Other additional information you may want to provide (e.g. community or cultural issues, consultation):

4.0 REGULATORY REQUIREMENTS

a) Describe permits or approvals needed, and whether applications have been submitted to:

- Leq'á:mel First Nation

- Local or regional government

- Federal government

- Provincial government

APPENDIX "B"
Potential Topics for Inclusion in Environmental Assessment

1. **Soils and Geology**
 - a. Stability and earth conditions
 - b. Major changes in topography or modification of significant geological features
 - c. Soil erosion, compaction, degradation, or contamination
 - d. Changes in erosion or deposition rates that affect aquatic process, form and function
 - e. Import and deposit of soil or fill

2. **Air Quality**
 - a. Substantial air emissions or deterioration of ambient air quality
 - b. The creation of objectionable odours

3. **Aquatic Ecosystems**
 - a. Physical alterations to natural stream channels or riparian zones
 - b. Changes in flow regime, drainage patterns, infiltration rates, or surface water runoff (including increases in effective impervious cover)
 - c. Alterations to the level or frequency of flooding
 - d. Discharges into surface waters that affect surface water quality (e.g. sediment load, temperature, dissolved oxygen, turbidity)
 - e. Changes in aquatic biota (e.g., invertebrate biodiversity, or plant or algae growth)
 - f. Changes in the quality or quantity of groundwater

4. **Vegetation**
 - a. Destruction or degradation of native plant habitat (including terrestrial, riparian, or aquatic vegetation communities)
 - b. Destruction or damage to any valued, sensitive, or culturally important trees or other plants (e.g. cedar, fir, arbutus, dogwood), including plants of community, landscape, or heritage importance
 - c. Reduction of the numbers or distribution of rare, threatened, or endangered plant species or plant communities

5. **Animal life**
 - a. Significant changes to the population numbers or distribution of native animal species (including birds, mammals, reptiles, fish, benthic organisms, or insects)
 - b. Any change to the numbers or distribution of rare, threatened or endangered animal species

- c. Degradation of existing or potential fish habitat, or wildlife habitat or corridors (including the effects of light, noise, or human activity)
 - d. Interference in the life cycle of fish or birds (including nests or breeding behaviours)
6. **Land use and population**
- a. Change to the present or planned land use in an area
 - b. Alteration of the supply of commercial or industrial space
 - c. Changes to population demographics, distribution, and density
7. **Mobility, transportation, and circulation**
- a. Effects on transportation systems or potential increases in vehicular volumes or movements
 - b. Impacts on parking facilities, or creation of demand for new parking
 - c. Increases in traffic hazards to motor vehicles, bicyclists, or pedestrians
 - d. Alteration of access to or change in pedestrian, bicycle, and transit mobility including provision and continuity of service
 - e. Potential to increase need for, or provision of, special needs transportation
8. **Public Services and utilities**
- a. Increased demand on fire, police, or other emergency services
 - b. Increased school enrolment, or demand for parks or other recreational facilities for all age groups
 - c. Need for new or expanded public utilities including sanitary sewers, water mains, storm drains or garbage collection
 - d. Potential to increase maintenance demands for existing facilities that are required to accommodate the proposed land use, including social services
9. **Aesthetics and built environment**
- a. Obstructs a scenic vista or view open to the public
 - b. Potential to create an aesthetically offensive site open to public view
 - c. Destruction or modification of a significant landscape feature or viewpoint
 - d. Suitability and quality of urban design and impact on surrounding built environment
 - e. Consistency with "smart growth" principles of complete, compact, liveable, and efficient communities
10. **Employment and economy**
- a. Potential to affect existing employment or creation of new employment (permanent or temporary, full-time or part-time)
 - b. Effect on existing commercial or industrial business
 - c. Potential effect on planned economic development Projects or activities
 - d. Cost or benefit to community (i.e. change tax base and service level)
11. **Nuisance (noise, light, glare, odour) and hazards**
- a. Increase in existing noise levels (other than normal residential noise)
 - b. Creation of new, different or unusual noise or noise production at inappropriate times (e.g. late at night)
 - c. Production of new light or glare
 - d. Creation of shading or reduced access to sunlight
 - e. Production of offensive odours and airborne particles

- f. Production of potentially dangerous transmission waves (i.e. magnetic or microwave)
 - g. Creation of potential human health hazards
12. **Navigable waters**
- a. Obstruction or reduction of navigability of marine or fresh water courses
 - b. Requirement for federal navigable waters approvals
13. **Cultural resources**
- a. Potential to alter or destroy an archaeological site
 - b. Effects on areas of cultural importance (for spiritual, traditional use, ceremonial, resource, or other purposes)
 - c. Effects on historic buildings, structures, objects, or landscapes
14. **Cumulative Effects**
- a. Other past or potential future Projects or human activities in the study area
 - b. Identification of potential Cumulative Effects of the proposed Project with other past or potential future Projects or human activities in the study area
 - c. Potential actions to mitigate identified Cumulative Effects
 - d. Assessment of residual Cumulative Effects